

Aggravated burglary

Commercial Premises

s 401 *Criminal Code*

Prior to 1 January 2014

Transitional Sentencing Provisions: This table is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

These periods are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

imp	imprisonment
susp	suspended
conc	concurrent
cum	cumulative
PG	plead guilty
Agg	aggravated
Burg	burglary
Sex Pen	sexual penetration without consent
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
Dep Lib	deprivation of liberty
Att	attempted
EFP	eligible for parole
TES	total effective sentence
ISO	intensive supervision order
PSO	pre-sentence order
CBO	community based order
wiss	with intent to sell or supply

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
15.	<p><i>Pennetta v The State of Western Australia</i></p> <p>[2013] WASCA 234</p> <p>Delivered 17/10/2013</p>	<p>35 yrs at sentencing.</p> <p>Convicted after early PG.</p> <p>Extensive criminal history mostly for drug offences; convictions for burglary and stealing; substance use had been major contributing factor.</p> <p>Exposed to substance abuse and domestic violence as a child; left school in Year 9.</p> <p>Imprisoned at age 23; on release began selling drugs to fund his own substance abuse.</p> <p>Partner of 10 yrs; two children – one whom was born after the appellant was remanded in custody for these offences.</p> <p>Whilst on bail appellant committed Ct 2 and some section 32 offences.</p>	<p><u>Indictment</u></p> <p>Ct 1: Agg burg (dwelling). Ct 2: Burg (dwelling).</p> <p><u>Section 32</u></p> <p>5 x Agg burg (dwelling). 1 x Att agg burg (dwelling). 1 x Burg (commercial). 2 x Steal MV. 2 x Drive under suspension. 8 x Stealing. 2 x Poss stolen property. 1 x Poss controlled weapon. 1 x Poss prohibited drug. 1 x Poss smoking utensil.</p> <p>The appellant on most occasions, committed the offences with a co-offender; forced entry to homes and a business; often by smashing a window. He ransacked the homes and stole significant property.</p> <p>The offences were clearly planned. The appellant targeted homes at times that he expected the occupants were absent.</p>	<p>TES 7 yrs imp.</p> <p>EFP.</p> <p>Remorseful.</p> <p>Did not recall details of offences due to being under the influence of amphetamines at the time.</p> <p>Offences committed under coercion to obtain property to pay off a drug debt.</p> <p>High risk of re-offending.</p>	<p>Dismissed – on papers.</p> <p>At [47] The sentencing judge was correct to describe the appellant's course of offending as a crime spree. It involved a number of serious burglary offences on residential properties... The appellant's persistence and disregard for the law is evident from the fact that he continued his offending whilst on bail.</p>
14.	<p><i>Nolan v The State of Western Australia</i></p> <p>[2013] WASCA 235</p> <p>Delivered</p>	<p>42 yrs at sentencing.</p> <p>Convicted after early PG.</p> <p>Extensive prior criminal record in Qld, NSW and WA; including dishonesty offences; damaging property, stealing and drug</p>	<p><u>District Court</u></p> <p>Ct 1: Agg burg (place). Ct 2: Burg (place). Ct 3: Burg (dwelling). Ct 4: Burg (dwelling).</p> <p><u>Magistrates Court</u></p> <p>1 x Burg.</p>	<p><u>District Court</u></p> <p>Ct 1: 2 yrs imp. Ct 2: 1 yr imp (conc). Ct 3: 1 yr imp (conc). Ct 4: 2 yrs imp (cum)</p> <p>TES 4 yrs imp.</p>	<p><u>District Court</u></p> <p>Dismissed.</p> <p><u>Magistrates Court</u></p> <p>Allowed.</p> <p>Orders of concurrency and accumulation set aside and</p>

<p>14/10/2013</p> <p>Decisions from District and Magistrates Court.</p>	<p>possession.</p> <p>First placed in detention in NSW at 14 yrs; not previously been imprisoned in WA.</p> <p>Dysfunctional childhood; marred by instability and physical and emotional abuse; lived in refuges and associated with older career criminals from 16 yrs to 30 yrs.</p> <p>Commenced using drugs at 12-13.</p> <p>Since incarceration has completed several drug rehabilitation and educational courses.</p>	<p>1 x Disorderly conduct. 1 x Trespass. 1 x Att burg (dwelling). 5 x Burg (dwelling). 3 x Agg burg.</p> <p><u>Cts 1-2:</u> The appellant forced entry to a Video Store at North Beach in company with another and stole items to the value of \$12,734.65. About 20 days later the appellant again broke and entered the Video Store and stole items to the value of \$2,716.30.</p> <p><u>Cts 3-4:</u> The appellant forced a rear door and entered the victim's house and stole property. He had entered the property unlawfully on a previous occasion. The appellant left in a vehicle that was stolen from the property.</p> <p>On the same day the appellant returned to the property and using the keys from the stolen vehicle; opened a safe. He stole money and business banking documents. He later destroyed some of the property.</p> <p><u>Magistrates Court</u> The appellant used profane language at a shopping centre, trespassed and between 2003 and 2011 the appellant committed 17 burglaries on commercial premises and dwellings.</p>	<p>EFP.</p> <p><u>Magistrates Court</u> TES 2 yrs imp (to be served cum upon District Court sentence).</p> <p>During VROI regarding 2 burglaries voluntarily confessed to having committed a large number of burglaries over a period of about 9 years.</p> <p>Remorseful and showed some victim empathy.</p> <p>High risk of re-offending.</p>	<p>to be served concurrently.</p> <p>Re-sentenced to 4 yrs imp.</p> <p>EFP.</p> <p>At [29] Though the burglaries were committed primarily to finance the appellant's drug addiction, his actions were those of a career criminal.</p> <p>At [39] (Aggregate of 6 yrs breached first limb of totality principle).The nature and extent of the appellant's voluntary disclosure of offences, most of which would not otherwise have been solved, was the decisive factor in the formation of my opinion on this point.</p> <p>At [56] It is desirable in cases such as this for one court to sentence an offender on all charges with the aim of ensuring that the total effective sentence complies with the</p>
---	---	--	---	---

			The appellant wore gloves and took other steps to avoid leaving fingerprints or DNA. He buried most of the stolen cash and used it over a number of months to support his lifestyle. He also arranged for a friend to deposit some of the cash in his bank account.		totality principle. Unnecessary fragmentation of the proceedings, as apparently occurred here, can increase the risk of an infringement of the totality principle.
13.	<i>Ridley v The State of Western Australia</i> [2013] WASCA 45 Delivered 22/02/2013	35 yrs at time offending. Convicted after trial. Extensive prior criminal record – armed robbery, receiving, possess weapons, stealing, trespass, loitering, possess prohibited drugs and possess car-breaking implement. This conviction being his 48 th for burglary. Several of his previous burglary offences involved a method of entry to the premises which was identical to the method. Lengthy criminal history of illicit drug abuse. Spent a significant part of his adult life in prison. Has no significant relationship, has	1 x Burg The appellant entered the premises through the roof. Once inside, he dismantled an electrical security system. He forced open a safe and stole about \$48,000. In addition, the appellant stole 34 SIM cards, 12 broadband starter kits, some mobile telephones, a portable DVD player and a small amount of tobacco.	4 yrs 6 mths imp.	Dismissed – leave refused. At [20] This case is unusual in that there are no mitigating factors. The principal sentencing consideration was personal deterrence.

		no children and is estranged from his parents.			
12.	<p><i>Thompson v The State of Western Australia</i></p> <p>[2013] WASCA 1</p> <p>Delivered 4/01/2013</p>	<p><u>Thompson</u> 30 yrs at time offending. 31 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Extensive prior criminal record – multiple convictions for steal motor vehicle, stealing, burg, reckless driving, breaches, traffic offences and poss drugs; receiving.</p> <p>History methyl abuse.</p> <p>Consistent employment history.</p> <p><u>O’Bryan</u> 31 yrs at time offending. 33 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Extensive prior criminal record – multiple convictions for receiving, agg burg, steal motor vehicle and traffic offences; stealing; robbery if company; dangerous goods; poss unlicensed firearm and ammunition.</p>	<p><u>Thompson</u> Ct 1: Steal motor vehicle. Ct 2: Agg burg.</p> <p><u>O’Bryan</u> Ct 1: Steal motor vehicle. Ct 2: Agg burg. 1 x Breach SIO.</p> <p>Two appellants and another co-offender (absconded while on bail) used a stolen car to conduct a ram raid at a shopping precinct. The car was repeatedly reversed into a shop with the intent of taking money from an ATM which was installed at the front of the shop. The ram raid was abandoned when they could not obtain any money and the stolen vehicle dumped near a car the offenders had parked earlier.</p>	<p><u>Thompson</u> Ct 1: 12 mths imp. Ct 2: 3 yrs 4 mths imp.</p> <p>TES 4 yrs 4 mths imp.</p> <p>EFP.</p> <p><u>O’Bryan</u> Ct 1: 12 mths imp. Ct 2: 3 yrs 4 mths imp. Breach SIO: 12 mths imp.</p> <p>TES 5 yrs 4 mths imp.</p> <p>EFP.</p> <p>No remorse for either appellant.</p>	<p>Dismissed – leave refused on papers.</p> <p>At [33] Sentencing judge reduced the sentence for the agg burg from 3 yrs 8 mths to take into account totality.</p> <p>At [37] Primary sentencing considerations for agg burg are personal and general deterrence. Ordinarily, for such offending, a substantial penalty is imposed.</p>

		History illicit drug abuse and excessive alcohol consumption.			
11.	<i>Blum v Clifton</i> [2012] WASC 469 Delivered 04/12/2012	Convicted after trial. Sentenced prisoner.	1 x Burglary (not aggravated) 1 x Stealing The appellant entered the victim's business and stole money from the till float and also a small amount of the previous day's takings. When employees arrived at work they found two fragments of a blue rubber glove which were analysed and sent for DNA analysis. Only evidence of identification was the DNA analysis carried out on the glove fragments.	8 mths imp. 1 mth imp (conc). TES 8 mths imp. Cumulative upon a sentence being served by the appellant for another offence committed less than a week after the burglary. PSR not ordered and no plea in mitigation heard.	Appeal against sentence allowed. Re-sentenced after obtaining PSR and plea in mitigation – 6 mths imp. Cumulative on existing term. At [45] - [47] Discussion regarding the absence of a PSR and plea in mitigation. Resulted in a miscarriage of justice.
10.	<i>Krijestorac v The State of Western Australia</i> [2010] WASCA 35 Delivered 26/02/2010	31 yrs at time sentencing. Convicted after fast-track PG. Significant prior criminal record - including burg charge 10 yrs earlier to fund drug habit and 18 stealing offences. Suffered significant head injuries in a car accident in 2001 – causal link between head injury and poor impulse	1 x Burg. NB: Max penalty 14 yrs not 20 yrs imp. s 32 matters: 1 x Drive expire license. 1 x Trespass. 1 x Poss morphine. 2 x Stealing. 1 x Att burg. 2 x Poss housebreaking implements.	3 yrs imp. \$1,000 fine. \$100 fine. \$100 fine. \$100 fine; 6 mths imp. 12 mths imp. \$400 fine; \$300 fine.	Dismissed. At [39] Sentence on burglary charge severe but not such that appellate intervention was warranted. At [13] A poorly executed crime does not warrant a discounted sentence and, in this instance, the

		<p>control and cognitive and emotional behaviour has been affected. Also noted that appellant amassed significant number of convictions prior to sustaining this injury.</p> <p>Drug abuse issues which pre-dated head injury – heroin, marijuana and amphetamines.</p>	<p>Appellant parked around the corner from a women’s clothing shop and walked to the premises. Appellant brought with him a screwdriver, pair of socks and 3 garbage bags. Appellant put the socks on his hands and smashed a glass pane on the front door with the screwdriver. Appellant unlocked the door, entered the shop and filled the garbage bags with clothing (valued at \$23,353). The shop’s alarm was activated and a vehicle containing three witnesses pulled up outside the shop and questioned the appellant. Appellant dropped the clothing and returned to his car but could not leave as he had lost his keys. Appellant then sat on the footpath and waited for police to arrive.</p>	<p>TES 3 yrs imp.</p>	<p>appellant’s incompetence in his offending is offset by the frequency with which he attempts to offend.</p> <p>At [17] – [21] Discussion as to sentencing principles where offender suffers mental impairment falling short of insanity.</p> <p>At [21] The head injury does, to a degree, reduce appellant’s moral culpability and make him an unsuitable vehicle for general deterrence. In this case, these factors result in limited amelioration of what is otherwise an appropriate sentence.</p> <p>At [24] Residential burglaries carry with them a greater risk of confrontation and are likely to result in greater outrage and insecurity than commercial burglaries, even when the business is small. Residential burglaries, all things being</p>
--	--	---	---	-----------------------	--

					<p>equal, are generally more serious than commercial ones.</p> <p>At [29] – [38] Discussion as to the role of prevalence of offending in sentencing and previous judgements on that point with the conclusion that here does not any longer appear to be a need to firm up sentences for burglaries based on prevalence arguments.</p>
<p>9.</p>	<p><i>Main v The State of Western Australia</i></p> <p>[2010] WASCA 28</p> <p>Delivered 18/02/2010</p>	<p>25 yrs at time offending. 26 yrs at time sentencing.</p> <p>Convicted after trial (agg burg). Convicted after PG (bail).</p> <p>Extensive prior criminal record – beginning at 12 yrs old; property offences; robbery; att robbery; threatening behaviour; weapons offences; breach bail; false details; escape custody and breach ISO and SIO.</p> <p>Removed from mother’s custody at 7 yrs old (drug user who physically and emotionally neglected her children);</p>	<p>1 x Agg burg. 1 x Acknowledge bail without lawful authority.</p> <p>Appellant entered the Nursing Board premises, damaged doors, pulled out drawers and ripped out a security camera. Security guards found the appellant shortly after the alarm was triggered and found the appellant exiting the building. The appellant had a 30cm ceremonial sword in his pants and two bags containing laptops and a projector stolen from the premises.</p> <p>DPP agreed to a PG on bail offence on the concession that the office would not seek a further term of imp on this offence (appellant spent 20 mths in custody at that time). Sentencing judge not bound by that undertaking.</p>	<p>2 yrs 8 mths imp. 8 mths imp.</p> <p>TES 3 yrs 4 mths imp.</p> <p>EFP.</p> <p>Externalised blame for behaviour; difficulty accepting responsibility for actions; denied offending.</p>	<p>Allowed.</p> <p>Sentence for bail offence reduced to 6 mths imp and ordered to be served concurrently.</p> <p>TES reduced to 2 yrs 8 mths imp.</p> <p>At [18]-[22] Sentencing judge failed to take into account mitigatory effect of PG in imposing sentence for bail offence.</p> <p>At [36] Sentence for agg</p>

		<p>lived with his father following that (father was extremely violent and aggressive); witnessed murder of father's partner at 10 yrs old and a close friend committed suicide.</p> <p>Alcohol and illicit drug use since 8 yrs old.</p> <p>Educated to yr 10 equivalent at TAFE.</p> <p>Poor employment history.</p>			<p>burg at higher end of sentences for a relatively simple agg burg but is not manifestly excessive.</p>
8.	<p><i>Rodenburg-Hill v WA Police</i></p> <p>[2009] WASC 330</p> <p>Delivered 12/11/2009</p>	<p>19 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Prior criminal record</p> <p>Offending breached SIO on 6 offences (stealing and gain benefit by fraud).</p>	<p>7 x Agg burg.</p> <p>2 x Attempted agg burg.</p> <p>7 x Stealing.</p> <p>4 x Criminal damage.</p> <p>Appellant and two co-offenders smashed windows at a formal wear shop and at a BBQ shop before damaging several vehicles at a car yard. Later on the three of them drove to a tropical fish shop, smashed the alarm system, gained entry by smashing a window and stole a snake. Approx 5 weeks later, appellant and same co-offenders smashed the front door of a cafe and stole an assortments of drinks. On leaving, they smashed the alarm and did extensive damage to an external wall. They then smashed windows at another shop and stole backpacks and markers.</p> <p>The following day the appellant and same co-</p>	<p>12 mths imp each ct.</p> <p>6 mths imp.</p> <p>No penalty each ct.</p> <p>4 mths imp each ct.</p> <p>TES 18 mths imp.</p> <p>EFP.</p>	<p>Offender's appeal allowed.</p> <p>TES and individual sentences upheld but sentence backdated by 9 days to allow for time spent in custody not taken into account in sentencing.</p>

			<p>offenders attempted to break into a surf shop but were stopped before they gained entry when the police stopped to investigate their vehicle. They then went to a lighting shop, smashed the front door and stole a lamp. They then went to the formal wear premises they had previously damaged windows at, smashed a window to gain entry and stole 18 suits. They then went to an adjoining computer shop and smashed the front windows but could not gain access due to security bars. They went to another nearby shop, smashed the front window and stole various items. They then went to a gallery, smashed a side window and stole two framed football jumpers. They then threw one of the stolen items from the previous premises through the window of another shop.</p>		
<i>Transitional Provisions Repealed (14/01/2009)</i>					
7.	<p><i>Berry v Walker</i></p> <p>[2008] WASC 130</p> <p>Delivered 4/07/2008</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Prior criminal record – juvenile convictions for stealing and burg; unlicensed ammunition; breach bail; poss smoking implement; traffic offences.</p> <p>Some offending breached bail.</p> <p>Poor history compliance with court</p>	<p>2 x Agg burg.</p> <p>7 x Burg.</p> <p>1 x Residential burg.</p> <p>Various stealing, traffic and drug offences.</p> <p>Some of the offences the appellant was sentenced on were committed much earlier than others – the appellant had failed to appear at sentencing and had subsequently remained at large for a period of time.</p>	<p>12 mths imp; 18 mths imp.</p> <p>12 mths imp each ct.</p> <p>2 yrs imp.</p> <p>Fines – 7 mths imp.</p> <p>TES 4 yrs imp.</p> <p>Little genuine remorse or insight; minimised responsibility.</p>	<p>Offender’s appeal dismissed.</p> <p>At [43] Failure to appear at sentencing means the PG cannot be taken as indicative of remorse or acceptance of responsibility. Additionally, the facilitation of the course of justice is greatly reduced.</p>

		<p>orders and supervised programs.</p> <p>Father left mother when 5 yrs old; mother had depression; effectively raised himself since 14 yrs old.</p> <p>Substance abuse issues - uses drugs and alcohol to cope with personal problems.</p> <p>First child was still born; 5 year old daughter.</p> <p>Death of child exacerbated depressive symptoms.</p>			
6.	<p><i>O'Brien v The State of Western Australia</i></p> <p>[2008] WASCA 104</p> <p>Delivered 18/04/2008</p>	<p>28 yrs at time sentencing.</p> <p>Convicted after early PG. Prior criminal history – convictions in various States; considerable dishonesty offences.</p> <p>Unstable adolescent life and difficulties coping with life outside prison.</p> <p>Offending motivated by desire to obtain money to support drug habit.</p>	<p>Ct 1: Agg burg. Ct 2: Stealing. Ct 3: Burg. Ct 4-11: Gain benefit by fraud.</p> <p>Agg burg (breach ISO)</p> <p>s 32 Matters: 1 x Trespass. 1 x No MDL.</p> <p>Agg burg for which 16 ½ mths imp was imposed occurred when appellant took his car to a panel and paint business to obtain a quote. While there, the appellant stole approx \$1500 cash from a cash tin on the lunch room. Appellant left WA and was</p>	<p>Ct 1: 11 mths imp. Ct 2: 8 mths imp. Ct 3: 11 mths imp. Ct 4-11: 8 mths each ct. 16 ½ mths imp.</p> <p>4 mths imp. 4 mths imp.</p> <p>TES 4 yrs 6 mths 2 wks imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>TES reduced to 34 mths imp.</p> <p>16 ½ mths imp imposed for agg burg following the breached ISO was excessive – sentence on agg burg reduced to 8 mths imp.</p> <p>At [23] 8 mths imp for agg burg which was the subject of the ISO properly recognises the criminality</p>

			not sentenced for this offence until 6 yrs later. Offending subject of ct 1 occurred when appellant entered a West Perth business and stole laptops, mobile phones and other electronic equipment (value approx \$11, 425).		of the offending – it was not a residential burglary, sentences for which have been firmed up in recent years in recognition of the prevalence of such offending.
5.	<i>Kerr v Cowie</i> [2006] WASC 193 Delivered 8/06/2006	Convicted after PG. Extensive prior criminal record – including offences similar to agg burg; numerous driving convictions. Substantially affected by amphetamines at time offending.	1 x Agg burg. 1 x Driving with no license. Appellant and co-offender broke into premises of St Vincent de Paul by manipulating a latch on the door. The co-offender entered while the appellant remained outside. Police patrolling the area have interrupted them before anything substantial was taken – co-offender had buttons on her person.	14 mths imp. 7 mths imp. TES 21 mths imp. EFP.	Offender’s appeal allowed. <u>Sentences on appeal</u> Agg burg: 9 mths imp. No MDL: 6 mths imp. TES reduced to 15 mths imp. At [5] Magistrate failed to give any credit for PG and failed to find offending was properly considered at the lower range of seriousness for this offence.
4.	<i>Caseley v Zampogna</i> [2006] WASC 259 Delivered 16/11/2006	19 yrs at time of appeal. Convicted after PG. No prior criminal record.	1 x Agg burg. 1 x Poss cannabis. Appellant, on holiday in Australia from England and staying with family friends, had a sore throat and the co-offender offered to walk with him to show him a nearby chemist. As they walked past a	\$1000 fine. \$150 fine.	Allowed. Spent conviction order granted.

			café, the co-offender has suddenly kicked the glass window of a shop, entered and come out with three bottles of alcohol. The appellant was “stunned” and walked away around a corner. The co-offender followed him and dropped the bottles – two of which broke. The appellant picked up the third and threw it in a bush. They then went to buy cough syrup. On the return trip they walked past the café and police were in attendance. The appellant was searched and a small quantity of cannabis was found on him.		
3.	<p><i>Newburn v The Queen</i></p> <p>[2004] WASCA 108</p> <p>Delivered 24/05/2004</p>	<p>22 yrs at time offending.</p> <p>Convicted after PG.</p> <p>Prior criminal record – traffic offences; stealing; receiving; damage.</p> <p>Offending breached ISO (receiving; damage; cultivate cannabis; poss cannabis; poss stolen goods).</p> <p>Unremarkable upbringing; mother disowned him after his arrest.</p> <p>Stable relationship at time sentencing.</p> <p>Varied employment history, including a period in the Navy; previously declared bankrupt.</p>	<p>1 x Agg burg.</p> <p>1 x Breach ISO.</p> <p>Co-offender for agg burg placed on 12 mth CBO subject to supervision and programme requirements.</p> <p>Appellant and co-offender broke into a fish and chip shop by forcing open the rear door and stole a microwave, freezer, food and drinks (total value \$1915). They also turned on taps which flooded the shop floor as well as turning on the deep fryers and threw food in them.</p>	<p>12 mths imp.</p> <p>Re-sentenced on cts to give a total 12 mths imp.</p> <p>TES 24 mths imp.</p> <p>Limited insight into offending</p>	<p>Allowed.</p> <p>TES reduced to 12 mths imp and suspended for 18 mths.</p> <p>At [6] Agg burg of any kind is ordinarily viewed as a serious offence and the seriousness of the offending in this case was aggravated by the pointless damage caused.</p>

<p>2.</p>	<p><i>R v Vletter</i></p> <p>[2004] WASCA 96</p> <p>Delivered 14/05/2004</p>	<p>28 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Prior criminal record</p>	<p>Ct 1: Agg burg. Ct 2: Steal motor vehicle. Ct 3: Receiving. Breach SIO and ISO</p> <p>s 32 matters: 1 x Unlawfully on premises. 1 x Unlawful possession.</p> <p>Agg burg correctly described in sentencing as “well organised” and “premeditated”.</p> <p>Two days prior to the agg burg, appellant and co-offender went to a Telstra manhole (near the warehouse that was the target of the agg burg) and identified which wires would need to be cut in order to disable the alarm. Appellant and two co-offenders went to the warehouse, cut the telephone lines, entered the premises of the warehouse, smashed the external alarm sirens and gained entry into the warehouse by forcing a roller door. The appellant and co-offenders then stole a truck from a nearby business, returned to the warehouse and filled the truck with property valued at approx \$161,000 (Approx \$100,000 of property was later recovered by police).</p> <p>Police also found several items from an earlier burglary (in which phone lines were cut, external alarms smashed and approx \$112,278 of property was stolen) at the appellant’s home.</p>	<p>Ct 1: 2 yrs imp. Ct 2: 1 yr imp. Ct 3: 2 yrs imp. 6 mths suspended imp activated.</p> <p>3 mths imp. 3 mths imp.</p> <p>TES 2 yrs imp susp 2 yrs.</p>	<p>Allowed.</p> <p>TES increased to 4 yrs immediate imp – individual sentences not altered.</p> <p>At [68] Deterrence is an important factor in sentencing for commercial burglaries.</p> <p>At [79] Sentences for commercial burglaries must provide for general deterrence given the prevalence of such offences. NOTE: In this appeal the appellant tendered evidence which indicated that an increase in agg burgs (other than on domestic premises) of 12% had occurred in the preceding five years. In the decision of <i>Krijestorac v WA</i> [2010] WASCA 35 Wheeler JA makes plain that the reasoning in this decision with regard to the increased prevalence of commercial burglaries requiring a firming up of</p>
-----------	--	---	--	--	---

					sentences is, in her opinion, no longer valid. NB: Double jeopardy applied to State appeals.
<i>Transitional Provisions Enacted (31/08/2003)</i>					
1.	<i>Haywood v The Queen</i> [2000] WASCA 237 Delivered 3/08/2000	26 yrs at time offending. Convicted after PG. Extensive prior criminal record – beginning at 9 yrs old; breach community orders; breaking and entering; stealing; assault; unauthorised use of motor vehicle	1 x Agg burg. Appellant and co-offender smashed the window of a bar so as to gain entry to the tavern. They then stole 11 bottles of spirits (approx value \$330).	2 yrs 6 mths imp. Equivalent to 20 mths imp transitional. Serving an 18 mth term of imp at time sentencing. TES 4 yrs imp. Equivalent to 2 yrs 8 mths imp transitional.	