

Armed Robbery

ss 392 and 393 *Criminal Code*

Divided by immediate and suspended imprisonment

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
att	attempted
EFP	eligible for parole
TES	total effective sentence
ct	count
SIO	suspended imprisonment order

Part A – Immediate custodial sentence upheld or imposed on appeal

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
72.	<p><i>Colbung v The State of Western Australia</i></p> <p>[2013] WASCA 257</p> <p>Delivered 06/11/2013</p>	<p><u>Supreme Court</u> 21 yrs at time offending.</p> <p>Convicted after very late PG (5 days before trial).</p> <p>Second trial – first aborted as the appellant failed to give proper notice of an alibi defence.</p> <p><u>District Court</u> Convicted after PG (very late PG on Ct 2).</p> <p>*****</p> <p>Extensive and serious criminal record including agg armed robb, agg robb, agg burg.</p> <p>Dysfunctional upbringing; left school at Year 9; undertook business course at TAFE.</p> <p>Diagnosed with depression whilst in juvenile detention.</p> <p>Limited employment history; ‘significant potential’ as footballer.</p>	<p><u>Supreme Court</u> Ct 1: Agg burg. Ct 2: Agg armed robb. Ct 3: Steal MV. Ct 4: Steal MV.</p> <p><u>District Court</u> Ct 1: Act or omission causing GBH Ct 2: Steal MV & drive reckless.</p> <p><u>Supreme Court</u> The victims, a young man and woman, were asleep at their residence. Both victims woke from noise outside and saw the appellant and co-offender walking towards their front door. The male victim armed himself with a knife and golf club. The female victim retreated to an ensuite toilet and called the police. The appellant and co-offender then forced entry into the house. The appellant was armed with a screwdriver and a knife. The co-offender was armed with a knife and pointed it at the male victim and held the blade about 50 cm from the victim’s chest. The co-offender demanded the car keys from the victim and threatened to stab him if he moved. The appellant then rummaged through the bedroom and stole the victim’s handbag, wallet, iphone, car keys and other keys. The appellant and co-offender then left the house.</p>	<p><u>Supreme Court</u> Ct 1: 2 yrs 8 mths imp (conc). Ct 2: 3 yrs 11 mths imp. Ct 3: 4 mths imp (cum). Ct 4: 6 mths imp (cum).</p> <p>TES 4 yrs 9 mths imp.</p> <p>EFP.</p> <p><u>District Court</u> Ct 1: 2 yrs 9 mths imp. Ct 2: 2 yrs 9 mths imp.</p> <p>TES 2 yrs 9 mths imp served cum upon Supreme Court sentence.</p> <p>EFP.</p> <p>*****</p> <p>Aggregate term 7 yrs</p>	<p>Dismissed – on papers.</p> <p>At [44] ... The appellant’s offending was very serious.</p> <p>AT [66] ... The objective circumstance of the offending as a whole were very serious ... The aggregate term of 7 years and 6 months was of a severity that was appropriate in all the circumstances of the case ...</p>

		<p>In relationship; two daughters; partner supportive of him.</p> <p>Alcohol and drug user.</p> <p>Previous parole order cancelled; previous non-compliance of several juvenile community orders.</p> <p>Intoxicated at time of offending.</p>	<p>The appellant and co-offender then dragged the male victim's off-road motorbike from the garage and placed the motorbike in the back of the victim's motor vehicle. They then drove off.</p> <p>Police later observed the appellant riding the stolen motorbike. Police pursued the motorbike for a short distance before losing sight of it.</p> <p><u>District Court</u></p> <p>The appellant was seen by police at night driving a stolen motor vehicle and a pursuit ensued. The appellant drove at speeds in excess of 140 km in a 60 km zone, drove on the incorrect side of the road and without lights. Police eventually lost sight of the vehicle.</p> <p>Days later the appellant was a passenger in another vehicle. Police observed the vehicle travelling in excess of the speed limit. The vehicle stopped and police stopped next to the vehicle.</p> <p>The victim alighted from the vehicle to speak with the driver. A second officer also alighted. While the victim was standing next to the driver's side of the vehicle the appellant alighted from the vehicle and sat in the driver's seat of the police vehicle. The victim ran to the driver's side of the police vehicle; however, the appellant reversed the vehicle. The open door struck the victim and he was dragged backwards and fell to the ground. The victim struck his head on the road surface and became unconscious. The appellant fled the scene in the stolen police vehicle. During the incident, the vehicle ran over the victim's legs. The appellant made no attempt to stop or assist the</p>	<p>6 mths imp.</p> <p><u>Supreme Court</u></p> <p>No recollection of alleged offending; changed his PG on basis of the evidence against him in the State brief.</p> <p>Only 4 % discount given.</p> <p>VIS indicated victims suffered significant anger, distress and trauma.</p> <p>Sentencing judge gave credit for 'some understanding of the effect on your victims and some acceptance of responsibility and remorse'.</p> <p>High risk of re-offending.</p> <p><u>District Court</u></p> <p>Remorseful.</p> <p>Victim's</p>	
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			<p>victim.</p> <p>The victim suffered serious injuries including concussion, ligament damage to his ankle, cartilage damage to his hip and muscle damage to his back.</p>	<p>rehabilitation process has been lengthy; has not fully recovered; appears to have some residual disabilities.</p> <p>15% discount for PG for Ct 1 and 5% for Ct 2.</p>	
71.	<p><i>Carr v The State of Western Australia</i></p> <p>[2013] WASCA 192</p> <p>Delivered 22/08/2013</p>	<p>20 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Extensive prior criminal record; many convictions involving violence including att agg armed robb and assaults; served periods of detention and imp; offending behaviour was ongoing in prison.</p> <p>Parents separated when 4 yrs; after his father was sentenced to a lengthy term of imp for a violent offence; at present father incarcerated for murder.</p> <p>Limited education and little work experience.</p> <p>History of polysubstance abuse; prior attempts to rehabilitate had failed.</p> <p>Prior periods of community supervision resulted in non-compliance and reoffending.</p>	<p><u>Indictment</u></p> <p>Ct 1: Agg armed robbery. Ct 2: Agg robbery. Ct 3: Agg robbery.</p> <p><u>Section 32 Notice</u></p> <p>Stealing x 2. False details to police x 1.</p> <p><u>Ct 1:</u></p> <p>The 62 yr old victim; was working at a convenience store. The appellant entered the store and demanded money. The victim said that he did not have any. The appellant removed a wooden bat from inside his jacket and struck the victim with the bat, once in the elbow and once in the opposite hand and assaulted the victim. The appellant proceeded to remove a gold ring from the victim's hand and then pushed him to the floor. He then stood over the victim and attempted to find the key to the cash drawer. While doing so, he punched the victim to the back.</p> <p>Unable to find the key, the appellant removed the victim's wallet containing cash, a mobile phone from his pockets and said to the victim "we'll be back again".</p>	<p><u>Indictment</u></p> <p>Ct 1: 4 yrs imp (cum). Ct 2: 3 yrs imp (cum). Ct 3: 3 yrs imp (conc).</p> <p><u>Section 32 Notice</u></p> <p>6 mths imp each Ct (conc). 2 mths imp (conc).</p> <p>TES 7 yrs imp.</p> <p>EFP.</p> <p>To be served conc with sentence being served.</p> <p>Very high risk of reoffending.</p> <p>No remorse.</p> <p>Sentencing judge</p>	<p>Dismissed on papers.</p> <p>At [42] The robbery offences were serious. The appellant targeted the victim and robbed him on several occasions, showing no mercy whatever. Without doubt, the offence that was committed on 5 June 2012, involving, as it did, actual violence, was a serious example of its type...</p>

		At sentencing was serving 6 mths and 1 day imp for AOBH.	<p><u>Ct 2:</u> 15 days later the appellant returned to the shop; accompanied by 5 females. He approached the victim and demanded cigarettes. He then demanded a pie and food. When the appellant discovered there were no pies in the warmer, he helped himself to some confectionary and other food items and encouraged the females to do the same.</p> <p><u>Ct 3:</u> The appellant returned to the store 2 ½ hours later in company with 2 females. The appellant walked behind the counter and approached the cash drawer. The victim tried to stop him, but the appellant punched him twice to the face or head, causing the victim to fall to the ground. The appellant then stole cash from the drawer. While he was doing that the two females stole confectioning, drinks and other items.</p> <p><u>Section 32 notice</u> The appellant stole \$1000 from a person known to him. The appellant gave police false personal details.</p> <p>Four days following Ct 3 the appellant went to the convenience store for a fourth time. On seeing the appellant, the victim fled from the store. The appellant then stole money from the cash drawer.</p>	described the appellant as “a dangerous man, but a sad and pathetic one as well”. No inclination to reform.	
70.	<p><i>Wroth v The State of Western Australia</i></p> <p>[2013] WASCA</p>	<p>27 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Substantial criminal history including</p>	<p>Ct 1: Agg burg.</p> <p>Ct 2: Att. armed robbery.</p> <p>Ct 3: Att. armed robbery.</p> <p>Ct 4: Armed robbery.</p> <p>Ct 5: Steal motor vehicle.</p>	<p>Ct 1: 12 mths imp cum.</p> <p>Ct 2: 3 yrs imp cum.</p> <p>Ct 3: 3 yrs imp conc.</p> <p>Ct 4: 3 yrs imp conc.</p>	<p>Sole ground of appeal breach of totality principle.</p> <p>Dismissed – on papers.</p>

	<p>155</p> <p>Delivered 28/06/2013</p>	<p>aggravated burglary, arson, assault and stealing.</p> <p>Unhappy childhood; parent's separated when he was 3 yrs; left home at 12 yrs.</p> <p>Married & two step-children; supportive wife.</p> <p>History of drug abuse.</p> <p>Offences committed on a three month binge on amphetamines and cannabis.</p>	<p>Ct 6: Armed robbery. Ct 7: Arson.</p> <p>The appellant went on a rampage during which he terrorised people in their homes and at a service station. The appellant was armed with a firearm and behaved in an aggressive and threatening manner, including pointing the firearm at a service station employee and at people in their homes. He later set a vehicle he stole on fire.</p>	<p>Ct 5: 9 mths imp conc. Ct 6: 3 yrs imp cum. Ct 7: 9 mths imp conc.</p> <p>TES 7 yrs imp.</p> <p>EFP.</p> <p>Full admissions.</p> <p>PSR placed the appellant's history of substance abuse at the extreme end of the scale.</p>	<p>At [22] ... The fact that the appellant was armed with a firearm was a serious aggravating feature.</p> <p>At [23] ... The appellant's illicit drug use, while explaining his offending, cannot excuse it.</p>
69.	<p>Gillespie v The State of Western Australia</p> <p>[2013] WASCA 149</p> <p>Delivered 19/06/2013</p> <p>Co-offender <i>Nannup v The State of Western Australia</i> [2011] WASCA 257</p>	<p>19 yrs at time sentencing.</p> <p>Convicted after early plea of guilty – disputed the circumstances of aggravation of Ct 2.</p> <p>Criminal history included convictions for burglaries.</p> <p>Has partner and young child.</p> <p>No regular employment; steps taken towards his own rehabilitation prior to sentence.</p> <p>On bail at time the offences were committed.</p> <p>Commission of these offences</p>	<p><u>Indictment</u> Agg burglary x3. Agg armed robbery x2. Steal motor vehicle x3. Burglary x1. <u>Breach of 6 mth CBO</u> <u>Breach of 12 mth CBO</u> Various offences. All offences occurred on same night as part of a night long crime spree appellant committed with three co-offenders.</p> <p><u>Cts 1-3:</u> The appellant and three others were in a street in Como. They formed a common intention to burgle a home and steal a car. Two of the group approached a unit with a car parked at the front. The appellant and co-offender entered the backyard. The appellant picked up a pair of</p>	<p>TES of 8 yrs imp.</p> <p>Made up of 5 yrs (Ct 2 – Agg robbery) plus 1 year (Ct 5 – Agg armed robbery 4 yrs penalty concurrent) 1 yr (Ct 9 – Steal MV) & 1 yr Charge 6102 CBO (Burglary).</p> <p>EFP.</p> <p>Co-operated with Police including providing information which</p>	<p><u>Conviction</u> Dismissed.</p> <p><u>Sentence</u> Ground 1 against sentence dismissed.</p> <p>Leave to appeal Grounds 2, 3, 4 & 6 dismissed.</p> <p>Ground 5 (chg 6102) allowed. Sentence quashed.</p> <p>At [210] The circumstances of the offences committed by Mr Gillespie during the rampage of crime which resulted in the various</p>

		<p>constituted breaches of 6 mth CBO imposed by the CC and a 12 mth CBO imposed by the Magistrates Court.</p>	<p>gardening secateurs and entered the unit. Two laptop computers were located. They were startled by the occupants of the unit and fled, taking the computers with them. The male occupant observed the appellant and others standing at the front of the unit. He gave pursuit. However, the group chased the male back into the unit where the victim was. When confronted by the group, the victim tried to escape through the rear door. At that time the appellant threw the secateurs at her, striking her in the wrist. She required surgery. The appellant and some of his accomplices then proceeded to ransack the unit, stealing various items of property including a set of car keys. The appellant and the others then stole the vehicle.</p> <p><u>Cts 4-6:</u> About 30 minutes later, the appellant and his accomplices abandoned the vehicle in Nedlands. They noticed two valuable cars parked in front of a property in that street. All four then entered the property and searched for items to steal. The two occupants of the house sought refuge in a bedroom. The group entered the bedroom. One was armed with a knife and another with a golf club. The group threatened the victims demanding cash and car keys. One co-offender yelled to kill the victims and slit their throats. They handed over a laptop and mobile. The group found the carkeys. The appellant and another used the keys to steal a BMW. The other two used keys to steal a Subaru. Before they could depart, another car pulled into the driveway of the home, blocking their departure. One of the group, approached the obstructing vehicle and smashed the passenger side window using a golf club stolen from the</p>	<p>assisted in identifying two co-offenders although did not formally offer to assist police by giving evidence against those co-offenders.</p> <p>Sentencing judge described Cts 1-3 as the utmost seriousness, and described the violence used by the appellant towards the victim as 'one of the worst examples that one can imagine'.</p>	<p>counts on the indictment can only be described as extremely serious. They involved two home invasions, each of an extremely serious character...</p> <p>In relation to 5 yrs for Agg armed robbery – Ct 2 [222] the total effective sentence imposed (for count 2) was, in my view, lenient.</p> <p>TES at 8 yrs upheld.</p>
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			<p>house. The driver of that vehicle quickly reversed his car into the street. He suffered minor cuts to his face and hand.</p> <p><u>Cts 8-9:</u> The group then travelled to Lakelands, where the two vehicles were abandoned when one of the group had spotted a Holden Club sport parked in front of a house. The appellant and co-offender entered the house and stole the keys and cash. The keys were used to steal the car.</p> <p><u>Ct 10:</u> Two or three hours later, the offenders in the stolen vehicle, travelled to a Hotel in Cottesloe where they broke in and stole alcohol.</p>		
68.	<p><i>Chadd v The State of Western Australia</i></p> <p>[2013] WASCA 99</p> <p>Delivered 15/04/2013</p>	<p>24 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Long criminal history involving serious offending including multiple convictions for agg burglary, agg armed robbery, robbery and steal motor vehicle.</p> <p>Offences committed whilst on bail for steal motor vehicle.</p> <p>Spent much of his life in prison.</p> <p>Addicted to cannabis and alcohol.</p> <p>Co-offender (younger brother) sentenced to 2 yrs susp imp for Ct 1.</p>	<p>Ct 1: Agg Armed robbery. Ct 2: Armed robbery. Ct 3: Att Armed robbery. 4 x s32 offences.</p> <p><u>Ct 1:</u> The appellant and co-offender (his younger brother) went to a liquor store. There they stole bottles of liquor, secreting them in their clothing. The appellant and co-offender were confronted by a shop assistant. The appellant threatened the shop assistant with a small axe. The shop assistant moved away. The appellant and co-offender took more liquor and then ran from the shop.</p> <p><u>Cts 2 & 3:</u> 10 days later the appellant; who was intoxicated; was at an address and wanted to go home. He approached a man who was in a car with a woman. The appellant asked the man if he could</p>	<p>Ct 1: 3 yrs imp. Ct 2: 4 yrs imp. Ct 3: 3 yrs imp. s32: Conc terms & fines.</p> <p>Cts 2-3 conc and cum on Ct (1).</p> <p>TES 7 yrs imp. Fine \$250.</p> <p>EFP.</p> <p>Significant risk of re-offending.</p>	<p>Dismissed – on papers.</p> <p>At [30] Each of the offences of armed robbery committed on the appellant was a serious example of its nature.</p> <p>At [31] In light of the appellant’s antecedents, personal deterrence was an important sentencing consideration.</p> <p>At [37] The difference between the appellant and his brother justified the different outcomes in this case.</p>

			<p>call him a taxi. The man obliged. The appellant then ripped a picket off a fence and approached the man and woman, yelling, "Get out of the way or I'll kill you". At this point, the appellant yelled at the woman, who was sitting in the driver's seat, demanding she leave the car keys and her handbag in the car or he would kill her. He then demanded the man give him his mobile. The man refused. While still holding the picket, the appellant then chased the woman, demanding that she give him the keys and the bag. He managed to snatch the car keys and the handbag from her.</p> <p>The couple ran inside a house and called the police. Meanwhile, the appellant was unable to start the car. Eventually, the taxi arrived. The appellant got in it and went home. He had in his possession the woman's handbag.</p>		<p>At [45] It is relevant to refer to comparable cases when considering whether the totality principle has been infringed. However, their utility is limited. They may provide broad guidance, but it must be borne in mind that there will often be significant differences in the circumstances of the offending and the offenders. In the end, each case must be determined having regard to its own particular circumstances.</p>
67.	<p><i>Fawcus v The State of Western Australia</i></p> <p>[2013] WASCA 86</p> <p>Delivered 04/04/2013</p>	<p>34-35 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Prior criminal record.</p> <p>Difficult childhood.</p> <p>Record of employment was sporadic.</p> <p>Four children aged between 5-14 yrs.</p> <p>Long history of drug and alcohol abuse.</p>	<p>Ct 1: Armed robbery. Ct 2: Stealing (s32) Ct 3: Stealing (s32)</p> <p><u>Ct 1:</u> The appellant, having armed himself with a samurai sword, went to a liquor store intending to rob it. Upon entering the store, the appellant put a stocking over his head. He then approached a female employee, pulled the sword out and aggressively demanded cash from her. After obtaining \$650 in cash, the appellant fled the store.</p> <p><u>Ct 2:</u> The appellant stole items from the frozen food</p>	<p>Ct 1: 2 yrs 10 mths imp. Ct 2: 6 mths imp. Ct 3: 6 mths imp.</p> <p>Cts 2-3 conc and cum on Ct 1.</p> <p>TES 3 yrs 4 mths imp.</p> <p>EFP.</p> <p>Full admissions in VROL.</p>	<p>Allowed.</p> <p>Re-sentenced.</p> <p>Ct 1: 2 yrs 10 mths imp. Ct 2: 3 wks imp conc. Ct 3: 3 wks imp conc.</p> <p>TES 2 yrs 10 mths im.</p> <p>Appeal allowed on basis stealing offences were not of any particular seriousness and the sentences were disproportionate to the</p>

			<p>section of a supermarket valued at \$79.95.</p> <p><u>Ct 3:</u> The appellant drove his motor vehicle into a service station and pumped \$70.20 of fuel into it before driving off without paying.</p>	<p>Remorseful for armed robbery; written letter to victim; engaged in victim mediation.</p>	<p>overall circumstances.</p> <p>At [29] Shoplifting and stealing petrol are prevalent offences and require general deterrence. In light of the appellant's previous history of stealing, some specific deterrence was also required. Notwithstanding this, and having regard to all of the circumstances of the case, the sentences imposed for each offence of stealing were disproportionate to the overall circumstances of the case.</p>
66.	<p><i>Miller v The State of Western Australia</i></p> <p>[2013] WASCA 84</p> <p>Delivered 28/03/2013</p>	<p>28 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Long and serious criminal history which commenced at 14 yrs; offences include aggravated armed robbery and multiple burglaries.</p> <p>At time of sentencing was serving 5 yrs imp for armed robbery (see facts).</p> <p>Long history of illicit drug abuse.</p>	<p>Ct 1: 1 x Agg burg s401(2) <i>Criminal Code</i>. 6 x s32 offences.</p> <p>NOTE: On chart as term combined cumulative on armed robbery sentence, as set out below.</p> <p><u>Ct 1:</u></p> <p>The appellant had been buying drugs on a long-term basis from the victim.</p> <p>The appellant, in company with 3 others, went to the victim's house with the intention of stealing money and drugs by force. The appellant and another offender knocked on the front door and</p>	<p>Ct 1: 3 yrs 6 mths imp.</p> <p>s32: 6 mths cum for 1 x steal MV and all other sentences conc or fines imposed.</p> <p>TES 4 yrs imp cum on existing term of 5 yrs imp for armed robbery.</p> <p>EFP.</p>	<p>Dismissed – on papers.</p> <p>At [26] General deterrence was a significant consideration. In light of the appellant's prior offending and the violent nature of the aggravated burglary, his Honour was right to emphasise personal deterrence and the need to protect the public.</p>

			<p>were let in by the appellant's partner. Once inside, a co-offender pulled out a handgun and pointed it at the victim and demanded money and drugs. At this point, one of the co-offenders began ransacking the house. In the meantime, the victim went to his bedroom. There he tried to arm himself with a shotgun. He was then set upon by the appellant and two co-offenders. In the process, the victim was stabbed with either a knife or a samurai sword. The appellant and the co-offenders left the house with a sum of cash, a sword, the shotgun and other items.</p> <p><u>Armed robbery</u> The appellant and a co-offender drove to a lunch bar with the intention of robbing it. The registration plates of the vehicle were covered. The co-offender left the vehicle, armed with a large knife and wearing a hooded jacket. The hood was pulled over his head to obscure his identity. The co-offender entered the shop, jumped over the counter and struck the 68 yr old shop assistant with the butt end of the knife. The victim suffered a cut to the eye and was knocked unconscious. He fell and broke his wrist. The co-offender stole the cash register containing \$700 and then left in the car driven by the appellant. A short time later, the two offenders shared the cash that had been stolen. The appellant was later arrested and made admissions to police. He entered an early plea of guilty.</p>	<p>Little insight.</p> <p>No real remorse.</p>	
65.	<p><i>Oubid v The State of Western Australia</i></p> <p>[2013] WASCA</p>	<p>24 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history.</p>	<p>Ct 1: Agg armed robbery. Ct 2: Breach of CSIO (armed in public).</p> <p>The appellant, in company with 3 unidentified co-victim's, went to the appellant's house in Banksia</p>	<p>Ct 1: 4 yrs imp. Ct 2: Cancelled – 7 mths imp cum.</p> <p>TES 4 yrs 6 mths</p>	<p>Dismissed.</p> <p>[27] The appellant committed the aggravated robbery less</p>

	<p>79</p> <p>Delivered 21/03/2013</p>	<p>Offence committed less than 3 months into a CSIO for being armed in public.</p> <p>Long history of cannabis and amphet abuse.</p> <p>Troubled background.</p>	<p>Grove with the intention of stealing the victim's car, which had been advertised for sale.</p> <p>The victim took the 4 offenders for a test drive in his car. The victim was the driver. While the victim's car was stationary, one of the co-offenders in the back seat produced a machete and held it against the victim's throat. The person wielding the machete said to the victim that if he did not get out of the car his head would be cut off. Fearing for his safety, the victim got out of the car and ran off. The appellant got into the driver's seat and drove from the scene. The car was never recovered.</p>	<p>imp.</p> <p>High risk of re-offending.</p>	<p>than 3 months into the suspension period of 12 months. Total cumulation was appropriate.</p>
<p>64.</p>	<p><i>Cotterill v The State of Western Australia</i></p> <p>[2013] WASCA 52</p> <p>Delivered 26/02/2013</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No prior criminal record.</p> <p>Long history of significant alcohol and drug abuse and had continuously used anabolic steroids since 20 yrs.</p> <p>Mental illness.</p> <p>Following the commission of these offences the appellant formed the intention to commit suicide soon after realising he was a suspect.</p>	<p>Ct 1: Ass with intent to rob. Ct 2: GBH Ct 3: GBH</p> <p>The appellant and two co-offender's Simpson and Hall, agreed and planned to steal cash and property from a hardware store in Broome. Hall, an employee of the store, provided the appellant and Simpson with information regarding the security of the premises and the potential amount of cash that might be present after a long weekend. The appellant was aware that his offending would in all likelihood require him to confront somebody at the store.</p> <p>The appellant and his co-offender drove to the hardware store. The victim (Ct 2) Ms Lee, was the sole employee at the store at the time. She was attending to Ms Chin, a customer and victim (Ct 3). The appellant had in his possession a large maglite torch. The appellant told his co-offenders on the way to the store that he could use the torch</p>	<p>Ct 1: 8 yrs imp. Ct 2: 5 yrs imp. Ct 3: 3 yrs 6 mths imp.</p> <p>Cts 2-3 cum. Ct 1 conc.</p> <p>TES 8 yrs 6 mths imp.</p> <p>Made full admissions to police.</p> <p>Sentencing judge accepted that at the time of the offending he was suffering a depressive illness but did not accept that he was suffering from a psychosis or auditory</p>	<p>Allowed.</p> <p>Resentenced.</p> <p>Ct 1: 7 yrs 6 mths imp. Ct 2: 4 yrs 6 mths imp. Ct 3: 3 yrs imp.</p> <p>Served conc.</p> <p>TES 7 yrs 6 mths.</p> <p>EFP.</p> <p>At [23] The sentence for count 3 was at the upper end of the sound discretionary range but not manifestly excessive.</p> <p>At [27] What emerges</p>

			<p>to threaten any person if they were disturbed whilst in the store.</p> <p>The appellant and Simpson, who were wearing hats and sunglasses to conceal their identities, went to the store which was opened by Ms Lee. Both of them gave her a false name. Ms Lee had turned to walk inside the door when the appellant hit her across the head with the maglite torch causing her to fall to the ground. The appellant then ran inside the store to where Ms Chin was standing. The appellant hit Ms Chin across her head with the torch 3 times, causing her to fall to the ground and momentarily lose consciousness. Ms Chin suffered severe blood loss from the lacerations caused by the assault. The appellant then returned to Ms Lee, who was attempting to sit up, and struck her several more times across her head with the torch.</p> <p>The appellant and two co-offenders returned to the vehicle and drove from the store. They left without stealing any property. They then destroyed evidence to avoid detection.</p> <p>Ms Lee suffered, amongst other things, an extensive displaced depressed skull fracture, multiple scalp lacerations, significant facial fractures and a fractured right forearm. She spent 7 days in ICU and underwent extensive surgical intervention. Thereafter, further surgery was required to restore a portion of her skull. At the time of sentencing Ms Lee still had some motor impairment and had yet to be advised whether it would be permanent.</p>	<p>hallucinations at the time.</p> <p>Sentencing judge found that the appellant's voluntary drug abuse contributed to his subsequent mental health problems.</p>	<p>from this analysis is that very significant care had to be taken to avoid any double (or more) punishment in sentencing for these offences.</p> <p>Held none of the individual sentences reflected the factual overlap. Appeal allowed as individual sentences reflected on impermissible level of double punishment.</p>
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			Ms Chin received 3 lengthy lacerations to the top of her head, two of which penetrated to the bone.		
63.	<p><i>Forkin v The State of Western Australia</i></p> <p>[2013] WASCA 51</p> <p>Delivered 26/02/2013</p>	<p>23 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Prior criminal record including stealing and agg robbery.</p> <p>Offences committed 6 days before the expiration of a CSIO for agg robbery.</p> <p>Deprived and dysfunctional background.</p> <p>Suicidal frame of mind when offended.</p> <p>From 14 yrs suffered depression and anxiety and on medication since.</p> <p>Commenced abusing prohibited drugs at an early age, having been introduced by his mother.</p> <p>Shortly before committing the agg robbery, one of appellant's older brother died from a heroin overdose.</p> <p>10 mths before these offences the appellant's other older brother committed suicide.</p>	<p>Ct 1: Armed robbery. Ct 2: Stealing. Ct 3: Stealing. Ct 4: Armed robbery. Ct 5: Stealing. Ct 6: Breach CSIO – Agg robbery.</p> <p><u>Ct1:</u> Just after midnight the appellant approached a driver of a vehicle, produced a knife and ordered the driver out of the car. The appellant got into the car and drove off at speed onto the main road.</p> <p><u>Ct 2:</u> Later that morning the appellant stole a large kitchen knife from a supermarket by concealing it down his pants.</p> <p><u>Ct 3:</u> The appellant approached a male in a stationary car in a nearby car park and asked for a lift to Kinross but was refused. The appellant then asked to use the driver's mobile phone and walked off with it.</p> <p><u>Ct 4:</u> The appellant returned to the vehicle, produced the large kitchen knife and told the driver to get out of the car. The driver did so. The appellant got into the car and drove off.</p> <p><u>Ct 5:</u> Later the same day, the appellant was at another shopping centre car park at Quinns Rock where he</p>	<p>Ct 1: 4 yrs imp. Ct 2: 4 mths imp. Ct 3: 4 mths imp. Ct 4: 4 yrs imp. Ct 5: 4 mths imp. Ct 6: 6 mths imp.</p> <p>Cts 2,3 & 5 conc with with Ct 1 and first 2 yrs of Ct 4 conc. TES 6 yrs imp.</p> <p>Ct 6 cum on 6 yrs imp.</p> <p>TES 6 yrs 6 mths imp.</p>	<p>Allowed.</p> <p>Re-sentenced on Cts 1 and 4 and orders for cumulation and concurrence.</p> <p>Ct 1: 3 yrs imp. Ct 4: 3 yrs imp. Ct 6: cum on Ct 1.</p> <p>All other sentences to be conc.</p> <p>TES 3 yrs 6 mths imp. EFP.</p> <p>At [16] The objective circumstances of the offences of armed robbery committed by the appellant are not at the high end of the scale of seriousness when regard is had to comparable cases... In addition, there were significant mitigating factors... Also relevant first occasion appellant served to term of immediate imprisonment.</p>

			<p>was being spoken to by police in connection with the above offences. A man complained to police that his car had been broken into and his Navman GPS and mobile phone had been stolen. The police located the GPS device on the appellant.</p> <p><u>Ct 6:</u> Together with a co-offender, the appellant entered a service station with the intention of stealing property. The service station attendant asked if he could check the co-offender's bag. The appellant refused and then held a clenched fist up to the attendant's face and said, 'Don't try and be fucking smart. You might get killed. We will be on the look out for you'. The appellant and his co-offender then left the store.</p>		<p>At [27] The agreed positions of both parties on the proper construction and effect of s 9AA <i>Sentencing Act</i> are clearly open, and should be accepted for the purposes of resentencing the appellant in the present case.</p>
62.	<p><i>The State of Western Australia v Bropho</i></p> <p>[2013] WASCA 44</p> <p>Delivered 30/11/2012</p> <p>Published 2013</p> <p><i>Co-offender The State of Western Australia v Boundry</i> [2013] WASCA 46</p>	<p>21 at time of offending.</p> <p>Convicted after early PG.</p> <p>Prior criminal record including convictions for aggravated robbery and aggravated armed robbery.</p> <p>Had a transient, deprived and unstable upbringing. He witnessed domestic violence, excessive alcohol consumption and illicit drug use.</p> <p>Left school in Year 10 and never been employed.</p> <p>Commenced smoking cannabis and drinking alcohol at 8 yrs.</p> <p>Has been in a relationship since he</p>	<p>1 x Agg armed robbery.</p> <p>The respondent and his co-offenders agreed to steal alcohol from a liquor store. Later that afternoon they entered the Altone Liquor Store in Beechboro and selected bottles of liquor from the shelves.</p> <p>The juvenile co-offender ran to a side door with a bottle and fled without paying.</p> <p>The respondent and the co-offender attempted to leave with a bottle through the main entrance without paying.</p> <p>The manager of the store (victim) approached Boundry and grabbed him as he attempted to leave. The victim told Boundry to stop. Boundry struggled with the victim. They moved from the interior of the store to the exterior. The respondent</p>	<p>3 yrs imp conditionally susp 2 yrs.</p> <p>Made full admissions in his VROI.</p> <p>Sentencing judge said that a factor which he considered 'to be very prominent' was the respondent's youth.</p> <p>Participated in mediation with the victim.</p>	<p>Allowed. Order for suspension set aside.</p> <p>Re-sentenced to 3 yrs immediate imp.</p> <p>At [39] Ordinarily, as a matter of fact, a term of immediate imprisonment is the only appropriate sentencing option for the offence of armed robbery. Cases where the offence of armed robbery has not attracted a term of immediate imprisonment are, as a matter of fact, exceptional.</p>

		<p>was 16 and has 2 children.</p> <p>Psychological Report notes that the respondent's history reflects 'a pattern of antisocial behaviour and problematic drug and alcohol use' and noted he was 'a depressed individual'. Also notes the respondent 'acknowledged getting "angry real quick" and often getting into fights.</p>	<p>was about 2m from the manager while the victim sought to detain the respondent by holding him. During the struggle Boundry broke the victim's grip and struck him in the face with a 1.125 litre bottle of whisky. The blow was not forceful. The bottle fell to the ground without breaking. The respondent picked up the bottle and used it as a weapon by throwing it forcefully at the victim from a distance of about 2 m. The bottle struck the victim's head. The bottle broke upon contact with his head and he fell unconscious to the ground.</p> <p>The respondent and Boundry fled.</p> <p>The victim received a depressed fracture of his skull and blood clots on his brain.</p>		<p>At [45] Youth must be weighed against the facts and circumstances of the offence which has been committed.</p> <p>At [50] His Honour attached unjustified significance to the respondent's age in deciding to suspend.</p>
61.	<p><i>Turnbull v The State of Western Australia</i></p> <p>[2013] WASCA 5</p> <p>Delivered 9/01/2013</p>	<p>27 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Prior criminal record – constant offending as adult linked to drug use.</p> <p>Diagnosed anti-social and borderline personality disorder.</p> <p>Amphetamine and cannabis dependency.</p>	<p>1 x Agg armed robbery. 2 x Stealing. 1 x Agg burg. 1 x Agg armed robbery. 1 x Stealing. 1 x Stealing. 1 x Arson.</p> <p>Appellant and two co-offenders drove to a post office. They removed the number plates from the car, disguised their faces and clothing and armed themselves with a tomahawk (appellant) and fishing knife (co-offender 1). They entered the post office. The appellant acted as security and a look-out while co-offender 1 demanded and received money from the manager and then the manager's wife. Appellant and co-offender 1 then returned to the car where co-offender 2 was waiting.</p>	<p>5 yrs imp. 1 yr imp each ct. 4 yrs imp. 5 yrs imp. 18 mths imp. 3 mths imp. 2 yrs imp.</p> <p>TES 8 yrs imp.</p> <p>EFP.</p> <p>Genuine remorse; high risk future violent offending without intervention.</p>	Dismissed – leave refused on papers.

			<p>The first two counts of stealing related to the theft of two caravans from a caravan yard.</p> <p>Appellant and co-offender (co-offender 1 from above) armed themselves with claw hammers and covered their faces before entering a residence by kicking in the door. The victim was asleep inside and was woken by the co-offender threatening him with the hammer and demanding cash and property. Victim's wallet, cash ATM card and PIN, car keys and car were stolen. ATM card was later used to withdraw \$200 – used by appellant and co-offender to purchase drugs – and the vehicle was destroyed by fire.</p>		
60.	<p><i>Nicolaides v The State of Western Australia</i></p> <p>[2012] WASCA 199</p> <p>Delivered 9/10/2012</p>	<p>38yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Significant prior criminal record – including 8 robbery convictions (7 armed and 2 in company); GBH with intent; going armed in public to cause terror.</p> <p>Offending breached bail and curfew requirements; history breaching parole by re-offending; firearms offences; poss drugs; poss smoking implement; steal motor vehicle with violence; escape legal custody.</p> <p>Charged with 23 drug related prison charges since October 2002.</p> <p>Entrenched history poly-substance</p>	<p>Ct 1: Assault with intent to facilitate crime. Ct 2: Agg armed robbery. Ct 3: Dep lib. Ct 4: Steal motor vehicle.</p> <p>Appellant and co-offender went to a hotel with the intention of robbing it. Appellant had planned the robbery for a number of days beforehand and had met with at least two people who were familiar with the hotel's staff arrangements and internal operations. On the evening of the robbery the appellant rang the hotel to confirm the closing time. Appellant and co-offender disguised themselves. Appellant was armed with a loaded handgun and the co-offender was armed with a baseball bat.</p> <p>Appellant and co-offender entered the public bar at the hotel at 9.15pm and yelled at the 30-40 patrons to lie on the floor. Appellant then approached a barmaid and repeatedly demanded she tell him where the manager was. Appellant's</p>	<p>Ct 1: 2 yrs 6 mths imp. Ct 2: 7 yrs imp. Ct 3: 3 yrs imp. Ct 4: 1 yr imp.</p> <p>TES 8 yrs imp.</p> <p>Not EFP.</p> <p>No remorse; no victim empathy.</p>	Dismissed – leave refused on the papers.

		<p>abuse – heroin addict at 16 yrs old; used amphetamines, cocaine, cannabis and ecstasy.</p>	<p>treatment of the barmaid prompted one of the patrons to pick up a stool and advance towards the appellant. Appellant told co-offender to hit him with the bat but the co-offender did not. Appellant then raised the gun and fired it in the direction of the patron. The bullet travelled the full length of the bar but did not hit anyone. Manager then pressed an alarm button in his office before entering the bar and identifying himself. Appellant forced manager to his office and gun pint and demanded he open the safe. Manager complied and appellant took the takings from the safe (\$9,500). Appellant then demanded to be shown the surveillance equipment. Manager told him it was not working but the appellant did not believe him. Appellant forced manager to kneel on the floor, held the gun to his head and threatened to kill him. Manager reiterated equipment not working and appellant accepted that. Appellant and co-offender made manager leave with them and show them where his car was. Appellant and co-offender took the keys and left in the manager's car.</p>		
59.	<p><i>HLJT v Hart</i></p> <p>[2012] WASCA 120</p> <p>Delivered 15/06/2012</p>	<p>16 yrs 10 mths at time offending. 17 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Prior criminal record – agg robbery; steal motor vehicle; receiving; armed robbery</p>	<p>1 x Armed robbery.</p> <p>Appellant and co-offender were at a train station. They followed the victim and his friend towards their car. Appellant was armed with a 35cm metal hand axe and ran at the victim. Appellant raised the axe above his shoulder in a striking position approx 5cm from the victim's face and demanded the victim's gold chain (value \$1800) otherwise he would "chop" the victim's face. Appellant took the gold chain and told the victim to remember his face as he would remember the</p>	<p>12 mths detention.</p> <p>TES 12 mths detention.</p>	<p>Dismissed – leave refused on papers.</p>

			<p>victim's face and told the victim if he went to the police he would "get youse".</p> <p>The appellant's room was later searched by police and, when apprehended, he was wearing the stolen chain.</p>		
58.	<p><i>The State of Western Australia v Drew</i></p> <p>[2012] WASCA 86</p> <p>Delivered 16/04/2012</p>	<p>19 yrs at time offending. 20 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor prior criminal record.</p> <p>Offending breached CBO – placed on CBO approx 5 weeks before ct 1 committed.</p> <p>Required to leave family home at 18 yrs old due to drug abuse and anti-social behaviour; drug use exacerbated mental health issues; suffering depression and anxiety.</p> <p>Substantial drug addiction which was deemed in sentencing to have contributed to offending.</p>	<p>Cts 1-5: Armed robbery. Ct 6: Agg armed robbery. 2 x Breach CBO (burglary; stealing).</p> <p><u>Ct 1:</u> Respondent entered chemist wearing a t-shirt over his head to conceal his identity. Respondent produced a knife and demanded drugs from staff. Respondent was given 2 bottles of dexamphetamine and ran off.</p> <p><u>Ct 2:</u> Approx 3 mths later, respondent entered a pharmacy wearing a hood over his face to conceal his identity. Respondent produced a knife and demanded drugs from staff. Respondent given 2 bottle of dexamphetamine but demanded more drugs. Respondent went to drug safe and took a packet of oxycontin before leaving.</p> <p><u>Ct 3:</u> Approx 3 weeks later, respondent returned to the chemist he robbed in ct 2. Appellant again tried to conceal his face and was armed with a knife. Respondent demanded drugs from staff and was given 3 bottles of dexamphetamine and 3 packets of oxycontin from the drug safe.</p> <p><u>Ct 4:</u> Approx 3 weeks later, appellant returned to the same pharmacy he robbed in cts 2 and 3. Respondent again tried to conceal his identity by</p>	<p>2 yrs imp each ct. 2 yrs 6 mths imp. 12 mths imp; 3 mths imp.</p> <p>TES 3 yrs 6 mths imp.</p> <p>Some insight into mental health and substance abuse; remorseful (letters of apology to victims)</p>	<p>Dismissed.</p> <p>At [43] Individual sentences and TES were lenient.</p> <p>At [43]-[44] The sentences were merciful given the seriousness of the offending.</p>

			<p>wearing a t-shirt over his face. Respondent produced a knife and demanded drugs. Appellant was given 15 bottles of dexamphetamine from the drug safe and left.</p> <p><u>Ct 5:</u> Respondent entered a pharmacy wearing a t-girt over his face to conceal his identity. Respondent produced a knife and demanded dexamphetamine. Respondent was given 33 bottles of dexamphetamine and left.</p> <p><u>Ct 6:</u> Respondent and co-offender entered pharmacy wearing clothing on their faces and sunglasses in an attempt to conceal their identities. Both armed with a knife and demanded that the cash register and drug safe be opened. Respondent took \$50 from the till and was given 3 boxes of oxycontin, a box of Ritalin and a number of morphine based patches. Respondent and co-offender were leaving pharmacy as police arrived – co-offender was apprehended but respondent escaped with drugs and cash.</p> <p>Burglary and stealing charges unrelated to armed robberies. Respondent broke into chemist and damaged the contents of the pharmaceutical cupboards and service counter beyond repair. Respondent stole a Novo Rapid Flex pen before leaving.</p>		
57.	<p><i>McConkey v The State of Western Australia</i></p> <p>[2012] WASCA 45</p>	<p>30 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Lengthy prior criminal record – numerous armed robberies; steal</p>	<p>2 x Agg armed robbery. 1 x Armed robbery. 1 x Stealing. 1 x Steal motor vehicle. 1 x Criminal damage by fire.</p>	<p>TES 8 yrs imp.</p> <p>EFP.</p> <p>Moderate risk violent re-offending;</p>	<p>Dismissed – extension of time refused on papers.</p> <p>NB: Individual sentences not</p>

	Delivered 2/03/2012	<p>motor vehicle; attempted robbery; driving offences.</p> <p>Started using drugs and alcohol at 12 yrs old.</p> <p>Supportive family.</p>	<p>Overall criminality at upper end of scale of seriousness.</p> <p>Appellant and co-offender stole motorcycle and rode to supermarket. Appellant entered supermarket armed with a handgun and demanded money from victim 1 (the attendant). Victim 1 opened the cash register and gave appellant \$900. Victim 2 (the manager) approached appellant and appellant pointed gun at him and threatened to shoot him. Supermarket was busy at the time of the robbery.</p> <p>3 days later the appellant and same co-offender rode the same stolen motorcycle to a pharmacy. Both entered the pharmacy wearing full faced helmets and armed with handguns. They threatened the staff with the guns and demanded money from the till and the safe. They left with \$15,000.</p> <p>Later that day, appellant and same co-offender, travelling at excessive speeds on the stolen motorbike, had a car crash. Victim 3 came to their assistance and the appellant produced a handgun and threatened to shoot him if he didn't give him his car. Victim 3 complied and appellant drove off in his vehicle (\$50,000 Landcruiser). Appellant later set the car on fire, completely destroying it.</p>	engaged in victim mediation; some prospect of rehabilitation.	challenged.
56.	<p><i>Fredericks v The State of Western Australia</i></p> <p>[2011] WASCA 270</p>	<p>18 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Offending breached CBO.</p> <p>Extensive prior criminal record –</p>	<p>1 x Agg armed robbery.</p> <p>Also re-sentenced for breached CBO offences:</p> <p>1 x Burg.</p> <p>1 x Stealing.</p> <p>1 x Obstruct police officer.</p> <p>2 x Trespass.</p>	<p>3 yrs imp.</p> <p>1 yr imp.</p> <p>1 yr imp.</p> <p>3 mths imp.</p> <p>3 mths imp.</p>	<p>Allowed.</p> <p>TES reduced to 3 yrs imp.</p> <p>Individual sentences not altered – sentences on</p>

	<p>Delivered 23/12/2011</p>	<p>stealing; receiving; damage.</p> <p>Entrenched alcohol and substance abuse problem – poor performance with previous substance abuse programs.</p>	<p>1 x Breach bail.</p> <p>Appellant and three co-offenders entered service station wearing sunglasses and hooded jumpers in an attempt to conceal their identities. One co-offender was armed with a bottle, another co-offender was armed with a syringe filled with red liquid and the appellant was armed with pair of scissors. The victim (service station attendant) was threatened by the appellant and the two armed co-offenders while one co-offender stood look-out at the door. Victim gave them money from the till. Appellant and co-offenders then went behind the counter and took cigarettes and cigarette filters before stealing personal items belonging to the victim from the office.</p> <p>Under the influence of amphetamines at the time of offending.</p> <p>Victim extremely traumatised – had to reduce study load as result offending.</p>	<p>3 mths imp.</p> <p>TES 4 yrs imp.</p> <p>Genuine remorse – apologised to victim; willing to engage in offender-victim mediation.</p>	<p>breach offences ordered concurrent.</p> <p>At [18]-[19] Ordinary disposition for armed robbery is immed imp. Rare that suspended term appropriate and will generally only be open when offender young and first time offender.</p>
55.	<p><i>Nannup v The State of Western Australia</i></p> <p>[2011] WASCA 257</p> <p>Delivered 29/11/2011</p> <p>Co-offender <i>Gillespie v The</i></p>	<p>18 yrs at time offending and sentencing.</p> <p>Convicted after early PG.</p> <p>Extensive prior criminal record – agg burg; burg; stealing; receiving; steal motor vehicle; trespass; AOBH; common assault; poss weapon with intent to cause fear.</p> <p>Poor response to previously imposed</p>	<p>1 x Armed robbery. 3 x Steal motor vehicle. 3 x Agg burg.</p> <p>All offences occurred on same night as part of a night long crime spree appellant committed with three co-offenders.</p> <p><u>Armed robbery:</u> Appellant and co-offenders (cousin and 2 long term friends) entered house intending to steal items from it. Victims (2 sisters aged 21 and 23</p>	<p>5 yrs imp. 1 yr imp each ct. 4 yrs imp; 4 yrs imp; 1 yr imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>Armed robbery sentence reduced to 4 yrs 4 mths imp.</p> <p>TES reduced to 5 yrs 4 mths imp.</p> <p>EFP.</p> <p>At [56]-[64] Sentencing</p>

	<p><i>State of Western Australia</i> [2013] WASCA 149</p>	<p>community based orders.</p> <p>Deprived and dysfunctional upbringing.</p> <p>Young daughter – no contact with child’s mother at time sentencing.</p>	<p>yrs) at home at the time and heard the appellant and co-offenders in their home. Victims hid in bedroom. On eco-offender armed with a knife and another with what appeared to be a crowbar. One co-offender yelled to kill the victims and slit their throats. Victim 1 showed appellant and co-offenders where BMW keys were. Appellant and co-offenders eventually left house taking vehicle keys, laptop and an iphone.</p> <p>Offending premeditated and committed out of boredom.</p> <p>Appellant provided police with names of co-offenders and provided details of each offender’s role in offending as well as making admissions as to his own involvement. Refused to testify at trial against any co-offenders.</p>		<p>judge made an express error in not taking co-op with authorities into account when imposing sentence.</p>
54.	<p><i>The State of Western Australia v Eades</i></p> <p>[2011] WASCA 157</p> <p>Delivered 22/07/2011</p>	<p>32 yrs at time offending.</p> <p>Convicted after fast track PG.</p> <p>Extensive prior criminal record – armed robbery’ robbery; steal motor vehicle; criminal damage; escape custody; over 23 pages of juvenile convictions.</p> <p>Offending occurred 15 days after respondent’s release from custody – served full term of 3 yrs 4 mths imp for previous armed robbery offence.</p> <p>Significantly disadvantaged childhood; violent mother; alcoholic father; little supervision or guidance;</p>	<p>Ct 1: Armed robbery. Ct 2: Robbery. Ct 3: Armed robbery. Ct 4: Armed robbery. Ct 5: Armed robbery.</p> <p>Ct 6: Criminal damage. Ct 7: Steal motor vehicle. Ct 8: Att armed robbery. Ct 9: Armed robbery. Ct 10: Robbery. Ct 11: Armed robbery. Ct 12: Steal motor vehicle.</p> <p><u>Ct 1:</u> Respondent entered convenience store at approx 12.30am. Staff member seen that respondent carrying large shifting spanner in his pocket.</p>	<p>Ct 1: 2 yrs imp. Ct 2: 18 mths imp. Ct 3: 2 yrs imp. Ct 4: 2 yrs imp. Ct 5: 2 yrs 6 mths imp. Ct 6: 9 mths imp. Ct 7: 12 mths imp. Ct 8: 18 mths imp. Ct 9: 2 yrs imp. Ct 10: 18 mths imp. Ct 11: 2 yrs imp. Ct 12: 12 mths imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>TES increased to 8 yrs imp.</p> <p>EFP after 6 yrs.</p> <p>Only sentences for armed robbery cts challenged on appeal.</p> <p>At [20] sentence of 4-6 yrs imp is common for a single offence of armed robbery.</p> <p>At [23] notes that individual sentences</p>

		<p>no positive role models.</p> <p>History poly substance abuse beginning at 11 yrs of age.</p>	<p>Respondent demanded money saying 'don't mess with me, I'm armed'. Staff member placed approx \$300 into bag and gave it to respondent. Respondent has then run off.</p> <p><u>Ct 2:</u> Approx 4 days later, respondent entered service station at approx 7pm. Respondent demanded money from staff member, saying he was a drug addict and threatening physical violence. Staff member removed \$377 from till and gave it to respondent.</p> <p><u>Ct 3:</u> Approx 4 days after ct 2, respondent entered restaurant at approx 8.22pm. Respondent threatened staff member with a hammer, banging it several times on the bench and demanded money. Staff member removed \$380 from till but respondent demanded money from the safe as well. Staff member said he could not open the safe and respondent left with money from till.</p> <p><u>Ct 4:</u> Following day, respondent entered liquor store. Respondent placed six pack of UDL cans on counter which staff member scanned and placed in a bag. Respondent pulled out a chisel, threatened staff member and demanded money. Respondent given approx \$400 from the till, took the drinks and left.</p> <p><u>Cts 5 & 6:</u> 3 days after ct 4, respondent entered café at approx 9pm holding a claw hammer and a screwdriver. Respondent demanded money from till. Staff member had difficulties opening till and respondent shattered glass display cabinet with hammer. Respondent given \$1,500 and left the store.</p>	<p>High risk re-offending.</p>	<p>very lenient but, as appeal succeeds on ground of totality, rather than increase individual sentences, sentences on cts 1, 4, 9 and 11 are to be served cumulatively so as to arrive at appropriate TES.</p>
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			<p><u>Ct 7, 8 & 9:</u> Following day, respondent stole a car from a public car park and use it in the commission of a further two armed robberies. First robbery, respondent entered pizza shop armed with a screwdriver and demanded money but left empty handed after the store attendant threatened him with a baseball bat (ct 8). Second robbery, respondent entered supermarket armed with screwdriver, threatened staff left with the till tray containing \$1,500 (ct 9).</p> <p><u>Cts 10 & 11:</u> Following day, respondent entered newsagent at approx 6.30am. Respondent threatened staff with screwdriver and demanded money and cigarettes. Respondent given approx \$200 and 5 packets of cigarettes and left (ct 10). Approx 20 minutes later, respondent entered deli in same area and demanded money while threatening staff with screwdriver. staff informed respondent security cameras were recording him and he attempted to hide his face. Respondent reached over counter, grabbed the till and ran from the store. The till contained approx \$1,500 (ct 11).</p> <p><u>Ct 12:</u> Respondent stole car from restaurant car park and became involved in a police chase before being arrested.</p>		
53.	<p><i>Medlen v The State of Western Australia</i></p> <p>[2011] WASCA 91</p>	<p>30 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Prior criminal record – primarily driving offences.</p>	<p>1 x Agg armed robbery (in company).</p> <p>Appellant and co-offender formed planned to commit an armed robbery. Stole license plates and put them on co-offender's car and drove to Rockingham area to find a business to rob.</p>	<p>3 yrs imp.</p> <p>TES 3 yrs imp.</p>	<p>Dismissed – leave refused on papers.</p> <p>At [14] <i>'The appellant's motive for the offending (to assist his step-</i></p>

	Delivered 12/04/2011	Married with a young son.	<p>Found delicatessen, parked the vehicle and sat in the car watching their target for approx 15 minutes. Co-offender disguised himself and entered premises, armed with a knife, and demanded money. Appellant drove get-away vehicle and knew prior to offending co-offender disguised himself and was armed with a knife.</p> <p>No money (cash drawer wouldn't open) taken but laptop stolen. Consumed significant amount alcohol prior to offending.</p>		<i>brother) and the fact that he was not to participate in the spoils do not materially reduce the level of his culpability.'</i>
52.	<p>TRK v The State of Western Australia</p> <p>[2011] WASCA 90</p> <p>Delivered 12/04/2011</p>	<p>17 yrs at time offending. 18 yrs at time sentencing.</p> <p>Offending breached 12 mth CRO (agg burg).</p> <p>Extensive prior criminal record for serious offences – spent significant portion youth in juvenile detention.</p> <p>Highly dysfunctional up-bringing; unstable family environment; negative adult role models. Sniffing solvents and using cannabis at 11 yrs; significant substance abuse issues.</p>	<p>1 x Agg armed robbery. 1 x Agg robbery. 1 x Disorderly conduct. 1 x Obstruct police.</p> <p>Approx 2am, appellant and friends in Northbridge – arrested for disorderly behaviour and obstructing police. Approx 6 hrs after arrest, appellant and two adult co-offenders, approached victim 1 in parking lot. Appellant demanded keys, victim refused and appellant tried, unsuccessfully to grab the keys. Co-offender punched victim 1 and other co-offender grabbed keys, dislocating victim 1's little finger. Appellant and co-offenders drove off in victim 1's car.</p> <p>Approx 40 min later, appellant and co-offenders stopped at petrol station with intent robbing it. Two co-offenders entered premises and one co-offender, armed with screwdriver, demanded money. Victim 2 said there was no money and co-offender threatened to jump counter and ram screwdriver in her head. Co-offenders then threw cans of soft drink at victim 2, hitting her in the face, head and back. Victim 2 locked herself in</p>	<p>2 yrs imp. 9 mths imp. Fine. Fine.</p> <p>CRO cancelled – 12 mths imp substituted.</p> <p>TES 2 yrs 9 mths imp. Downplayed responsibility; no personal responsibility; high risk re-offending.</p>	Dismissed.

			manager's office. Appellant ran into premises, jumped counter and took till from co-offender and went to remove second till. Appellant and co-offenders left.		
51.	<i>McGregor v The State of Western Australia</i> [2011] WASCA 88 Delivered 7/04/2011	35 yrs at time sentencing. Convicted after fast-track PG. Prior criminal record – agg burglary; conspiracy; stealing; possession of drugs. Not previously served term imprisonment. Casual connection between offending and drug addiction. Appellant's 3 children removed from her care as result of addiction.	1 x Agg armed robbery (in company). Appellant and co-offender robbed a service station. After attendant finished serving appellant, co-offender jumped over the counter and grabbed the attendant's arm. Co-offender pulled out 25cm screwdriver from pants and threatened attendant. Attendant ran away and co-offender stole \$600 from the till. Originally sentenced to 18 mth ISO due to progress in rehabilitation following successful completion of a 6 mth PSO. Appellant breached ISO by failing to attend psychological appointments. Department of Community Corrections of the opinion that, due to appellant's regular failure to attend and a long history (14 yrs) of failing to comply with community orders, she was no longer suitable for a community order.	18 mths imp. TES 18 mths imp. Remorse.	Dismissed – leave refused on papers.
50.	<i>TRKKH v The State of Western Australia</i> [2011] WASCA 36 Delivered 22/02/2011	17 yrs and 9 mths at time offending. Convicted after PG. Significant prior criminal record – stealing; causing explosion; armed robbery; false details to police; obstruct public officer; damaging property; stealing; dangerous driving.	1 x Agg armed robbery. 1 x Common assault. Appellant, co-accused and third party near a shop they had previously formulated a plan to rob. Robbery discussed again and 40 min later, appellant disguised his face (using two bandanas, sunglasses and a hood) armed himself with metal baseball bat. Co-offender also disguised himself	2 yrs 6 mths imp. 2 mths imp. TES 2 yrs 6 mths imp.	Dismissed. At [25] given actual and planned violence and impact on victim, sentence lenient notwithstanding youth.

		<p>Substance abuse issues.</p> <p>Father died in 2009; negative peer influences.</p>	<p>and then armed himself with a metal pole. Third party acted as a lookout with appellant and co-offender approached mini-mart. Third party signalled shop empty and appellant and co-offender entered. Appellant struck victim (58 yr old shop proprietor) several times to rear of his head with baseball bat – fracturing the skull. Victim’s son heard the screams and approached appellant and wrestled him to the ground. Appellant hit head on counter as he fell and he dropped the baseball bat. When appellant got back on his feet, he saw the victim’s son attending to this father. Appellant picked bat up and hit victim’s son several times in the body. Appellant then left.</p>		
49.	<p><i>MOD v The State of Western Australia</i></p> <p>[2011] WASCA 23</p> <p>Delivered 23/12/2010</p>	<p>Youth mitigating factor.</p> <p>Convicted after fast-track PG.</p> <p>No relevant prior criminal record. Diagnosed ADHD at an early age and has had difficulties with education as result.</p> <p>Supportive family; 5 yr old child from previous relationship; current partner pregnant.</p>	<p>1 x Agg Armed robbery (in company). 4 x s 32 notice offences.</p> <p>Appellant, armed with a piece of wood, and co-accused, armed with golf stick, approached security guard as he left restaurant. Appellant and co-accused had been provided with information by an employee of the restaurant that the guard would be carrying approx \$30,000 (the weekend takings). Appellant and co-accused confronted guard and appellant demanded the money. The guard ran into the restaurant. The appellant struck the armoured van with the piece of wood, apparently in frustration.</p> <p>Serious instance of offending - appellant involved in planning robbery and escape; participated voluntarily; recruited a 16 yr old to participate in the offending; held a ‘practice’ run and disguised</p>	<p>2 yrs imp. 2 mths imp and 3 fines.</p> <p>TES 2 yrs imp.</p> <p>EFP.</p> <p>PSR – some insight into offending; victim empathy.</p>	<p>Allowed.</p> <p>TES reduced to 14 mths imp.</p> <p>EFP.</p> <p>Original sentence did not properly reflect co-operation with authorities – appellant had signed a written undertaking to provide information to police.</p>

			<p>himself (dark clothing and bandana). Consumed alcohol prior to offending.</p> <p>Financial motivation – co-accused’s mother (in whose home he was residing at the time) was a heroin addict and continuously wanted money from him.</p>		
48.	<p><i>Fogg v State of Western Australia</i></p> <p>[2011] WASCA 11</p> <p>Delivered 18/1/2011</p>	<p>18 yrs at time offending.</p> <p>Convicted after PG – co-operated with authorities.</p> <p>No prior criminal record.</p>	<p>1 x Agg armed robbery.</p> <p>1 x Dep liberty.</p> <p>1 x Agg burglary.</p> <p>1 x Gain benefit by fraud.</p> <p>Appellant and two co-offenders travelling to Dunsborough in appellant’s car. On the way, one of the co-offenders suggested they stop at victim’s house to collect a debt allegedly owed by victim. Appellant did not know victim but agreed to go and collect debt. Arrived at house at approx 11pm, appellant and two co-offenders went to door and knocked. Victim opened door and appellant and two co-offenders pushed past victim and entered the house. Appellant and one co-offender armed with 60cm iron bars from the boot of the car. Victim ordered by one of the co-offenders (armed with a knife) to sit on the couch. Victim complied and appellant stood near him, holding the iron bar. Victim was threatened and hit in the face by co-offender and was visibly scared. Appellant went into kitchen, picked up 10cm knife and returned to his place near the victim – holding the knife in front of him. Appellant and two co-offenders removed a number of items from the house (eg TV, stereo, DVD recorder). Some of the goods taken from the house were later sold at Cash</p>	<p>2 yrs imp (reduced from 3 yrs for co-operation).</p> <p>1 yr imp.</p> <p>2 yrs imp.</p> <p>3 mths imp.</p> <p>TES 2 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [40] generally immediate imp only option – only in exceptional cases will term be suspended – emphasis on deterrence and personal factors outweighed.</p>

			<p>Converters – the appellant and co-offenders using the money to buy alcohol and drugs which was then shared. Police also found some of the stolen goods at the appellant's house.</p> <p>Appellant affected by drugs/alcohol; played a lesser role (in that offending was not his idea) but was still a willing participant.</p>		
47.	<p><i>Drury v The State of Western Australia</i></p> <p>[2010] WASCA 220</p> <p>Delivered 10/11/2010</p>	<p>37 yrs at time offending.</p> <p>Significant prior criminal record – linked to alcohol and drug issues (including assault public officer, unlawful wounding, burglary, fraud, stealing, receiving and drug possession).</p> <p>Offending breached SIO (imposed for driving whilst disqualified).</p> <p>Chronic alcoholic and long history drug abuse – has had opportunities to address both issues but has not been able to do so with any success.</p> <p>Suffers serious health problems as result alcohol and drug use (Hep C, cirrhosis of liver, enlarged spleen, oesophageal varices, ankle oedema and chronic tooth and back pain).</p>	<p>1 x Armed robbery. 3 s 32 offences (driving related).</p> <p>Appellant waited outside pharmacy until all customers left. He entered wearing a baseball cap and a jumper pulled over his face. The pharmacy had 3 female staff member present and the appellant threatened them with a large axe (hidden under jumper). Demanded and was given morphine. Demanded car keys from staff but they refused and appellant left on foot.</p>	<p>3 yrs 6 mths imp.</p> <p>TES 4 yrs 6 mths imp.</p>	Dismissed.
46.	<p><i>Bello v The State of Western Australia</i></p>	<p>41 yrs at time offending.</p> <p>Convicted after trial.</p>	<p>Ct 1: Armed robbery. Ct 2: Agg Armed Robbery (victim over 60 yrs). Ct 3: Armed Robbery.</p>	<p>3 yrs imp. 3 yrs imp. 3 yrs imp.</p>	Dismissed - in range and reflective of degree of criminality.

	<p>[2010] WASCA 181</p> <p>Delivered 17/09/2010</p>	<p>Extensive prior criminal record – driving under suspension, dishonesty, assault and possession illicit drugs. Received susp terms of imp.</p> <p>Good upbringing; supportive family; good work history; 4 children of his own between 10 and 18 yrs.</p> <p>Began drug use at 30 yrs – began cannabis and graduated to heroin. Offending related to heroin addiction (oxycontin substitute for heroin).</p> <p>After offending commenced methadone program and remained on program until sentenced – accepted by court as evidence of good prospect rehabilitation.</p>	<p><u>Ct 1:</u> Entered pharmacy after concealing identity and, pretending to be armed with a firearm by placing his hands inside his jumper, he demanded staff hand over oxycontin tablets. The pharmacist took out a packet of oxycontin from the safe and gave it to the appellant, who then fled in a car that was waiting for him.</p> <p><u>Ct 2:</u> On the same day, the appellant robbed another pharmacy in the same manner, fleeing with oxycontin in a car that had been waiting for him.</p> <p><u>Ct 3:</u> Following day, the appellant robbed another pharmacy in the same manner, again fleeing to a waiting car with oxycontin.</p> <p>Not actually armed but not particularly mitigating as victims could not have known this. Important factor in sentencing was degree of planning and appellant's steps to disguise himself and conceal the registration plates of the car that was waiting for him – features that speak to the seriousness of offence.</p>	<p>TES 7 yrs imp.</p> <p>EFP.</p> <p>No remorse.</p>	
45.	<p>McNab v State of Western Australia</p> <p>[2010] WASCA 66</p> <p>Delivered 14/04/2010</p>	<p>28 yrs at time offending.</p> <p>Convicted after PG.</p> <p>No relevant prior criminal record.</p> <p>Re-trenched from job in mining industry in December 2008. Developed gambling addiction in February 2009 – after offence, sought help for gambling addiction &</p>	<p>1 x Armed Robbery.</p> <p>Appellant entered suburban branch of credit union wearing baseball cap, very dark sunglasses and a long shirt in an attempt to disguise himself. The appellant was armed with a syringe and demanded money from the teller (stole \$3250. \$2214 recovered at time arrest and \$200 paid in restitution at time sentencing).</p>	<p>2 yrs imp.</p> <p>TES 2 yrs imp.</p> <p>Commitment to rehab significant in sentencing but did not outweigh need general deterrence.</p>	<p>Dismissed.</p> <p>Term at low end of sentencing range and suspension not appropriate.</p>

		<p>excluded himself from Burswood Casino. No independent evidence addiction (only self report from appellant).</p> <p>Abuse of amphetamines and alcohol in period leading up to offending.</p>			
44.	<p><i>Manyam v The State of Western Australia</i></p> <p>[2009] WASCA 164</p> <p>Delivered 11/09/2009</p>	<p>36 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Significant prior criminal record – including 9 armed robs in 1996 (10 yrs imprisonment imposed).</p> <p>Robberies result serious drug habit (cannabis and heroin); on methadone program at time sentencing.</p> <p>Two daughters – little contact in past 2 yrs owing to relapse into drug use.</p>	<p>1 x Agg armed robbery. 4 x Dep lib.</p> <p>Appellant entered Sizzlers restaurant at closing time with a co-offender. The appellant was wearing a balaclava, sunglasses and gloves and had armed himself with a knife. The co-offender was armed with a sawn-off rifle. The appellant tied up two female workers with cable ties and ushered the remaining staff members onto a storeroom. The co-offender forced the manager to open the safe and place the contents in a bag. Psychological damage of robberies on victims noted in sentencing.</p>	<p>7 yrs imp. 4 yrs imp each ct.</p> <p>TES 7yrs.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [29] ‘...very serious case of aggravated armed robbery’.</p> <p>Aggravating factors include targeting young workers providing service to public at night; premeditation and preparation; ‘methodical and systematic’ manner offence carried out.</p>
43.	<p><i>Dedman v State of Western Australia</i></p> <p>[2009] WASCA 135</p> <p>Delivered 6/08/2009</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>‘Difficult life’ – death of partner and substance abuse issues.</p>	<p>1 x Agg armed robbery in company. 4 x s 32 offences.</p> <p>Considered in sentencing to be a ‘serious robbery’.</p> <p>Appellant saw victim in parking lot. Appellant told driver of vehicle he was in to stop. Appellant left stopped car and approached victim, raising a hammer in a threatening manner and demanding victim hand over her bag. Victim refused and appellant called for co-offender to stab victim</p>	<p>3 yrs imp. Fines.</p> <p>TES 3 yrs imp.</p>	Dismissed.

			<p>causing co-offender to leave car armed with a knife. Appellant swung hammer but victim avoided blow – victim, in fear of life, handed over purse and offenders began to return to their car. Appellant removed rear number plate and both offenders left the scene. Money taken was used by appellant and co-offender to buy cannabis, cigarette and alcohol.</p> <p>Under influence of Valium at time offending.</p>		
42.	<p><i>Robertson v The State of Western Australia</i></p> <p>[2009] WASCA 83</p> <p>Delivered 7/05/2009</p>	<p>36 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Prior criminal record - 34 prior convictions for armed robbery and numerous conviction other offences (stealing, receiving, burglary and drugs) – spent 15 yrs of adult life in custody.</p> <p>Offending occurred within 8 mths of parole expiring (within 2 yrs release). Motive was to relieve financial pressure on family – one child and pregnant partner.</p> <p>History drug addiction and financial problems.</p>	<p>Ct 1: Agg armed robbery.</p> <p>Ct 2: Agg armed robbery (in company).</p> <p>Ct 3: Agg armed robbery.</p> <p>6 s 32 notice offences</p> <p><u>Ct 1:</u> Entered Home Building Society wearing beanie and dark sunglasses. Approached staff member, place plastic shopping bag on counter and stated it was a ‘hold up’. The appellant then brandished a 30cm carving knife and demanded money. Two staff members removed money from their drawers and put in the plastic bag. The appellant became agitated and tried to climb the counter. The appellant then brandished the knife and told them to open the safe – staff member replied that she couldn’t. The appellant then grabbed the bag (containing \$378.15) and fled.</p> <p><u>Ct 2:</u> Appellant entered Sizzlers restaurant at closing time with a co-offender. The appellant was</p>	<p>Ct 1: 4 yrs 8 mths imp.</p> <p>Ct 2: 5 yrs 4 mths imp.</p> <p>Ct 3: 4 yrs 8 mths imp.</p> <p>s 32: 4 terms imp and 2 fines – all conc).</p> <p>TES 10yrs imp.</p> <p>EFP.</p> <p>Relatively high risk re-offending.</p>	<p>Dismissed.</p> <p>Good summary of comparative cases.</p> <p>NB: original sentence, upheld by the Court of Appeal, was imposed whilst the transitional provisions were in force.</p>

			<p>wearing a balaclava, sunglasses and gloves and had armed himself with a knife. The co-offender was armed with a sawn-off rifle. The appellant tied up two female workers with cable ties and ushered the remaining staff members onto a storeroom. The co-offender forced the manager to open the safe and place the contents in a bag (\$6055).</p> <p><u>Ct 3:</u> Appellant entered a TAB wearing blue hooded jumpsuit, mask and gloves. Appellant carrying backpack and was armed with sawn-off rifle. Appellant ordered customers to the ground, jumped the counter and pointed the gun at the manager, demanding money. Manager handed money over and appellant took wallets from the customers and manager (\$8120.55 in total).</p> <p>Offending occurred over 4 mth period – sustained and violent in nature and were, on own and together, of great seriousness.</p>		
41.	<p><i>Mejska v The State of Western Australia</i></p> <p>[2009] WASCA 80</p> <p>Delivered 7/05/2009</p>	<p>21 yrs at time offending.</p> <p>Convicted after fast track PG. No prior relevant criminal record.</p> <p>Offending on ct 2 breached bail on ct 1.</p> <p>Addicted to opiates at 17 yrs – considered causative factor in aggressive behaviour. Diagnosed schizoid type personality with elements of depression and anxiety.</p>	<p>2 x Armed robbery.</p> <p><u>Ct 1:</u> Appellant placed bladed kitchen multi-tool against victim's throat as she was walking down the street and threatened to cut her throat if she didn't hand the bag over. Appellant took bag and mobile phone and fled.</p> <p><u>Ct 2:</u> Appellant, covering face and armed with a carving knife, approached victim from behind in a car park. The appellant demanded the car keys and the victim complied. The appellant then</p>	<p>2 yrs imp. 3 yrs imp.</p> <p>TES 5 yrs.</p> <p>EFP.</p> <p>Some insight into behaviour.</p>	<p>Dismissed.</p> <p>NB: original sentence, upheld by the Court of Appeal, was imposed whilst the transitional provisions were in force.</p>

			demanded money and the victim gave her \$5. The appellant then drove off in the car at speed, eventually crashing it into a fence.		
40.	<i>Oaks v State of Western Australia</i> [2009] WASCA 43 Delivered 27/02/2009	23 yrs at time sentencing. Convicted after fast-track PG. Bad prior criminal record – consistent and violent offending (including previous term suspended imprisonment for armed robbery in 2004). History breaches and failure to comply ISOs and parole. Suffered psychotic episodes as result amphetamine addiction. Health issues – one kidney.	1 x Agg armed robbery. Appellant entered petrol station – attended by 25 yr old student, a part time worker, working alone at the time of offending. Appellant selected items and placed them on the counter, pretending to make a purchase. Appellant then threatened victim with a syringe. Victim thought syringe was a knife and handed appellant \$320 from till. Appellant left and told victim not to call police for 30 min.	3yrs imp. TES 3 yrs imp. EFP. Tendency minimise conduct and distort truth; no victim empathy.	Dismissed. At [27] range in <i>Miles v The Queen</i> upheld. At [12] ‘...that the offence was at the lower end of the scale, but the sentencing judge made the observation that this did not mean that it was not a particularly serious offence. ...it is a prevalent offence and one which causes fear to people and has ramifications for particular types of employment.’ NB: the original sentence, upheld by the Court of Appeal, was imposed whilst the transitional provisions were in force.
Transitional Provisions Repealed (14/01/2009)					
39.	<i>State of The Western Australia</i>	31 yrs at time offending.	Ct 1: Steal motor vehicle. Ct 2: Armed robbery.	Ct 1: 9 mths imp. Ct 2: 4 yrs 9 mths	Allowed.

	<p><i>v Viskari</i></p> <p>[2008] WASCA 143</p> <p>Delivered 10/07/2008</p>	<p>Convicted after PG at start of trial.</p> <p>Offending breached parole.</p> <p>Prior criminal record - 'Entrenched' history offending and spent majority adult life in custody.</p> <p>Extensive history substance abuse and depression.</p>	<p>Ct 3: Arson. Ct 4: Steal motor vehicle. Ct 5: Armed robbery. Ct 6: Arson. Ct 7: Steal motor vehicle. Ct 8: Armed robbery. Ct 9: Criminal damage by fire. Ct 10: Steal motor vehicle. Ct 11: Armed robbery. Ct 12: Arson</p> <p><u>Cts 1-3:</u> Appellant stole car and drove to pharmacy. Dressed in paper cloth overalls and all that could be seen of appellant were his eyes and face. Entered chemist armed with screwdriver or knife and demanded money and drugs. Given both and left scene in stolen vehicle which he later set abandoned and set alight.</p> <p><u>Cts 4-6:</u> Appellant stole car and drove to motel, again dressed in paper cloth overalls. Entered motel with knife and demanded money. Left with money – stolen vehicle became bogged and appellant set on fire.</p> <p><u>Cts 7-9:</u> Appellant stole car and drove to pharmacy. Dressed in such a manner that only part of his eyes were visible. Entered pharmacy with knife and demanded money and drugs. Having received both, the appellant left in stolen vehicle which he later abandoned and set alight.</p> <p><u>Counts 10-12:</u> Stole car and drove to Subway Restaurant, again dressed in paper cloth overalls. Entered Subway</p>	<p>imp. Ct 3: 2 yrs imp. Ct 4: 9 mths imp. Ct 5: 4 yrs 9 mths imp. Ct 6: 2 yrs imp. Ct 7: 9 mths imp. Ct 8: 4 yrs 9 mths imp. Ct 9: 2 yrs imp. Ct 10: 9 mths imp Ct 11: 5 yrs 1mth imp. Ct 12: 2 yrs imp.</p> <p>TES 7 yrs 1mth imp. EFP.</p> <p>High risk re-offending.</p>	<p>TES increased to 9 yrs 1 mths.</p> <p>Individual terms not altered.</p> <p>NB: double jeopardy applied to State appeals.</p>
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			with knife and demanded money. Left with money in stolen vehicle which appellant later set on fire.		
38.	<i>Roffey v The State of Western Australia</i> [2007] WASCA 246 Delivered 14/11/2007	21 yrs at time offending. Convicted after fast-track PG. Prior criminal record - began offending at 15 yrs (11 juvenile convictions for armed robbery and attempted armed robbery – received 4yrs 6mths detention). Spent majority adult life in custody. Began sign amphetamines at 15 yrs – causative factor in offending. Father member motor cycle gang and served numerous periods imprisonment. Parents normalised criminal activity and antisocial behaviour to high degree.	15 x Armed robbery s392 <i>Criminal Code</i> . 3 x Attempted armed robbery. 13 x Deprivation liberty. 3 x Crim damage by fire. 5 x Steal motor vehicle. 1 x Possess altered firearm. 1 x AOBH with intent. 7 x s32 offences (no effect on aggregate sentence). Offences at high end scale seriousness essentially all armed robberies with either a knife or a gun being used by the appellant. Some committed on own, some with co-offenders. Robberies involved threats to kill/harm employees and customers (also placed gun against head of customer in course one robbery), some damage to premises (eg broken windows).	3 yrs imp each ct 2 yrs imp each ct. 2 yrs imp each ct. 2 yrs imp each ct. 18 mths imp each ct 1 yr imp. 3 yrs imp. TES 18 yrs. EFP. Limited insight.	Allowed. TES reduced to 13 yrs 6 mths. Individual terms not altered. Nature and frequency offending require lengthy custodial sentence. Some case summaries for multiple offences armed robbery.
37.	<i>Davis v The State of Western Australia</i> [2007] WASCA 147 Delivered 13/07/2007	37 yrs at time sentencing. Prior criminal record – incl armed robberies at 20 yrs which resulted in probation. Alcohol & illicit drug problem since teenager – including heroin addiction. Under influence Interferon at time offending (treat Hep C) but not substantial causative factor in offending.	8 x Armed robbery (2 counts claimed armed, 4 counts showed weapon, 3 counts threatened with weapon). 1 x Attempted armed robbery. 2 x Assault intent to prevent arrest. 1 x Fraud. s 32 offences - 8 x fraud and 1 x stealing. Offending occurred over period 2 ½ mths – escalating throughout that period and only	3 yrs imp (claimed armed). 3 yrs 6 mths imp (showed weapon). 4 yrs imp (threatened with weapon). 3 yrs imp. 18 mths imp each ct. 12 mths imp. 6 mths imp each s 32 offence. TES 10 yrs imp.	Dismissed. At [40] ‘... <i>deterrent sentences of substantial length were called for. In my view, a total sentence of 10 years’ imprisonment (...15 years’ imprisonment before the transitional provisions) could not be said to be manifestly excessive.</i> ’

			<p>stopping on arrest.</p> <p>Robbed succession of liquor stores, post offices, banks and petrol stations whilst actually armed or claiming to be armed with firearm. Approx \$10,000 in total taken (approx \$600 recovered).</p>	EFP.	
36.	<p><i>Wheeler v The State of Western Australia</i></p> <p>[2007] WASCA 109</p> <p>Delivered 15/05/2007</p>	<p>58 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Offending breached parole.</p> <p>Extensive prior criminal record – 14 offences armed robbery; dishonesty and property offences.</p>	<p>4 x Armed robbery s392 <i>Criminal Code</i>.</p> <p>At [8] offences of this kind regarded as ‘extremely seriously by the legislature’</p> <p>Armed in all cases with what appeared to be a handgun – targeted two TABS and two petrol stations. Disguised himself on each occasion (black stocking like mask).</p>	<p>5 yrs imp 2 counts. 4 yrs imp 2 counts.</p> <p>TES 10 yrs (included 2318 parole days owed).</p> <p>Not EFP.</p> <p>Little prospect rehabilitation.</p>	Dismissed.
35.	<p><i>Abbott v The State of Western Australia</i></p> <p>[2007] WASCA 105</p> <p>Delivered 24/05/2007</p>	<p>24 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>No relevant prior criminal record.</p> <p>History drug abuse since teenager – history physical, sexual and emotional abuse as child.</p> <p>Good employment history.</p> <p>7 yr old daughter.</p>	<p>1 x Armed robbery.</p> <p>Towards lower end of scale of seriousness – mainly owing to lack aggression.</p> <p>Appellant and partner addicted to morphine. Undergoing detox and appellant could not tolerate effects withdrawal. Went to pharmacy and explained situation but was told that could not supply drugs without prescription. Appellant told by staff medical centre nearby but that it would not open for several hours.</p> <p>Appellant left pharmacy and filled a syringe with her blood – appellant aware had Hepatitis C. Appellant re-entered pharmacy with syringe and apologised to staff as she demanded morphine. Given morphine and left premises.</p>	<p>3 yrs 5 mths.</p> <p>TES 3 yrs 5 mths imp.</p> <p>EFP.</p> <p>Initially place on PSO but cancelled as felt untenable appellant able live drug free life in foreseeable future.</p> <p>Victim put to court that appellant needed help and offence did</p>	<p>Allowed.</p> <p>TES reduced to 2 yrs imp.</p> <p>EFP.</p>

			Following day, appellant went to police station of own accord after being told by her mother the police were looking for her – admitted offence in interview.	not have huge impact on her. Extremely remorseful.	
34.	<i>Mooney v State of Western Australia</i> [2007] WASCA 54 Delivered 9/03/2007	47 yrs at time sentencing. Convicted after trial. ‘Appalling’ prior criminal record – including 6 previous offences armed robbery or robbery. On parole at time offending (offended on parole on 4 other occasions). Offence involved minimal planning. History poly-substance abuse – unwilling to address issue. In long-term relationship.	1 x Agg armed robbery. Appellant and co-offender entered jewellery design business after knocking on door. Appellant identified himself as police officer and handed out business card of officer which appellant had been given at a meeting with that officer previously. Appellant and co-offender, under guise investigating stolen gold, took items from safe. Proprietor asked what they were doing and appellant punched him in face, dragged him into store room and put him on floor. When proprietor tried to get up, appellant kicked him 3 times in the head. Co-offender assaulted an employee in course robbery. None of the stolen items were recovered. During robbery, appellant armed himself with a pool cue from the premises. Appellant had greater role than co-offender.	6 yrs imp. Concurrent with 3 yrs parole owing. TES 6yrs imp. Not EFP.	Dismissed. At [31] good summary as to range of sentences.
33.	<i>Nancarrow v The State of Western Australia</i> [2006] WASCA 238 Delivered 14/11/2006	Convicted after fast-track PG. Prior criminal record. Offending breach CRO. Long history drug abuse and drug-induced psychoses.	Cts 1, 2, 3 & 5: Agg armed robbery. Ct 4: Agg armed robber. s 32: AOBH. Series five armed robberies committed over a period of approx 6 wks. <u>Ct 1:</u> Appellant and co-offender left appellant’s home armed with a knife for the purpose of robbing a	3 yrs 6 mths imp each ct. 4 yrs imp. 9 mths imp. TES 8 yrs 3 mths imp.	Dismissed. At [50] Sentences at low end of the range. At [68]-[72] The imposition of wholly concurrent sentences would not mark the seriousness of the offending.

		<p>service station. They entered the service station with clothing wrapped around their heads to as disguises. Co-offender threatened attendant with knife and grabbed \$892 from the till. Appellant and co-offender then ran to a car waiting for them outside, being driven by a third person.</p> <p><u>Ct 2:</u> 4 days later, appellant and co-offender again left appellant's homes armed and with the intent of committing a robbery. They went to a different service station, again with clothing wrapped around their heads, ad. Co-offender was armed with a knife and the appellant with a pole. Appellant and co-offender both threatened attendant before grabbing money from the till and running out to a waiting car.</p> <p><u>Ct 3:</u> Approx 1 mth later, appellant and co-offender again left appellant's homes armed with knives and with the intent of committing a robbery. Appellant and co-offender again robbed a service station with the co-offender threatening the attendant with a knife.</p> <p><u>Ct 4:</u> Approx 1 week later, appellant and co-offender again left appellant's homes armed with knives and with the intent of committing a robbery. Service station they targeted was the same as in ct 1 and the same attendant was on duty. Again, they entered with clothing around their heads. Attendant so frightened that he could not move to comply with their demands to open the till co the co-offender climbed over the desk and threatened the attendant with the knife. Attendant opened till, co-offender removed \$400 and both ran to a waiting car.</p>		<p>At [73] Given a range of 4-6 yrs imp for one offence of armed robbery, TES of 7 yrs 6mths imp for the armed robbery offences in question is not disproportionate to criminality.</p>
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			<p><u>Ct 5:</u> 5 days later, appellant and co-offender entered a foodmart armed with knives and wearing balaclavas. Appellant took money from the till while threatening the attendant with the knife. Co-offender demanded attendant open the other register but she couldn't. Appellant began to leave and co-offender opened a drawer next to the registers, took out a white bag containing a large sum of cash. Both ran to a waiting car.</p> <p>Assault unrelated to the armed robberies.</p>		
32.	<p><i>Hassan v State of Western Australia</i></p> <p>[2006] WASCA 139</p> <p>Date delivered 10/07/2006</p>	<p>19 yrs at time offending.</p> <p>Convicted after trial.</p> <p>On home detention bail for 3 armed robberies (included 2 car-jackings) at time of offences.</p> <p>Long prior criminal record – including attempted armed robbery, burglary, assault.</p> <p>Grew up in war torn Somalia; childhood marred by violence, instability, poverty, lack education; spent 7 yrs in refugee camp in Kenya before coming to Australia at 14 yrs.</p>	<p>1 x Dep lib. 1 x Agg armed robbery (car). 1 x Agg armed robbery (money) 1 x Agg armed robbery (car).</p> <p>Appellant deliberately drove into rear of victim 1's car as both cars were driving. Victim 1 travelling alone. Appellant and co-offender got out of car and began to speak to victim 1. The car they were travelling in has left and the appellant has produced a knife and threatened victim 1, forcing her into passenger seat of car. Appellant got into driver's seat and co-offender into rear of car. Appellant drove at speeds up to 150km/hr – intoxicated and drinking spirits as drove. Pulled into shopping centre and demanded victim withdraw cash from ATM. Victim said no money in bank and appellant took \$20 from her wallet. Appellant and co-offender returned to vehicle and drove off.</p> <p>Appellant deliberately run into back of victim 2's car as driving – victim 2 was 61yrs. Victim 2 got out of car and approached appellant in victim 1's</p>	<p>4 yrs 6 mths imp. 5 yrs imp. 3 yrs imp. 5 yrs imp.</p> <p>TES 8 yrs.</p> <p>At time sentencing serving term 7 yrs imp – terms concurrent after 2 yrs).</p> <p>No remorse.</p>	Dismissed - appropriate measure of criminality.

			car. Appellant and co-offender ran to victim 2's car and appellant got in driver's seat. Victim 2 ran back to his car and opened door. Appellant got out and demanded keys – held knife over stomach while co-offender pretended armed with firearm. Appellant demanded victim 2's wallet and demanded to know PIN, threatening victim 2 with knife. Victim told PIN. Appellant demanded victim 2 get in car and drive – victim 2 refused, instead putting keys in ignition and instructing appellant how to put the car in gear. Appellant and co-offender drove off.		
31.	<i>Pezzino v The State of Western Australia</i> [2006] WASCA 131 Delivered 21/06/2006	26 yrs at time offending. Convicted after trial. Significant prior criminal record – drugs, escape custody, burglary and assault. Children's court convictions (not considered in sentencing process). History drug abuse; dysfunctional childhood.	4 x Armed robbery. 1 x Attempted armed robbery. 1 x Burglary. 1 x Steal motor vehicle. Armed robberies involved pharmacies, a post office and newsagency. In each case appellant entered wearing a visored motorcycle helmet and armed (either with a large knife or a metal pole). Relatively serious offending – aggressive and involved use of violence against person over 60 yrs in one instance.	6 yrs imp each ct. 6 yrs imp. 2 yrs imp burglary. 3 yrs imp steal motor vehicle. TES 9 yrs. Not EFP. Some insight into offending.; limited prospects rehabilitation.	Dismissed - severe but reflective of criminality and within range.
30.	<i>Kiesey v The State of Western Australia</i> [2005] WASCA 229 Delivered 30/11/2005	25 yrs at time offending. Convicted after PG. Offending breached parole. Significant prior criminal record – burglary; stealing; fraud; resisting arrest; assault public officer; possess	1 x Agg armed robbery. 1 x Agg armed robbery. s 32 offences - 2 x Steal motor vehicle (used in commission armed robberies). <u>Ct 1:</u> Robbed chemist, with co-offender, whilst armed with shotgun and wearing balaclavas. Appellant used degrading and abusive language even	3 yrs 6 mths imp. 3 yrs 6 mths imp. 2 yrs imp each ct. TES 7 yrs imp. Not EFP. Owed 465 parole	Dismissed.

		<p>drugs; breach bail and ISO.</p> <p>Left home at 14 yrs due to conflict with step-father and left school after completing yr10.</p> <p>Began drug use at 14 yrs – ongoing problem.</p> <p>Offending partly related to debts owed to bikie gang.</p>	<p>though staff complied with directions.</p> <p><u>Ct 2:</u> Robbed post office, with co-offender, whilst armed with rifle and wearing balaclavas. Again abused staff members even though compliant and pushed gun muzzle into neck one staff member.</p> <p>‘Undoubtedly serious’ offences – disguises, abuse and trauma of victims.</p>	<p>days at time sentencing – to be served cumulatively.</p>	
29.	<p><i>Readhead v State of Western Australia</i></p> <p>[2005] WASCA 191</p> <p>Delivered 5/10/2005</p>	<p>35 yrs at sentencing.</p> <p>Convicted after early PG.</p> <p>Offending breached parole (5 days since released).</p> <p>Prior criminal record –armed robbery; stealing motor vehicle; breach ISOs & parole.</p> <p>Parents separated when appellant young and mother died; lack of support; poor interpersonal skills; no enduring r/ships and marked social disconnectedness.</p> <p>Schizophrenic.</p>	<p>5 x Armed robbery.</p> <p>1 x Attempted armed robbery.</p> <p>Series of separate armed robberies involving a knife or syringe. Each time appellant entered premises armed and wearing a disguise. Robberies committed against supermarket, petrol stations and a pharmacy.</p>	<p>TES 9 yrs imp.</p> <p>Owed 3 yrs parole at time sentencing – to be served cumulatively</p> <p>Not EFP.</p> <p>High risk re-offending; lack of empathy for victims and no true remorse.</p>	<p>Allowed.</p> <p>TES reduced to 7 yrs.</p>
28.	<p><i>Munro v The State of Western Australia</i></p> <p>[2005] WASCA 31</p>	<p>Convicted after trial.</p>	<p>Ct 1: Agg burg.</p> <p>Ct 2: Dep lib.</p> <p>Ct 3: Armed robbery.</p> <p>Appellant and co-offenders broke into a deli and stole two air rifles the deli owner lawfully owned. A few days later, appellant and co-offenders</p>	<p>Ct 1: 1 yr 4mths imp.</p> <p>Ct 2: 1 yrs 4 mths imp.</p> <p>Ct 3: 4 yrs 8 mths imp.</p> <p>TES 6 yrs imp.</p>	<p>Dismissed.</p> <p>NB: co-offender also had sentence appeal dismissed <i>Snider v The State of Western Australia</i> [2005]</p>

	Delivered 4/3/2005		<p>returned, wearing balaclavas and gloves and armed with firearms. Entered deli after owner answered a knock on the door, shortly after midnight, and demanded money from the safe. In the process, the owner of the deli was tied up and something placed over his head – he was left that way and it took 15-20min for him to free himself. The appellant and co-offenders left with \$30,000.</p> <p>Appellant found to be the ringleader and responsible for much of the planning – ‘driving force’ behind offending.</p>	EFP.	WASCA 61 (sentence on ct 3 was 4 yrs; TES 5 yrs 4 mths imp).
27.	<p><i>Gullelo v State of Western Australia</i></p> <p>[2005] WASCA 12</p> <p>Delivered 4/2/2005</p>	<p>24/25 yrs at time offending. 27 yrs at time sentencing .</p> <p>Convicted after early PG – refused identify co-offenders.</p> <p>Extensive prior criminal record beginning at 14 yrs – robbery, burglary, drugs and previous violent offences. History illicit drug abuse, including heroin. At time arrest, both appellant and de facto heroin addicts and both had made some progress since arrest to address addiction.</p> <p>Disturbed and disrupted childhood; 1 yr old child.</p>	<p><u>Indictment 1</u> Ct 1: Steal motor vehicle. Ct 2: Armed robbery in company. Ct 3: Steal motor vehicle. Ct 4: Armed robbery in company.</p> <p><u>Indictment 2</u> Ct 1: Steal motor vehicle. Ct 2: Attempted armed robbery in company with violence. Ct 3: AOBH. Ct 4: Steal 2 motor vehicle registration plates. Ct 5: Armed robbery with violence.</p> <p><u>Indictment 1:</u> Robbed a pharmacy and a bank. Other offences occurred in commission/lead up to armed robberies. Appellant armed with screwdriver, co-offender with knife and in bank robbery appellant disguised himself with stocking over the head.</p> <p><u>Indictment 2:</u></p>	<p><u>Indictment 1</u> Ct 1: 1 yr imp. Ct 2: 6 yrs imp. Ct 3: 1 yr imp. Ct 4: 6 yrs imp.</p> <p>TES 12 yrs imp.</p> <p><u>Indictment 2</u> Ct 1: 1 yr imp. Ct 2: 5 yrs imp.</p> <p>Ct 3: 2 yrs imp. Ct 4: 3 mths imp. Ct 5: 6 yrs imp.</p> <p>TES 6yrs imp conc with indictment 1.</p> <p>TES 12 yrs imp (both indictments).</p>	Dismissed.

			<p>Robbed newsagent, wearing masks – one offender armed with shotgun and shopkeeper knocked to ground and kicked several times. Appellant and co-offender fled without anything when member public intervened. Appellant drove to pharmacy and committed armed robbery – again, shopkeeper assaulted in course offending. Other offences occurred in commission/lead up to armed robberies – stolen motor vehicle and stole registration plates used as transport for robbery.</p> <p>Firearm used modified so could not fire – victims could not have known this so has very little mitigatory value.</p>	<p>EFP.</p> <p>Sentences imposed pre-transitional.</p> <p>Degree of insight and desire to break addiction.</p>	
26.	<p><i>Moyle v The State of Western Australia</i></p> <p>[2004] WASCA 166</p> <p>Delivered 9/08/2004</p>	<p>Convicted after early PG.</p> <p>Offending breached ISO – att agg robbery and assault (tried to steal BMX form 15 yr old with co-offender but was topped by by-standers).</p> <p>Prior criminal record - juvenile conviction for armed robbery in company; assault.</p> <p>On ISO at time offending for attempted agg robbery and assault (tried to steal BMX form 15 yr old with co-offender but was topped by by-standers).</p> <p>Troubled childhood – physical and verbal abuse; behavioural problems; left school yr 10; some employment history; anger management issues and</p>	<p>1 x Agg armed robbery. 1 x Att agg armed robbery. 1 x Assault with intent to prevent arrest. 1x Breach ISO (imposed for attempted agg robbery). 1 x Breach ISO (imposed for assault)</p> <p>Offending period 7 mths.</p> <p><u>Ct 1:</u> Appellant armed himself with screwdriver and entered bakery, confronting 16yr old shop assistant and demanding money. Received \$300 from cash register and appellant fled.</p> <p><u>Ct 2 & 3:</u> Approx one month later, appellant armed himself with iron bar and disguised appearance (beanie and bandana over face and head), and entered same bakery. Saw till unattended and tried to open case drawer. Owner (on crutches with broken leg) saw him and appellant head-butted</p>	<p>2 yrs 8 mths imp. 4 yrs imp. 8 mths imp. 12 mths imp. 4 mths imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>Considerable remorse.</p>	Dismissed - TES severe given youth, but does not manifest error.

		<p>impulsivity.</p> <p>History alcohol, cannabis and amphetamine abuse.</p>	<p>him, causing him to fall backwards. Owner managed to hit appellant on shoulder with crutch, appellant struck owner with metal bar in retaliation. Appellant then fled, knocking over a 64yr old customer in process – customer suffered torn ligaments in ankle. Police attempted to arrest appellant short time later. Appellant broke broom and threatened them with handle. Appellant forced to ground at gun point and struggled violently when finally apprehended.</p> <p><u>Ct 4:</u> Stole bottle bourbon from liquor store.</p>		
25.	<p><i>Slowiak v The Queen</i></p> <p>[2004] WASCA 112</p> <p>Delivered 31/05/2004</p>	<p>26 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Extensive prior criminal record and history re-offending while on parole.</p> <p>Difficult childhood – parents separated appellant 2 yrs; physical & sexual abuse.</p> <p>Long history poly-substance abuse – heroin at 16 yrs; amphetamines.</p>	<p>1 x Armed robbery (pretending to be armed with firearm) .</p> <p>1 x Agg burg .</p> <p>4 x Dep Lib.</p> <p><u>Armed robbery:</u> Appellant entered Bankwest and approached teller and handed her a note indicating he was committing a hold-up. He demanded money and told teller he was armed with a gun. The appellant fled scene on foot with \$4880 – dropped all but \$2300 as fled.</p> <p>Agg burg and unlawful detentions unconnected offences to armed robbery, although committed on same date.</p>	<p>7 yrs imp.</p> <p>8 yrs 6 mths imp. 3 yrs imp one count & 2 yrs imp each remaining count.</p> <p>TES 9 yrs imp.</p> <p>High risk re-offending; little or no insight into effect on victims; tendency to externalise blame.</p>	<p>Dismissed.</p> <p>At [27] & [37] affirmed appropriate range this type armed robbery 6-9 yrs imp.</p>
24.	<p><i>Orchard v State of Western Australia</i></p> <p>[2004] WASCA 23</p>	<p>Convicted after early PG.</p> <p>On parole at time offending.</p> <p>Extensive criminal history –</p>	<p>2 x Armed robbery in company.</p> <p>1 x Steal motor vehicle (used in commission armed robberies).</p> <p>Appellant and co-offender entered bank wearing</p>	<p>7 yrs imp each count. 2 yrs imp.</p> <p>TES 14 yrs imp. Equivalent to 9 yrs 4</p>	<p>Allowed.</p> <p>Insufficient weight given to affects of Interferon on appellant.</p>

	<p>Delivered 3/03/2004</p> <p>Co-offender of <i>Biggers</i> [2004] WASCA 47</p>	<p>sentenced 10 yrs for 5 armed robberies; sentenced 9 yrs 3 armed robberies; assault prison officer; weapons offences; receiving; assault.</p> <p>Previous breaches of community based orders and offending on parole.</p> <p>History drug abuse.</p> <p>Suffers Hep C and taking Interferon – medical evidence indicating causative factor in offending (impaired reasoning and made appellant more susceptible to suggestions).</p>	<p>balACLAVAS and each armed with sawn-off rifle. Pointed rifles at staff and threatened them with violence if they did not comply with demands. Left with approx \$32,000 but money was contaminated with dye bomb a staff member inserted in money (money not recovered).</p> <p>Approx 4 weeks later, appellant and same co-offender returned to same bank. Both wearing balACLAVAS but appellant not armed (co-offender had sawn-off rifle). Left with approx \$4000 which was again contaminated by a dye bomb (money recovered).</p>	<p>mths imp after implementation of transitional provisions.</p> <p>Not EFP.</p>	<p><u>Sentences on appeal:</u> 6 yrs imp each armed robbery. 18 mths imp steal motor vehicle.</p> <p>TES reduced to 6 yrs imp (includes 1/3 reduction for transitional provisions).</p> <p>EFP.</p>
23.	<p><i>Biggers v State of Western Australia</i> [2004] WASCA 4</p> <p>Delivered 22/03/2004</p> <p>Co-offender of <i>Orchard</i> [2004] WASCA 23</p>	<p>42 yrs at time sentencing.</p> <p>Convicted after PG – also admitted to offence police did not know about. Provided information about co-offender.</p> <p>Extensive prior criminal record – including previous imprisonment for armed robberies.</p> <p>On parole at time offending.</p> <p>Recently become unemployed - \$10,000 loan and \$17,000 arrears child support.</p> <p>Nomadic lifestyle – family constantly moving; sexual abuse as teenager; juvenile convictions.</p>	<p>2 x Agg armed robbery. 1 x Armed robbery. 1 x Steal motor vehicle.</p> <p>Appellant and co-offender entered bank wearing balACLAVAS and each armed with sawn-off rifle. Pointed rifles at staff and threatened them with violence if they did not comply with demands. Left with approx \$32,000 but money was contaminated with dye bomb a staff member inserted in money (money not recovered).</p> <p>Approx 4 weeks later, appellant and same co-offender returned to same bank. Both wearing balACLAVAS but appellant armed with sawn-off rifle (co-offender not armed). Left with approx \$4000 which was again contaminated by a dye bomb (money recovered).</p> <p>Appellant entered bank he had previously held-up in 1998, wearing a balACLAVA and armed with</p>	<p>TES 16 yrs imp. Equivalent to 10 yrs 8 mths imp after implementation of transitional provisions.</p> <p>Parole days owed served concurrently.</p>	<p>Allowed.</p> <p>TES reduced to 9 yrs 4 mths imp (includes 1/3 reduction for transitional provisions).</p> <p>EFP.</p>

			sawn-off rifle.		
Transitional Provisions Enacted (31/08/2003)					
22.	<i>The Queen v Roworth</i> [2003] WASCA 120 Delivered 13/06/2003	25 yrs at time offending. Convicted after PG. Appalling prior criminal record – began offending 11yrs (1998); by 1996 convicted over 115 offences. Offences committed on parole and on bail.	7 x Armed robbery. 5 x Steal motor vehicle. Appellant and co-offender both armed with tomahawks and knives robbed a pharmacy – elderly man knocked to floor during commission and received numerous injuries. Demanded money from till and customers as well as drugs. Appellant and co-offender pumped petrol into car. The appellant then entered service station armed with crowbar and demanded money. Two hours later, appellant and co-offender entered a shop (after smashing front door) armed with wood splitter and crowbar and demanded money from staff. Appellant and two co-offenders entered service station armed with claw hammer and crow bar. Demanded money from attendant and left with money as well as phone cards, cigarettes and soft drink. Half an hour later, robbed another service station. Appellant and two co-offenders robbed service station – appellant armed with brick and a co-offender armed with crowbar.	5 yrs 6 mths imp each ct. 1 yr imp each ct. TES 9 yrs 6 mths imp. Equivalent to 6 yrs 2 mths imp after implementation of transitional provisions. EFP.	Allowed. TES increased to 12 yrs 6 mths Indiv sentences not disturbed. EFP. NB: Double jeopardy applied to State appeals (appropriate TES without that consideration 13 yrs 6 mths imp).
21.	<i>Bourne v The Queen</i> [2003] WASCA 26	21 yrs at time offending. Convicted after PG at earliest opportunity. Minor criminal record for shoplifting.	1 x Armed robbery in company. Appellant and co-offender robbed jeweller/pawnbroker in 1998. Co-offender armed with replica pistol. Appellant and co-offender ran from scene after owner escaped and raised the	5 yrs imp. TES 5 yrs imp. Equivalent to 3 yrs 4 mths imp after implementation of	Dismissed. Appeal based on rehabilitation in 4 yrs since offence committed.

	Delivered 3/02/2003	<p>Motivation for offending was drug debt appellant and co-offender owed.</p> <p>Offence committed shortly after break-up with fiancée (4mth old son together) and at time when appellant using illicit substances.</p> <p>Since offence, rehabilitated himself, had strong family support and good employment prospects.</p>	<p>alarm. The co-offender was caught as he tried to flee but the appellant escaped. Co-offender went to trial and was sentenced in 2000 to TES 6 yrs 6 mths.</p> <p>Appellant arrested for offence in 2002 (4yrs after offence).</p>	<p>transitional provisions.</p> <p>Remorse.</p>	<p>Offence too serious and personal circumstances not exceptional enough to justify suspension or reduction in term.</p>
20.	<p><i>Rafferty v The Queen</i> (2002) 135 A Crim R 282; [2002] WASCA 312</p> <p>Delivered 22/11/2002</p>	<p>Convicted after fast-track PG.</p> <p>Alcohol and illicit drug abuse.</p>	<p>1 x Armed robbery. 1 x Attempted armed robbery.</p> <p>Attempted rob McDonalds store armed with a knife but was stopped by resistance from staff. Left McDonalds and walked a short distance to a cake shop – staffed by one female staff member. Entered shop and demanded money armed with knife. Given money from till and ran off but was apprehended by police a short distance away after McDonalds staff raised alarm.</p>	<p>4 yrs imp. 3 yrs imp.</p> <p>TES 7 yrs imp. Equivalent to 4 yrs 8 mths imp after implementation of transitional provisions.</p> <p>EFP.</p> <p>Initially received 18mths ISO and 120 hours community service. Re-offended several times while on PSO and was eventually sentenced as above.</p>	<p>Allowed.</p> <p>Only to allow for time spent in custody to be credited.</p>
19.	<i>Mannix v The Queen</i>	33 yrs at time sentencing.	1 x Armed robbery (pretending to be armed).	5 yrs imp.	Dismissed.

	<p>[2002] WASCA 244</p> <p>Delivered 4/09/2002</p>	<p>Convicted after early PG.</p> <p>Offending breached bail (AOBH).</p> <p>Minor prior criminal record – assault; drugs; traffic offences.</p> <p>Severe depression and suicidal tendencies following recent breakdown of relationship of mother of his two children – their daughter stillborn 2 days prior to offending.</p> <p>No rational purpose to offending – not driven by need for money.</p>	<p>Drove to bottle shop with intent commit robbery – disguised black balaclava, dark clothes and gloves. Armed with replica pistol and demanded money from staff. Given \$1343.75 from till and ran off. Staff chased him and held him until police arrived. When arrested found to be in possession of knife as well.</p> <p>Intoxicated at time offending.</p>	<p>TES 5 yrs imp. Equivalent to 3 yrs 4 mths imp after implementation of transitional provisions.</p> <p>EFP.</p> <p>Strong remorse – written letter of apology.</p>	
18.	<p>Wale v The Queen</p> <p>(2001) 126 A Crim R 370; [2001] WASCA 418</p> <p>Delivered 20/12/2001</p>	<p>35 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Extensive prior criminal record – beginning at 16 yrs; in excess of 100 convictions.</p> <p>Refused to identify co-offender.</p> <p>Heroin addict- motivation for robberies drug debt.</p>	<p>8 x Armed robbery. 1 x Robbery.</p> <p>Offending period approx 1mth.</p> <p>Armed on each occasion with loaded sawn-off rifle and disguised with balaclava. Placed gun against face/neck victim in one robbery. In final robbery, gun discharged during struggle but no one was injured. Gained approx \$12,600 in total.</p>	<p>TES 14 yrs imp. Equivalent to 9 yrs 4 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.
17.	<p>Cable v The Queen</p> <p>[2001] WASCA 390</p> <p>Delivered 6/12/2001</p>	<p>20 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Relatively long prior criminal record given age – including car theft and dangerous driving causing bodily harm.</p>	<p>1 x Armed robbery in company. 1 x Steal motor vehicle and drive recklessly.</p> <p>Appellant and co-offender stole car which they used the next day in the commission armed robbery. Both disguised faces with cloth torn from ripped T-shirt and, armed with cricket bat and knife, entered tavern and threatened staff. Given</p>	<p>5 yrs imp. 4 yrs imp.</p> <p>TES 9 yrs imp. Equivalent to 6 yrs imp after implementation of transitional</p>	<p>Allowed.</p> <p>TES reduced to 7 yrs imp.</p> <p>EFP.</p> <p>Steal motor vehicle and</p>

		<p>Long history drug abuse and two recent admissions to Graylands, as well as failed attempt at Palmerston program; suicide attempts; paranoia and marked mood instability.</p> <p>History sexual abuse as adolescent.</p>	<p>appro \$1500 form till and appellant took 4 bottles of liquor. Then left in stolen car – police attempted to stop them later that night as they were driving and a chase has ensued.</p>	<p>provisions.</p> <p>EFP.</p>	<p>rive recklessly reduced to 2 yrs imp. Sentence for armed robbery not disturbed.</p>
16.	<p><i>Veneziani v The Queen</i></p> <p>[2001] WASCA 246</p> <p>Delivered 15/06/2001</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Offending breached parole.</p> <p>Prior criminal record - children's court convictions not factor in sentencing; adult convictions of fraud, heroin, stealing & receiving.</p> <p>19 mth old son; doing an apprenticeship.</p>	<p>3 x Armed robbery in company. 1 x Armed robbery in company with violence. 4 x Steal motor vehicle (used in robberies).</p> <p>Armed robberies categorised as at higher end scale of seriousness.</p> <p>Robbed fresh food market, 2 petrol stations and post office. Appellant armed with baton and threatening to customers/staff – hit one victim on finger with baton when she resisted. On all occasions, appellant was one who was armed, disguised by a balaclava and carried out robberies.</p>	<p>3 yrs imp each ct.</p> <p>8 yrs imp.</p> <p>16 mths imp each ct.</p> <p>TES 14 yrs imp. Equivalent to 9 yrs 4 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.
15.	<p><i>Eades v The Queen</i></p> <p>[2001] WASCA 205</p> <p>Date delivered 20/07/2001</p>	<p>19 yrs at time offending.</p> <p>Convicted after PG (not at earliest opportunity but before trial date set).</p> <p>Long prior criminal record – including juvenile convictions for burglary and armed robbery.</p> <p>Affected by heroin at time offending.</p> <p>Poor family history – born in prison and had spent much time in</p>	<p>1 x Attempted armed robbery. 1 x Armed robbery in company. 1 x Armed robbery in company.</p> <p><u>Ct 1:</u> Appellant approached 18 yr old female at train station at approx 7am and asked if she had bus fare. Victim replied she did not and walked off. Appellant approached her again and asked for her purse. Victim replied no and appellant lifted shirt to show replica pistol. Victim walked away, distressed and crying.</p> <p><u>Ct 2:</u></p>	<p>4 yrs imp. 5 yrs 6 mths imp. 6 yrs imp.</p> <p>TES 10 yrs imp. Equivalent to 6 yrs 8 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.

		institutions.	<p>Approx 15 minutes later, appellant and co-offender approached second victim (18yr old female). Appellant demanded her purse, money and phone and pointed replica pistol at her. Appellant threatened to shoot victim. Victim gave bag to appellant.</p> <p><u>Ct 3:</u></p> <p>Short time later, appellant and co-offender approached third victim as he walked to train station and asked for \$1. Appellant pointed replica pistol at victim's chest and demanded all money. Victim took out wallet. Appellant said 'give me the whole wallet or I'll shoot you. I just feel like shooting someone today'. Victim handed over approx\$12 and co-offender tried to stop appellant. Appellant then demanded mobile phone. Victim handed over mobile phone and lighter. Co-offender apologised and both walked off.</p>		
14.	<p><i>Smith v State of Western Australia</i></p> <p>[2001] WASCA 93</p> <p>Delivered 23/03/2001</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Offending breached 2 ISOs (18 mths & 9 mths in length for sale heroin related offences).</p> <p>Heroin addict at time offending.</p> <p>Adopted and came to Australia in 1972; adoptive father alcoholic and marriage broke down; unsettled childhood; limited education; periods of employment.</p>	<p>1 x Armed robbery with violence. 1 x Robbery with threats of violence.</p> <p>Appellant, partially disguised with beanie and scarf and wearing rubber gloves, entered haberdashery store with blood filled syringe. Demanded money from till and told victim he had AIDS. Received \$40 (contents of till). Appellant entered pharmacy, locked door behind him and told pharmacist it was a 'hold-up'. Appellant wearing wig, baseball cap and surgical gloves – only eyes were visible. Demanded drugs from safe and money from till – pharmacist complied.</p>	<p>5 yrs imp. 3 yrs imp.</p> <p>Sentences for ISO served concurrently with sentences above.</p> <p>TES 5 yrs. Equivalent to 3 yrs 4 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.

13.	<p><i>Little v The Queen</i></p> <p>[2001] WASCA 87</p> <p>Delivered 23/03/2001</p>	<p>22 yrs at sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Offending breached parole.</p> <p>Extensive prior criminal record – beginning at 12 yrs and extending to approx 257 prior convictions.</p>	<p>1 x Armed robbery in company. 1 x Agg burg. 3 x Steal motor vehicle.</p> <p>Offending period 4 days.</p> <p>Armed robbery was a ‘bag-snatch’ from 51 yr old woman walking down a suburban street – victim threatened with syringe and escaped in car driven by accomplice.</p>	<p>7 yrs imp. 2 yrs imp. 1 yr, 1 yr and 3 yrs imp.</p> <p>TES 10yrs. Equivalent to 6 yrs 8 mths imp after implementation of transitional provisions.</p> <p>Not EFP.</p>	<p>Allowed.</p> <p>Not given appropriate discount for PG.</p> <p>TES reduced to 9yrs.</p> <p>NB: sentence for armed robbery not disturbed.</p>
12.	<p><i>Ward v The Queen</i></p> <p>[2001] WASCA 42</p> <p>Delivered 22/02/2001</p>	<p>18 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Extensive prior criminal record – beginning at 13yrs. Includes numerous steal motor vehicle; drugs; traffic; burglary; stealing.</p> <p>Deprived background – left home at 13 yrs; heroin addict 16 yrs.</p> <p>Relapse into heroin use and drug debt motivation behind robberies.</p>	<p>6 x Armed robbery in company. 1 x Armed robbery. 2 x Steal motor vehicle (used in armed robberies).</p> <p>Robbed video store with co-offender, armed with piece of wood and screwdriver. \$700 from till plus money and mobile phones from customers. Robbed TAB with co-offender – armed with a piece of brick and wood. Customers and staff threatened. Money from till and customers obtained, approx \$771.</p> <p>Co-offender robbed video store armed with hockey stick, appellant waited in stolen car. Staff member threatened and approx \$400 stolen. Robbed chemist armed with piece of wood – co-offender armed with screwdriver. Appellant hit store display with piece of wood in process robbery. Stole approx \$350 from till. High speed chase following robbery – ended with appellant being caught after forced to abandon stolen vehicle.</p>	<p>5 ½ yrs imp each armed robbery.</p> <p>TES 8 ½ yrs imp. Equivalent to 5 yrs 6 mths imp after implementation of transitional provisions.</p>	<p>Dismissed.</p>

11.	<p><i>Cook v The Queen</i></p> <p>[2001] WASCA 16</p> <p>Delivered 6/02/2001</p>	<p>32 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Employed; engaged to be married; supportive family.</p> <p>Offending out of character and committed while under the influence of alcohol.</p>	<p>1 x Armed robbery (armed with letter opener). 1 x Dep lib.</p> <p>Victim, 52 yrs, was an ex co-worker of the appellant at whom he was angry following his dismissal from work. Appellant went to victim's workplace wearing a disguise with the intent of stealing the days takings from the victim. Appellant pre-arranged an alibi. Appellant concealed himself in the manager's office and armed himself with a sharp letter opener. While he was waiting for the store to be locked up, the appellant slashed the office furniture. After the store was closed, the appellant approached the victim as she was counting the money. Appellant put blade of letter opener against victim's throat and threatened to kill her. Appellant stabbed desk with letter opener and tied victim's hands behind her back. Victim eventually able to free herself after appellant had left. Victim suffered severe post-traumatic stress and it was unclear at sentencing if she would ever properly recover to lead a normal life.</p>	<p>6 yrs 5 mths imp. 2 yrs imp.</p> <p>TES 6 yrs 5 mths imp. Equivalent to 4 yrs 4 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.
10.	<p><i>Slater v The Queen</i></p> <p>[2000] WASCA 365</p> <p>Date delivered 1/11/2000</p>	<p>22 yrs at sentencing.</p> <p>Convicted after PG.</p> <p>Significant prior criminal record - beginning at 11 yrs and including offences involving dishonesty and violence.</p> <p>Alcohol dependence and illicit drug issues – intoxicated at time offending. Deprived and unstable childhood.</p>	<p>1 x Armed robbery in company.</p> <p>Appellant and group friends trying to catch taxi after night out. Appellant saw victim, also waiting for taxi, and asked him for a cigarette. Victim reached into shirt pocket and appellant grabbed him by the throat, told him to shut up and hand over all his money. Appellant told victim he had a knife and slapped him across the face. Appellant and co-offenders then pushed victim down set of stairs and into an underground car park. Appellant took money, lighter and tobacco pouch from front</p>	<p>6 yrs imp.</p> <p>TES 6 yrs imp. Equivalent to 4 yrs imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.

			pockets. Co-offender took wallet from back pocket, took out money and threw wallet on ground. Group left. Victim followed and asked appellant for tobacco pouch back. Appellant initially refused, then saw police nearby and gave pouch back before walking off.		
9.	<i>Bryant v State of Western Australia</i> [2000] WASCA 226 Delivered 24/08/2000	21 yrs at time offending. Convicted after PG. Prior criminal record – beginning at 14 yrs and including assault; burglary; AOBH; stealing motor vehicles; resist arrest; escape custody; going armed to cause fear; threaten public officer; loitering; drug and traffic offences. Stable upbringing; left school at 14 yrs and fell in with wrong crowd. Heroin user at 16 yrs – relapsed after release from prison and addiction causative factor in offending.	2 x Armed robbery in company. 2 x Steal motor vehicle (used in armed robberies). Robbed pharmacy armed with knife and wearing balaclava with co-offender (also armed with knife). Received money, credit cards and drugs and took video surveillance tape with them when they left. Total value stolen property approx \$12,000. Pharmacy staff were threatened during the course of the robbery. Ten days later appellant robbed another pharmacy with a different co-offender – appellant armed with a knife and the co-offender with a shotgun. Staff were again threatened and a female staff member was forced, at gunpoint, to lie on the ground. Approx \$6500 stolen.	5 ½ yrs imp each count armed robbery. 12 mths imp each count steal motor vehicle. TES 11 yrs imp. Equivalent to 7 yrs 4 mths imp after implementation of transitional provisions. EFP.	Allowed – on totality. TES reduced to 9 ½ yrs
8.	<i>Pratt v The Queen</i> [2000] WASCA 110 Delivered 5/5/2000	31 yrs at time sentencing. Convicted after early PG. Co-operated with Police. Offending motivated by amphetamine addiction and threat by partner to engage in prostitution if amphetamines not acquired.	Ct 1: Armed robbery. Ct 2: Armed robbery. <u>Ct 1:</u> Entered supermarket with syringe blood filled from own arm. Went to the counter with a can of coca-cola, grabbed the shop attendant by the right wrist, pricked him with the syringe and demanded money. Appellant opened cash register and took out bundle of notes and left store, running down the street. A woman followed the appellant in her	Ct 1: 9 yrs imp. Ct 2: 7yrs imp. TES 9 yrs imp. Equivalent to 6 yrs imp after implementation of transitional provisions.	Dismissed. Towards top end sentencing range but not so high as to manifest error.

			<p>car and confronted appellant. Appellant pushed her and punched her in the face. Appellant ran off and escaped before police arrived.</p> <p><u>Ct 2:</u> Approx one month later, appellant returned with blood filled syringe to same store. Appellant jumped counter, threatened store owner with syringe and ran off with the day's takings (later spent on amphetamine).</p>	<p>EFP.</p> <p>Genuine remorse.</p>	
7.	<p><i>Eldridge v The Queen</i></p> <p>[2000] WASCA 41</p> <p>Delivered 1/03/2000</p>	<p>23 yrs at time appeal.</p> <p>Convicted after PG.</p> <p>Minor prior criminal record -included conviction armed robbery in company where appellant was lookout only.</p> <p>Severe heroin addiction.</p> <p>Supportive family; 3 young children from 2 different relationships; de facto relationship ended since offending.</p>	<p>7 x Armed robbery. 2 x Armed robbery in company.</p> <p>All robbery targets were pharmacists – armed with machete six times, replica pistol twice and knife once.</p> <p>Demanded and received drugs and cash on each occasion.</p>	<p>Sentence range 4-8 yrs imp.</p> <p>TES 12 yrs imp. Equivalent to 8 yrs imp after implementation of transitional provisions.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [18] ‘....a deterrent sentence was called for having regard to the number and nature of the offences of violence committed by the applicant.’</p>
6.	<p><i>Sein-Thet v The Queen</i></p> <p>[1999] WASCA 186</p> <p>Dated delivered 6/09/1999</p>	<p>18 yrs at time offending.</p> <p>Convicted after PG.</p> <p>No prior criminal record.</p> <p>Heroin addict since 14 yrs; taken approx 50 valium tablets on day offending; Mother drug addict.</p>	<p>5 x Armed robbery.</p> <p><u>Ct 1:</u> Appellant, at bus stop, approached 15yr old</p>	<p>TES 3 yrs. Equivalent to 2 yrs imp after implementation of transitional provisions.</p> <p>EFP.</p> <p>Ct 1: 3 yrs imp.</p>	<p>Dismissed.</p> <p>Appeal on ground failure to suspend.</p> <p>At [13] ‘His Honour considered every relevant matter and in my opinion imposed a very moderate sentence in all the</p>

			<p>female victim and put knife to her abdomen and demanded money, jewellery, clothing and bag. Victim gave what was demanded and appellant walked away.</p> <p><u>Cts 2 & 3:</u> Approx 15 minutes later, took bag from 13 yr old boy. Victim confronted appellant and appellant pulled out the knife, grabbed his arm and pressed the knife to his right side. A second boy (12yrs old) walked past and asked appellant to give his bag back as well. Appellant made boys sit on ground while she went through their bags and took several items. Appellant then took their watches and wallets.</p> <p><u>Ct 4:</u> Approx 30 minutes later, appellant approached 16 yr old female. Appellant grabbed victim from behind, turned her around and threatened her with knife while demanding money. Victim gave appellant \$2 and appellant demanded jewellery. Victim refused, pushed knife away and ran off.</p> <p><u>Ct 5:</u> Approx 30 minutes later, appellant approached 19yr old female. Threatened her with knife and demanded money. Victim said she had no money and appellant pushed knife against thigh and demanded jewellery. Victim handed over jewellery.</p>	<p>Ct 2: 2 yrs imp. Ct 3: 2 yrs imp.</p> <p>Ct 4: 2 yrs imp.</p> <p>Ct 5: 3 yrs imp.</p>	<p><i>circumstances.'</i></p>
5.	<p><i>Miles v the Queen</i></p> <p>(1997) 17 WAR 518</p>	<p>24 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Prior criminal record (juvenile and adult) – no violent offences.</p>	<p>2 x Armed robbery with violence in company.</p> <p>Appellant and juvenile co-offender robbed delicatessen armed with a blood filled syringe. Appellant and co-offender entered premises with T-shirts wrapped around their faces to prevent</p>	<p>3 yrs imp each count.</p> <p>TES 6 yrs imp. Equivalent to 4 yrs imp after implementation of</p>	<p>Dismissed.</p> <p>Sentence described as lenient at p 521 & 523. Use of a syringe as a weapon should normally</p>

		<p>Offences motivated by drug habit – commenced drug use at 13 yrs (amphetamines, ecstasy, LSD, cocaine & heroin)</p> <p>Single; unemployed and on unemployment benefits.</p>	<p>identification. Received approx \$130. About 5 ½ hrs later, robbed taxi driver, threatening him with ‘dirty prick’. Received \$100.</p>	<p>transitional provisions.</p>	<p>attract an additional one year imp above the term that would have normally been imposed.</p> <p><i>‘...the present tariff for armed robbery seems to be in the range of six to nine years imprisonment for a single offence, depending upon the circumstances.’ at p 522.</i></p>
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Part B – Suspended custodial sentence upheld or imposed on appeal

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
4.	<p><i>The State of Western Australia v Boundry</i></p> <p>[2013] WASCA 46</p> <p>Delivered 22/02/2013</p> <p>Co-offender of <i>The State of Western Australia v Bropho</i> [2013] WASCA 44</p>	<p>20 yrs at time offending. 21 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Prior criminal record; mostly for relatively minor offences; no previous detention.</p> <p>Raised by his parents until about 5 yrs, when his parents separated. Then lived with his father and had little contact with his mother while growing up. The respondent's father died when he was 18.</p> <p>Left school after completing year 10 and no secure employment since that time.</p> <p>Commenced experimenting with cannabis when he was 18. In the 2 year period before the offence he had</p>	<p>1 x Agg armed robbery.</p> <p>The respondent and his co-offenders agreed to steal alcohol from a liquor store. Later that afternoon they entered the Altone Liquor Store in Beechboro and selected bottles of liquor from the shelves.</p> <p>The juvenile co-offender ran to a side door with a bottle and fled without paying.</p> <p>The respondent and the co-offender attempted to leave with a bottle through the main entrance without paying.</p> <p>The manager of the store (victim) approached the respondent and grabbed him as he attempted to leave. The victim told the respondent to stop. The respondent struggled with the victim. They moved from the interior of the store to the exterior. Bropho was about 2m from the manager while the victim sought to detain the respondent by holding him. During the struggle the respondent broke the victim's grip and struck him in the face with a 1.125 litre bottle of whisky. The blow was not forceful. The bottle fell to the ground without breaking. Bropho picked up the bottle and used it as a weapon by throwing it forcefully at the victim from a distance of about 2 m. The bottle struck the victim's head. The bottle broke upon contact with</p>	<p>2 yrs imp conditionally susp 2 yrs.</p> <p>Made full admissions in his VROI.</p> <p>Sentencing judge said that a factor which he considered 'to be very prominent' was the respondent's youth.</p> <p>Sentencing judge was impressed with the attitude of the victim towards the offenders.</p> <p>Participated in mediation with the victim.</p>	<p>Dismissed.</p> <p>At [31] Ordinarily, as a matter of fact, a term of immediate imprisonment is the only appropriate sentencing option for the offence of armed robbery. Cases where the offence of armed robbery has not attracted a term of immediate imprisonment are, as a matter of fact, exceptional.</p> <p>At [37] Youth must be weighed against the facts and circumstances of the offence which has been committed.</p> <p>At [45] There is a material distinction, in my opinion, between the respondent and Mr Bropho, both in relation to their role in the offending and their personal antecedents.</p>

		<p>escalated to daily use. Drank alcohol about once every fortnight and enjoyed getting intoxicated.</p> <p>PSR indicated that the respondent was aware that alcohol misuse could be a trigger for his anger. He had become involved in fights and had acted out anger by punching walls.</p>	<p>his head and he fell unconscious to the ground.</p> <p>The respondent and Bropho fled.</p> <p>The victim received a depressed fracture of his skull and blood clots on his brain.</p>		<p>At [49] Relevant that respondent had spent 3 ½ mths in custody, did not personally inflict the injuries on the victim and had not previously been imprisoned or detained.</p>
<i>Transitional Provisions Repealed (14/01/2009)</i>					
3.	<p><i>Satonick v The State of Western Australia</i></p> <p>[2008] WASCA 145</p> <p>Delivered 15/07/2008</p>	<p>20 yrs at time offending.</p> <p>Convicted after PG earliest opportunity.</p> <p>Prior criminal record - traffic offences; alcohol related driving offences and breach VRO.</p> <p>Parents separated when appellant 4 yrs – unsettled upbringing; family supportive now.</p> <p>Diagnosed anxiety and depression – on medication for. History alcohol abuse – sought help of own accord prior to offending and at</p>	<p>1 x Armed robbery.</p> <p>Appellant went to liquor store and placed carton Jim Beam and cola cans on counter and asked for a packet of cigarettes. Shop attendant put cigarettes on counter and appellant said 'These are free. I have had a bad week and I don't want to do this. I'm not going to hurt anyone.' Appellant then lifted his shirt to show 15 cm knife hidden in his pants. Appellant then took out knife and put it on the counter. The appellant put knife back in pants, took cigarettes and alcohol and left.</p> <p>Awoke on morning offending feeling depressed and drank alcohol, as well as taking Valium and panadol. Appellant did not have his wallet and, wanting more alcohol, took knife to liquor store. Caught when police attended his house after a phone call from his father – who had arrived at his house and found the appellant threatening self-</p>	<p>18 mths imp.</p> <p>TES 18 mths imp.</p> <p>EFP.</p> <p>Considerable insight into problems.</p>	<p>Allowed</p> <p>TES 18 mths imp susp 18 mths substituted.</p> <p>At [26] exceptional circumstances noted.</p>

		<p>time sentence taking Antabuse and had not drunk since then.</p> <p>Relapse into drinking triggered by break-up with girlfriend and stress of car accident (has not worked since accident and has financial difficulties as a result).</p>	harm.		
2.	<p><i>Lovatt v The State of Western Australia</i></p> <p>[2004] WASCA 265</p> <p>Delivered 1/11/2004</p>	<p>22 yrs at time offending.</p> <p>Convicted after fast-track PG – fully co-operated, named co-offender and offered give evidence against him.</p> <p>Released on bail – wanted to make restitution and saved funds (had not paid for fear of breaching bail terms); entered rehab; engaged in further private counselling; distanced himself from drug-using associates; stopped drug use.</p> <p>Drug addiction.</p>	<p>1 x Armed robbery in company.</p> <p>Appellant, armed with recently purchased machete, robbed service station whilst co-offender waited in car. Entered petrol station after customers exited and attendant alone.</p> <p>Motive robbery was co-offender's debt to drug dealers and threats associated with non-payment (obtained approx \$830 - \$700 went to payment debt; \$130 to purchasing amphetamines) – appellant gained very little personally (factor in suspension).</p>	<p>2 yrs 8 mths imp.</p> <p>TES 2 yrs 8 mths imp.</p> <p>Genuine remorse. Strong possibility successful rehabilitation.</p>	<p>Allowed.</p> <p>TES 2 yrs 8 mths suspended.</p>
<p><i>Transitional Provisions Enacted (31/08/2003)</i></p>					

1.	<p><i>Mobilia v The Queen</i></p> <p>[2002] WASCA 130</p> <p>Date delivered 10/04/2002</p>	<p>24 yrs at sentencing.</p> <p>Convicted after PG at earliest opportunity.</p> <p>No relevant prior criminal record.</p> <p>Long standing substance abuse problem; on methadone program successfully for 9 mths prior to offending; about 3 weeks prior to offence, hurt his back at work and on day in question had taken large doses of serapax and temazepan for pain.</p> <p>Good employment history.</p> <p>Stable, supportive family.</p>	<p>1 x Armed robbery</p> <p>Appellant and friend drove to shopping centre approx 9pm and parked near ATM. Victim withdrew money from ATM and returning back to his car when appellant approached him, pointed a replica hand gun at him and demanded his wallet. The victim handed over his wallet (approx \$40 and cards) – wallet and money recovered. Appellant then ran off, leaving friend in car. Appellant returned to scene short time late and was arrested.</p> <p>No apparent motive for robbery – no intent or rational reason for criminal behaviour.</p>	<p>4 yrs imp.</p> <p>TES 4yrs imp. Equivalent to 2 yrs 8 mths imp after implementation of transitional provisions.</p> <p>EFP.</p> <p>Genuine remorse and deep regret – written to victim and wife.</p>	<p>Allowed.</p> <p>TES 4 yrs suspended - antecedents and bizarre circumstances of offence meant open to suspend.</p>
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