

Unauthorised Possession or Use of Pistol or Prohibited Firearm

s.7(1) (NSW) Firearms Act

s 7(1) A person must not possess or use a pistol or prohibited firearm unless authorised to do so by a licence or permit.

Maximum penalty: 14 years (increased from 10 years on 1.7.2001)

Standard non-parole period 3 years (offences committed on or after 1.2.2003)

Standard non-parole period 4 years (offences committed on or after 21.8.2015)

	NAME (age if known)	OFFENCE	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	SUMMARY OF RECORD	FACTS
1.	Mouloudi (20) [2004] NSWCCA 96	2 x s.7(1) Unauth possess pistol Sched: 7 offences including possess firearm and possess ammunition	PG (20% on appeal)	4y 6m NPP 2y 6m (concurrent)	Crown AA 6y NPP 4y (concurrent)	Previous custody - possess unauth firearm - possess proh weapon - supply drugs - mal wound Breached bond and bail	SNPP 3 years Two firearms located on respondent during police body search – both firearms loaded – one pistol stolen – offence aggravated by fact that respondent attempted to reach for weapon during search amounting to threatened use - offence “far more serious than an offence in the middle range of seriousness” Special circumstances – rehabilitation prospects due to age SJ erred as to maximum penalty – incorrectly thought maximum penalty was 5 years not 14 years
2.	Goktas (30) [2004] NSWCCA 296	s.7(1) Unauth possess proh firearm	PG (25%)	4y NPP 2y 6m	AA 2y NPP 15m 20d		Delivered tool box containing machine gun being sold to undercover operative – not involved in sale – giving friend a lift - unaware contest of tool box until entered house – joint possession for mere minutes

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3.	Webb (32) (2004) 149 A Crim R 167 [2004] NSWCCA 330	s.7(1) Unauth possess proh firearm Unauth possess handcuffs: s.7(1) <i>Weapons Act</i> Mal damage property Sched: 3 x firearms offences	PG (10%)	2y 8m NPP 16m FT 9m FT 12m <u>Total:</u> 3y 3d NPP 20m 3d (PSC added)	AD	Record – breached bond	Used sword and submachine gun to cause \$35,000 damage to unit – shot five times by police Exhibiting signs of paranoia – heavy drug use
4.	Do (22) [2005] NSWCCA 183	s.7(1) Unauth use pistol Mal inflict GBH: s.35 <i>Crimes Act</i>	PG (25-30%)	FT 12m 2y 6m NPP 18m (concurrent)	Crown AA FT 12m 4y NPP 2y 6m (concurrent)	nil	SNPP 3 years Ejected from nightclub for intoxication – returned with several friend and threatened security officer with s.22 calibre pistol with silencer and laser sight – second security officer shot twice in leg during struggle Impressive subjective case – genuine remorse
5.	Krstic (38) [2005] NSWCCA 391	s.7(1) Unauth possess pistol s.166 Certificate: GIC Possess ammunition Possess steroids Possess methylnphet	PG	2y 8m NPP 2y FT 2m (concurrent) Rising of the court \$50 fine \$50 fine	AD	Not stated.	SNPP 3 years Loaded pistol found in motor vehicle during police search when reporting to Police Station as part of requirements to Immigration Department. On conditional release from Villawood Detention Centre having entered Australia illegally.

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6.	AA (25) [2006] NSWCCA 55	s.7(1) Unauth possess pistol s.7(1) Unauth possess pistol Cultivate cannabis Sched: 7 offences	PG	2y NPP 12m FT 6m 12m NPP 6m (all concurrent)	Crown AD		SNPP 3 years Found in possession of colt .45 pistol, two unloaded magazines, 600 rounds of ammunition, bullets and cannabis seeds - 87 cannabis plants found in garage – 18m later found in possession of loaded .22 calibre pistol – carried pistol for protection after being assaulted for assistance given to police Suffering depression at time of offence – cannabis grown for personal use Sentence inadequate but appeal dismissed.
7.	Whitfield (60) [2006] NSWCCA 362	s.7(1) Unauth possess pistol Possess unreg firearm: s.36(1) <i>Firearms Act</i>	VG	4y NPP 3y 12m (concurrent)	AA 4y NPP 2y 3m 12m (concurrent)	Supply drug; GIC – breached bail	SNPP 3 years Female – unloaded pistol located during search of property – within mid-range Special circumstances includes accumulation of sentence, age, extension of first experience of prison and depressive disorder.
8.	Logan (23) [2006] NSWCCA 416	s.7(1) Unauth possess pistol BE w/intent: s.113(1) <i>Crimes Act</i>	PG	2y NPP 14m (suspended) 300 hours CSO	Crown AD		SNPP 3 years Went with co offender to retrieve money owed by victim to co offender - Police search located items including loaded magazine for pistol, baton and roll of tape – pistol, discarded by offender located in nearby area - below mid-range for objective seriousness - pistol carried in self-defence – no evidence pistol obtained for unlawful purpose. Strong subjective circumstances – army service in East Timor – major depression – excellent rehabilitation – little chance of reoffending - “Difficult and most unusual case.”

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9.	Yang (48) [2007] NSWCCA 37	s.7(1) Unauth possess proh firearm Possess false instrument: s.302 <i>Crimes Act</i> Possess implement to make false instrument: s.302A <i>Crimes Act</i>	PG (10%)	4y NPP 2y 9m FT 15m FT 15m <u>Total</u> 5y 3m NPP 4y	AD	Nil	SNPP 3 years Loaded firearm located at premises – serial number removed – false credit cards and drivers' licences also located – implements used to make false cards located.
10.	Baxter (36) [2007] NSWCCA 237	s.7(1) Unauth possess pistol Sched: 3 firearm offences Ongoing supply methylamphetamine Sched: 3 drug offences	PG	FT 3y 6y NPP 4y 1m <u>Total:</u> 7y 6m NPP 5y 7m	AA FT 3y 6y NPP 3y <u>Total:</u> 7y 6m NPP 4y 6m	Lengthy record	SNPP 3 years In business of supplying small amounts of amphetamines – offences involved 42 separate acts of supply over 3 months – search of house found two replica 0.357 Magnum pistols buried in backyard – not in working order and not used in drug business – additional firearm offences included sale of two shotguns Difficult childhood – additional evidence as to psychiatric condition provided on appeal On appeal: error in maximum penalty
11.	Najem (24) [2008] NSWCCA 32	s.7(1) Unauth possess pistol Consp inflict GBH: s.33 <i>Crimes Act</i> Resist police officer	PG (20%)	3y NPP 2y 5y NPP 2y FT 6m <u>Total:</u> 6y NPP 3y	Crown AA 4y NPP 3y 7y NPP 4y FT 6m <u>Total:</u> 8y NPP 5y	Driving and property offences - breached bond	SNPP 3 years Involved in conspiracy to injure owner of business – attended business premises at night and waited on roof armed with fully loaded 9mm CZ semi-automatic pistol – co-offender approached open door of business and shot at police officer waiting inside – lower reaches of conspiracy although aware co-offender intended to use gun – firearm offence mid-range – loaded and being carried available for use Traumatic childhood On appeal: sentences manifestly inadequate given serious and violent nature of offences

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12.	Cramp (59) [2008] NSWCCA 40	s.7(1) Unauth possess pistol Possess unreg firearm: s.36(1) <i>Firearms Act</i> Sched: Use proh pistol 2 x possess unreg firearms	PG	s.9 GBB 2y s.10 No conviction	AD	Nil	SNPP 3 years Proprietor of firearms and security business holding number of licences – in possession of two pistols for which no approval obtained – in industry for 26 years - breaches not trivial or technical.
13.	Marracos (30) [2008] NSWCCA 267	s.7(1) Unauth possess pistol Possess ecstasy Possess equip for manufacture Unauth possess proh weapon (baton): s.7(1) <i>Weapons Act</i>	PG (20%)	4y NPP 18m FT 1m FT 16m FT 18m <u>Total:</u> 5y 6m NPP 3y	AA 3y NPP 18m FT 1m FT 16m FT 12m <u>Total:</u> 4y 5m NPP 2y 10m	nil	SNPP 3 years Found in possession of extendable baton and loaded colt .45 calibre semi-automatic handgun - part of 'sophisticated international enterprise' to manufacture LSD in Australia – organiser and facilitator in Sydney – not principal – greed - mid-range of objective seriousness Difficult childhood - refugee from Iraq - special circumstances - good rehabilitation prospects
14.	Luu (39) [2008] NSWCCA 285	s.7(1) Unauth possess pistol Possess unreg firearm: s.36(1) <i>Firearms Act</i> Supply proh drug Supply proh drug Sched: 7 related offences	PG	4y NPP 1y 10m 3y NPP 2y 3y NPP 2y 2y NPP 1y 4m <u>Total:</u> 6y 6m NPP 4y 4m	AD		SNPP 3 years Search of offender's house found .22 calibre self-loading Jennings pistol, 9mm Luger self-loading pistol, 19.72g crystalline methamphetamine and 7.29g heroin – drug dealer with firearms part of tools of trade – trafficking to a substantial degree – firearm offence mid-range Born in Vietnam – PTSD as a result of several traumatic experiences On appeal: no error in consideration of PTSD, objective gravity of offences and totality

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15.	Thalari (26) [2009] NSWCCA 170	s.7(1) Unauth possess pistol Possess loaded firearm in public place: s.93G(1) <i>Crimes Act</i> Supply ecstasy Sched: 6 offences	PG (30%)	3y 6m NPP 2y FT 18m FT 12m (concurrent)	AD	Limited – breached bail	SNPP 3 years Loaded .22 calibre self-loading pistol found in car with drugs and ammunition – supplied drugs on small scale – 4.82g ecstasy
16.	Tran (30) [2010] NSWCCA 183 Co-offender: DO CHOMPEAY	s.7(1) Unauth possess pistol Unauth possess proh weapon: s.7(1) <i>Weapons Act</i> Possess unreg firearm: s.36(1) <i>Firearms Act</i> Sched: possess ammo without licence	PG (25% on appeal)	4y 8m NPP 3y 6m FT 9m FT 2y 4m <u>Total:</u> 4y 11m NPP 3y 9m	AA 4y 3m NPP 3y 2m 8m NPP 6m FT 2y 2m <u>Total:</u> 4y 6m NPP 3y 5m	Record including mal inflict GBH	SNPP 3 years Passenger in vehicle pulled over by police – various weapons found in possession of occupants – offender in possession of working Taser-type device, copper bullet and .25 calibre pistol with a magazine with six live rounds – no explanation Insufficient discount for guilty plea.
17.	Do (32) [2010] NSWCCA 182 Co-offender: CHOMPEAY TRAN	s.7(1) Unauth possess pistol Possess unreg firearm: s.36(1) <i>Firearms Act</i> Sched: Ammo offence Drug offence	PG (25% on appeal)	6y NPP 4y 6m FT 2y 8m (concurrent)	AA 5y 3m NPP 3y 11m FT 2y 2m (concurrent)	Lengthy record – breached parole	SNPP 3 years Driver of vehicle pulled over by police – various weapons found in possession of occupants – offender in possession of a .32 calibre Beretta pistol with magazine with live rounds and 0.027g methylamphetamines in pocket – offence considerably above mid-range Insufficient discount for guilty plea – previous involvement with gangs – drug and gambling abuse

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18.	Chompeay (27) [2011] NSWCCA 96 Co-offenders: TRAN DO	s.7(1) Unauth possess pistol Possess unreg firearm: s.36(1) <i>Firearms Act</i>	PG (25% on appeal)	5y 4m NPP 4y FT 2y 6m (concurrent)	AA 5y NPP 3y 9m FT 2y 4m (concurrent)	Lengthy – AR – GIC On bail at time of offences.	SNPP 3 years Driver of vehicle pulled over by police – various weapons found in possession of occupants. Insufficient discount for guilty plea.
19.	Ballard [2011] NSWCCA 193	s.7(1) Unauth possess proh firearm Supply proh drug Sched: 6 offences	PG (25%)	4y NPP 2y 6m FT 2y 6m <u>Total:</u> 6y NPP 4y 6m	AA 4y NPP 2y 6m FT 2y 6m <u>Total:</u> 5y NPP 3y 6m		SNPP 3 years Search of offender's house found 23.04g methylamphetamine with indicia of supply – significant commercial operation – also found rifle modified to resemble a walking stick: not loaded and no live ammunition – modification for concealment places offence in high end of mid-range - other firearm related material also found On appeal: error in application of totality
20.	Henderson (26) [2012] NSWCCA 65	s.7(1) Unauth possess proh firearm Supply ecstasy Sched: 6 offences	PG (25%)	2y 6m NPP 1y FT 18m <u>Total:</u> 3y 2m NPP 1y 8m	AD	Nil	SNPP 3 years Items found in offender's car and home of friend included 34.16g ecstasy and shortened 12 gauge pump action shot gun – other drug and firearm material also found – drug offence 'little less than mid-range' - shotgun did not function because trigger mechanism removed before purchased - no ammunition for this gun and no evidence related to drug offences – low-range Impressive army career – good prospects of rehabilitation On appeal: no error in parity – firearm sentence not manifestly excessive
21.	Nanai [2012] NSWCCA 141	Unauth possess proh firearm: s.7(1) <i>Firearms Act</i> Supply comm qty proh drug Sched: 3 offences	PG (25%)	7y NPP 3y 6y NPP 4y <u>Total:</u> 10y NPP 6y	AD	On parole for manslaughter	SNPP 10y (drug) / SNPP 3y (firearm) Stopped while driving and found in possession \$6,475 – subsequent intercepted telephone conversations recorded arrangement to supply 3000 pills unknown drug – search of home found .22 calibre Bersa pistol, silencer fitting pistol and 44 rounds ammunition – mid-range offence

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22.	Athos (27) [2013] NSWCCA 205	s.7(1) Unauth possess pistol 2 x s.7(1) Unauth possess proh firearm Unauth possess proh weapon (handcuffs): s.7(1) <i>Weapons Act</i> Unauth possess proh weapon (silencer): s.7(1) <i>Weapons Act</i> 2 x Unauth possess proh weapon (magazine): s.7(1) <i>Weapons Act</i> Sched: 8 Offences	PG (25%)	5y NPP 3y 2y FT 12m FT 18m FT 2y <u>Total:</u> 6y NPP 4y	AD	Nil	SNPP 3 years Found delivering bag containing guns, ammunition, handcuffs, detachable weapons magazines and silencer – pistol: Smith and Wesson revolver – prohibited firearms: bolt guns - further ammunition found at home – brought guns down from Queensland - delivering bag to persons with criminal records – would have been aware of real chance weapons would be used for criminal activity History of depression
23.	El Masri (39) [2014] NSWCCA 13	s.7(1) Unauth possess pistol	PG (25%)	3y NPP 1y 8m	AD	Assault	SNPP 3 years Former member of motorcycle club – received threats to himself and family - brother assaulted – weapon acquired for self-protection - .38 calibre revolver with part of serial number Good character – extra-curial punishment: business suffering due to imprisonment
24.	Farrell [2014] NSWCCA 30 [2015] NSWCCA 68	s.7(1) Unauth possess pistol Sched: 4 offences	PG (25%)	s.11 Deferral sentence 2 years ICO (9.5 months PSC)	Crown AD Crown AD		SNPP 3 years Weapon hidden in motor vehicle on offender's work premises – located during police search - below mid-range of seriousness – Uzi-machine pistol with serial number defaced SJ erred deferring sentence for surgery but no practical benefit in allowing Crown appeal

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25.	Atkinson (34) [2014] NSWCCA 262	s.7(1) Unauth possess pistol s.7(1) Unauth possess pistol Supply heroin Sched: 4 offences	PG (25% on appeal)	10y NPP 7y 10y NPP 6y FT 2y <u>Total</u> 11y NPP 7y	AA 8y NPP 5y 3m 8y NPP 4y 3m FT 2y <u>Total</u> 9y NPP 5y 3m	Not serious offences – some dealt with by mental health legislation	SNPP 3 years Standover man providing services for persons engaged in organised crime – weapons and related material found in house – had agreed to obtain money from someone - .22 calibre Ruger self-loading pistol - .45 calibre automatic Colt pistol – worst case Significant psychiatric problems – significant dysfunctional; background – failure to give full discount - parity
26.	Hutchen [2015] NSWCCA 101	s.7(1) Unauth possess proh firearm Supply methylamphet Proceeds of crime: s.193B(3) <i>Crimes Act</i> Sched: 2 offences s.166 Certificate: 2 x driving offences	PG (10%)	3y NPP 2y 5y NPP 3y FT 2y <u>Total:</u> 5y NPP 3y 8m s.10A	AA 3y NPP 2y 5y NPP 3y FT 2y <u>Total:</u> 5y NPP 3y 3m s.10A	Breached conditional liberty – drug and firearm offences	SNPP 3 years After short police pursuit found in possession of cash, 71.49g methylamphetamine, small electronic scale, small resealable bags, .32 double barrel keyring pistol and .32 calibre cartridge – drug trafficking for profit Mental health issues – On appeal: error in effect of accumulation on special circumstances
27.	Raniga [2016] NSWCCA 36	s.7(1) Unauth possess proh firearm Sched: 2 related offences	PG (25%)	4y 6m NPP 3y	AD	Rob in company offences	SNPP 3 years Probation member of motor cycle club – travelling in taxi with another member followed in car by president – SKS model self-loading rifle in boot with ammunition – upper end of mid-range – connection to motor cycle club and presence of ammunition aggravating factors

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28.	Grills [2016] NSWCCA 46	s.7(1) Unauth possess proh firearm Supply methyamphet Sched: 8 offences	PG	5y NPP 3y FT 5y Total: 8y NPP 6y	AD	Drug offences	SNPP 3 years Drug and firearm related items found at home of offender - American Carbine 44 Magnum firearm in holster, fully loaded with 6 44 Magnum rounds found behind bedhead in bedroom – also found shortened shotgun in backpack behind lounge and 4.82g methylamphetamines - more than street level drug dealer – firearm a tool of drug trade – above mid-range On appeal: not manifestly excessive
29.	Alrubae (18) [2016] NSWCCA 142	s.7(1) Unauth possess proh firearm s.7(1) Unauth possess pistol Sched: 4 firearms offences	PG (25%)	<u>Indicative</u> 4y NPP 2y 3y NPP 1y 6m <u>Aggregate</u> 5y NPP 2y 6m	AD	Juvenile – robbery, affray, assault – breached bonds	SNPP 3 years Replica pistol and sawn-off shotgun found under garbage in industrial area – offender subsequently arrested near scene – no evidence as to intended use of firearms – pistol mid-range offence – shotgun above mid-range offence
30.	Sutton (51) [2016] NSWCCA 249	s.7(1) Unauth possess pistol Supply methamphet	PG (10%) PG (25%)	<u>Indicative</u> 2y 6m 2y <u>Aggregate</u> 4y NPP 3y (partially concurrent to existing sentence)	AD	Lengthy – breached parole	SNPP 3 years Supplied 5g methamphetamine to nephew – in subsequent search of house showed police location of .22 calibre revolver, bullets and silencer – weapons belonged to someone else – below midrange
31.	Lamis [2016] NSWCCA 274	s.7(1) Unauth possess pistol Proceeds of crime: s.193B(3) <i>Crimes Act</i> Sched: Possess knife	PG (25%)	3y 9m NPP 2y 3m 2y 6m NPP 18m (concurrent)	AD	Breached bond – history of assaults, sexual offences, robbery, weapons	SNPP 3 years Accompanied several persons involved in drug deal to collect money– carried loaded 9mm Sig Arms semi-automatic pistol in bag into Casino – gun not removed from bag and no threats made but prepared to use weapon if required – mid-range Difficult personal history – mental health issues – drug addiction

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32.	Tassis [2017] NSWCCA 143	2 x s.7(1) Unauth possess pistol Supply drug Sched: 4 x Supply Proceeds crime	PG (25%)	3y 9m NPP 2y 2y 3m NPP 14m <u>Total</u> 4y NPP 2y 9m	AD	Nil	SNPP 3 years Travelled to Brisbane and purchased 14g methamphetamine and semi-automatic self-loading pistol and magnum revolver with 6 rounds ammunition – gun purchase opportunistic and for self-protection – arranged to have guns and drugs mailed to home in NSW – further drugs and \$20,000 found in house including 171.4g methamphetamine, 27.4g amphetamine and 3.2g cocaine Long term drug user – otherwise good character
33.	Krisovic (24) [2017] NSWCCA 167	s.7(1) Unauth possess pistol Supply proh drug Drive disqual Police pursuit: s.51B(1) <i>Crimes Act</i> Proceeds of crime: 193C(1) <i>Crimes Act</i>	PG (50% plea and assist)	3y 6m NPP 2y 2y 3m NPP 18m FT 3m FT 4m 2y GBB	AA <u>Indicative</u> 3y 2y 3m 3m 4m <u>Total</u> 4y NPP 2y 6m	Includes weapons offences – breached bail	SNPP 4 years Drove away from police car – short pursuit – loaded pistol, 19.04g and \$440 found in car – mid range offence Good prospects of rehabilitation
34.	Mariam [2017] NSWCCA 292	s.7(1) Unauth possess pistol Act with intent to pervert course of justice: s.319 <i>Crimes Act</i>	PG	4y NPP 3y 5y <u>Total:</u> 6y NPP 4y 6m	AD	Robbery, assault with intent	SNPP 3 years Police located .45 calibre automatic self-loading pistol together with detachable magazine loaded with 10 .45 automatic cartridges, within ceiling cavity in laundry of offender's premises – offered \$35K and Toyota vehicle to as payment for K to sign statutory declaration that firearm belonged to K – K signed statutory declaration and received Toyota motor vehicle - sentenced on basis at some stage exercised control over weapon by possessing it – no finding that offender owned weapon Reasonable prospects of rehabilitation – supportive wife and family

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35.	Stavropoulos (late 40s) [2018] NSWCCA 12	2 x s.7(1) Unauth possess pistol Supply methamphet Unauth possess proh weapon: s.7(1) <i>Weapons Act</i> Sched: 4 offences s.166 Certificate 3 offences	PG (25%)	<u>Indicative</u> 18m NPP 9m 2y 18m NPP 9m <u>Aggregate</u> 3y NPP 18m No additional penalty	AD	nil	SNPP 4 years Found in possession of 42.97g methamphetamine – accepted drug was for personal use and sharing with 18 poker friends – at house found in possession of knuckledusters and extendable baton, 293.7g cannabis, 3 imitation pistols, one imitation firearm, fireworks and 0.04g amphetamines – no explanation for firearms but accepted not related to criminal activity
36.	Ngati (31) [2018] NSWCCA 32	s.7(1) Unauth possess proh firearm 4 x Obtain property by deception: s.192E <i>Crimes Act</i> AOABH: s.59 <i>Crimes Act</i>	PG VG PG	<u>Indicative:</u> 2y 8m NPP 2y 2y 8m NPP 2y FT 12m <u>Aggregate:</u> 6y 6m NPP 5y	AD		SNPP 3 years In company with two co-offenders detained and threatened male acquaintance obtaining money from bank accounts – during search of offender's home found in possession of firearm not loaded but capable of firing ball bearing ammunition – not used in fraud offences – low seriousness Married with children – drug problems

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37.	Behjani-Zadeh [2018] NSWCCA 97	s.7(1) Unauth possess pistol Possess pistol so as to endanger life: s.93G(1) <i>Crimes Act</i> Intimidation Sched: Deal with proceeds of crime s.166 Certificate: Conduct drug premises	PG	<u>Indicative</u> 6y 9m NPP 4y 3y 4m 2y 6m <u>Aggregate:</u> 8y 6m NPP 5y 6m FT 6m	AD		SNPP 3 years Arrested outside unit in possession of .22 calibre self-loading pistol with live round in chamber, magazine with 6 rounds of ammunition and \$15,655 cash from drug dealing – found additional small amounts of heroin and methamphetamines and ammunition in unit – CCTV footage established drug dealing – footage also showed threatened female partner with gun several months earlier
38.	Taha (late 30s) [2019] NSWCCA 240	s.7(1) Unauth possess pistol Poss loaded firearm in public place: s.93G(1) <i>Crimes Act</i> Supply proh drug Sched: 3 related offences	PG (25%)	<u>Indicative:</u> 4y 10m NPP 3y 5m 4y 10m 5y 3m <u>Aggregate:</u> 9y 5m NPP 6y 2m	AA <u>Indicative:</u> 4y 10m NPP 3y 5m 4y 10m 4y 6m <u>Aggregate:</u> 7y 6m NPP 4y 10m	Not lengthy – driving and 2 possess drug offences	SNPP 4 years Found in car in public car park under influence of drug and in possession of Colt .25 calibre pistol with loaded magazine – just purchased 100g crystal methylamphetamines for mostly personal use – in possession of pistol for protection – aggravating factors include having possession of pistol over several years and drug intoxication at time of possession in public place – drug offence below mid-range – firearm offences just above mid-range Long standing drug addiction exacerbated by back injury – remorse On appeal: aggregate sentence manifestly excessive

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39.	Andary (41) [2020] NSWCCA 75	Knowingly take part in manufacture proh drug and expose child s.7(1) Unauth possess proh firearm Unauth possess firearm: s.7A <i>Firearms Act</i> Sched: 2 offences	PG (10%)	<u>Indicative:</u> 2y 10m 1y 7m 1y 4m <u>Aggregate:</u> 4y NPP 2y 6m	<u>Indicative:</u> 2y 8m 1y 4m NPP 10m 12.5m <u>Aggregate:</u> 3y 3m NPP 2y	Nil	SNPP 3 years Manufacturing operation found in basement of house where offender, partner and children living – played no role in manufacturing but received \$100 per week rent - partially disassembled .223 Remington AR-15 SP1 self-loading rifle with bolt and charging handle removed found in master bedroom – also found .300 Winchester Magnum calibre rifle, ammunition and .338 Lapua Magnum calibre rifle barrel – previously held firearm licence – on appeal found firearms offences below mid-range – presence of ammunition near unsecured firearm meant above low range Prior good character – offence free during 4 years between arrest and sentence – risk of re-offending low – married with children – anxiety and depressive disorder – good prospects of rehabilitation On appeal: erroneously sentenced on basis firearms connected to drug offence
40.	Ah-Keni (23) [2020] NSWCCA 122	s.7(1) Unauth use pistol Fire firearm in public place: s.93G(1) <i>Crimes Act</i>	PG (25%)	4y 3m NPP 3y 11m 3y (concurrent)	AD	Resist police – on bail	SNPP 4 years With co-offender decided to “prank” / play a joke on taxi driver – called taxi – held pistol to driver’s neck – driver struggled - pistol discharged – bullet penetrated windscreen - upper range objective seriousness. Substance abuse.

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41.	Le [2022] NSWCCA 243	s.7(1) Unauth possess pistol s.7(1) Unauth possess pistol Supply methamphet Unauth possess proh weapon: s.7(1) <i>Weapons Act</i> Sched: 4 offences	PG (25%)	<u>Indicative:</u> 2y 6m NPP 16m 2y 7m NPP 17m 1y 3m 18m NPP 10m <u>Aggregate:</u> 5y NPP 2y 9m	AD		SNPP 4 years Items found in home of offender's partner – unloaded and defaced glock pistol in ottoman – second defaced glock pistol in washing machine – 51.99g methamphetamine and 10.46g ecstasy found in bags – cattle prod taser – various magazines and cartridges Subjective case not relevant to appeal On appeal found no error in approach to special circumstances or assessment of objective seriousness of offences
42.	Saliba (33) [2023] NSWCCA 298	s.7(1) Unauth possess pistol s.35(2) s.93G(1) s.166 Cert – acquire ammunitions	PG (10%)	<u>Indicative:</u> 8y 1m NPP 5y 6y 3m NPP 3y 10m 6y 9m NPP 4y 2m 3m <u>Aggregate:</u> 9y NPP 5y 6m	AD	Shoot with intent GBH, Wound with intent GBH, Affray, AOABH	SNPP 4 years Member of same criminal organisation as victim - feared victim intended to shoot him after receiving threats - acquired pistol to defend himself – victim sent threatening messages and attended at applicant's address - victim walked rapidly towards applicant's home - applicant approached carrying pistol (count 1) and fired twice in rapid succession (count 2) - first shot occasioned gunshot wound to victim's jaw and second caused a wound to chest (anterior thoracic) and left projectile in back - discharged third shot in victim's direction, which did not strike (count 3) - discharge of weapon on a public thoroughfare in a residential neighbourhood. Special circumstances.

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	NAME (age if known)	OFFENCE	PLEA	SENTENCE AT FIRST INSTANCE	RESULT ON APPEAL	SUMMARY OF RECORD	FACTS
43.	DG (No 1) [2023] NSWCCA 320	2 x s.7(1) Unauth possess pistol Possess proh weapon Supply drug (29.5g cocaine) Acquire ammunition Sched: 2 x possess proh weapon	PG (45% combined)	<u>Indicative:</u> Each - 1y 11m NPP 15m 10m NPP 6m 12m 9m <u>Aggregate:</u> 3y 6m NPP 2y 4m	AD		SNPP 4 years Firearms located during search of residence for drug supply offence – instructed by criminal associates to store weapons - drug supply committed under duress to repay debts to criminal associates - assaulted by associates and hospitalised after communicating he no longer wished to distribute drugs. Assistance.

Last updated: December 2023