

Fire at Dwelling House or Building

s.93GA (NSW) Crimes Act

93GA Firing at dwelling-houses or buildings

(1) fire a firearm at a dwelling-house or other building with reckless disregard for the safety of any person

Commenced: 15.12.2003

Maximum penalty: 14 years

Standard non-parole period: 5 years (offences committed on or after 21.8.2015)

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	SUMMARY
1.	Quealey [2010] NSWCCA 116	s.93GA(1) s.93GA(1) Possess unreg firearm	PG	5y NPP 3y 4m 5y NPP 3m 15m NPP 10m <u>Total:</u> 6y NPP 2y	AD	Minor record but offence committed in breach of bonds	After argument with former de facto over possible sexual abuse of offender's daughter visited home of unknown male – returned to home of de facto with barrel of shotgun given to her by male – when occupants of house laughed at her offender returned with full loaded shotgun and fired shot hitting television – returned a third time with male and fired shot that struck but did not penetrate wall – shots fired in presence of 2y granddaughter – more dominant and aggressive role Female – loss of custody of granddaughter not extra-curial punishment

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	SUMMARY
2.	Powell (25) [2014] NSWCCA 69	Poss offensive weapon with intent to commit serious offence in company: s.33B(2) Larceny s.93GA(1)	VG	4y 8m NPP 3y 6m FT 15m 9y NPP 5y <u>Total:</u> 11y NPP 7y	AA 4y 8m NPP 3y 6m FT 15m 7y NPP 4y <u>Total:</u> 9y NPP 6y	Lengthy record including violence and armed robbery	Threatened customers at supermarket with co-offender – offender armed with .22 calibre rifle and co-offender armed with machete – grabbed \$70 cash – next night offender and co-offender shot at residential home aware homeowner in premises – offender arrested in possession of rifle from which shots had been fired – spontaneous offence Difficult childhood On appeal: sentence manifestly excessive
3.	Raad [2015] NSWCCA 276	s.93GA(1) Sched: AOABH 2 x Possess proh drug	PG (25%)	6y NPP 3y 6m	AD		SNPP 5 years Part of long running and violent feud with family of complainants – assaulted male complainant - drove past home of complainant while co-offender fired eight shots at home and unconnected neighbours' home – children present in both homes Difficult childhood - youth

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	SUMMARY
4.	Hunt [2017] NSWCCA 305	s.93GA(1) Poss unauth proh firearm s.166 Certificate: Armed with intent Common assault Intimidation Possess unreg proh firearm	PG	<u>Indicative</u> 6y 4m NPP 3y 9m 3y 4m NPP 2y 2y 12m 2y 2y <u>Aggregate</u> 8y 3m NPP 5y	AD		SNPP 5 years After arguing with partner of thirty years stormed out of house – retrieved s.222 calibre Remington rifle from car and shot at verandah of house where victim standing – fired second shot missing house – entered house and threatened victim with shotgun – threatening phone calls while victim hid waiting for police – police located rifle and SKS self-loading rifle Struggling with mental health at time of offences although no causal link
5.	Dixon (37) [2020] NSWCCA 123 Co-offender: ZABAKLY	Use offensive weapon: s.33B s.93GA(1) 2 x Poss shortened firearm	PG (25%)	<u>Indicative:</u> 3y 7y 6m NPP 5y 3y <u>Aggregate</u> 11y NPP 7y	AA <u>Indicative:</u> 3y 5y 6m NPP 3y 3m 1y 6m <u>Aggregate</u> 8y 6m NPP 5y	extensive	SNPP 5 years Entered bedsit of 70y victim and threatened him with rifle – several weeks later approached bedsit of victim with two men – became abusive when denied entry and kicked at door – shortly after 8 shots fired into back window of bedsit causing small injury to victim by broken glass – mid-range offence – photo portrayed offender holding two guns Aboriginal male with difficult childhood – <i>Bugmy</i> considerations balanced by need to protect community On appeal: judge erred in finding offender was shooter – erred in assessment of objective gravity of possession offences

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE	APPEAL	RECORD	SUMMARY
6.	Zabakly (26) [2021] NSWCCA 155 Co-offender: DIXON	Att s.112(3) s.93GA(1)	VG	<u>Indicative:</u> 2y NPP 18m 10y NPP 6y <u>Aggregate:</u> 11y NPP 8y	<u>Indicative:</u> FT 18m 7y 4m NPP 5y 6m <u>Aggregate:</u> 8y NPP 6y	lengthy	SNPP 5 years Approached bedsit of 70y victim with two men – became abusive when denied entry and kicked at door – shortly after 8 shots fired into back window of bedsit causing small injury to victim by broken glass – first offence of attempting to gain entry momentary and spontaneous and at low end of scale – second offence extremely dangerous although offender not shooter – slightly below mid-range
7.	Hamdan (22) [2023] NSWCCA 80	s.93GA(1) Fire firearm in public place: s.93G(1)(b) AOABH	PG (25%)	<u>Indicative:</u> 4y 6m NPP 3y 3y 2y 3m <u>Aggregate:</u> 6y 8m NPP 4y 6m	AD	Lesser offences	SNPP 5 years Drove past and fired 5-6 shots at home of victim – subsequently drove up adjacent to victim sitting in car in public street – fired six shots at car grazing victim on elbow – voluntarily revealed location of gun – pistol a weapon easily concealed – both shootings in residential areas and in company – s.93G offence upper end of mid-range – s.93GA offence within mid-range Remorse – subsequent good conduct - remorse

Last Updated: Apr 2023

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