

## Threats or intimidation—judges and other persons connected with judicial proceedings

### s.322 (NSW) *Crimes Act*

Commenced 25.11.1990

322 Threats or intimidation—judges and other persons connected with judicial proceedings

(1) without reasonable excuse, threatens to do or cause, or does or causes, any injury or detriment to any person—

- (a) intending to influence a person called or to be called as a witness in any judicial proceeding to give false evidence or withhold true evidence or to not attend as a witness or not produce anything in evidence pursuant to a summons or subpoena, or
- (b) intending to influence any person (whether or not a particular person) in the person's conduct as a juror in any judicial proceeding or to not attend as a juror in any judicial proceeding, whether he or she has been sworn as a juror or not, or
- (c) intending to influence any person in the person's conduct as a judicial officer, or
- (d) intending to influence any person in the person's conduct as a public justice official in or in connection with any judicial proceeding, or
- (e) intending to influence a person in the person's conduct as an Australian legal practitioner acting for a defendant in a criminal matter, or in connection with criminal proceedings

**Maximum Penalty:** 10 years

**Maximum Penalty:** 14 years (if offence committed intending to procure a conviction or acquittal of any person of a serious indictable offence: s.324)

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
1.	<a href="#">Aporo</a> <a href="#">[2000] NSWCCA</a> <a href="#">48</a>	s.322: Threaten witness [10y]  2 x Assault  Assault police officer	PG	MT 2y 6m AT 18m  Concurrent FT  Concurrent FT	AA MT 1y 6m AT 6m	Record for assaults	Violence in and about hotel – made threatening gestures towards security guard and threatened to 'get' security guard if offender was charged On appeal: sentence for s.322 offence manifestly excessive even given that it represented total criminality of offences

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

	Case (age if known)	Offence	Plea	Sentence	Appeal	Record	Facts
2.	<b>Zreika</b> (18) <a href="#">[2000] NSWCCA 75</a>	s.322: Threaten witness [10y]  Conceal serious offence: s.316  Pervert course of justice: s.319	VG	FT 12m  FT 3m  MT 9m AT 15m  <u>Total</u> MT 1y 9m AT 15m	AD	Fraud and driving offences - on bail	Present during supermarket robbery and failed to give details to police – threatened girlfriend who knew of involvement in robbery – told another witness that he would be getting proceeds from robbery then later threatened witness he “would get her”
3.	<b>Schaffer</b> (30) (2005) 153 A Crim R 372 <a href="#">[2005] NSWCCA 193</a>	s.322 Threaten magistrate [10y]  Break and enter with intent: s.113  Sched: 2 x GIC	PG (10%)  PG (15%)	3y NPP 18m  12m  <u>Total:</u> 3y 9m NPP 2y 3m	AD	Lengthy – dishonesty offences – breached bond	Occupants of unit returned to find garage door forced open and offender looking through bags of clothing – offender falsely claimed former occupant gave him permission – upon leaving made threatening approach towards one occupant - on day girlfriend refused bail offender rang and spoke to Registrar of Courthouse threatening to kill someone and threatening Magistrate if she was not given bail – included threat that offender knew where Magistrate lived - found in possession of two stolen bank cards on arrest Difficult and abusive childhood – substance abuse
4.	<b>Dougan</b> (40) (2006) 160 A Crim R 135 <a href="#">[2006] NSWCCA 34</a>	Assault with intent to AR: s.97(2)  s.322: Threaten witness [10y]	PG (50% plea and assist)  PG (10%)	8y NPP 6y  4y NPP 3y  <u>Total:</u> 9y NPP 7y	AD	breached parole for AR – lengthy record including armed robberies	One of two males threatened 74y proprietor of service station with gun – pointed gun at neck of victim - left without property when motor cycle pulled up – at committal looked at female Crown witness and drew finger across throat Protective custody
5.	<b>Gordon</b> <a href="#">[2009] NSWCCA 72</a>	s.322: Threaten witness [10y]	VG	4y NPP 3y	AD	Prior convictions	Standing trial for armed robbery – made threatening gestures towards Crown witness – witness became reluctant and trial aborted On appeal: sentence not excessive – all but two days of head sentence concurrent with other sentences

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6.	<b>Majzoub</b> (31-33) <a href="#">[2019] NSWCCA 94</a>	s.322: Threaten witness [14y]  3 x Influence witness: s.323 [14y]  Assault  2 x AOABH  Possess offensive weapon: s.33B(1)(a)  Agg detain for advantage: s.86(2)(b)  Reckless wounding: s.35(4)  Detain for advantage: s.86(1)(b)	PG (20%)  PG (20 / 12%)  PG (20%)  VG  VG  VG  VG  VG	<u>Indicative:</u> 4y  3y 6m / 3y 2m  6m 2w  2y 6m  4y  4y  3y NPP 2y 3m  3y  <u>Aggregate:</u> 12y NPP 9y	AD	Extensive – breached conditional liberty	Pattern of serious domestic violence against female partner – violence included striking victim’s head with baseball bat, punching victim causing nose fracture and stabbing in leg – detained victim in unit over several days Public justice offences: threatened family of victim – sought to persuade victim not to give evidence through sister and brother of offender Exposed to violence during childhood – moderate prospects of rehabilitation On appeal: suggested errors of accumulation and manifest excess rejected

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