

Armed robbery
from an individual eg bag snatch, ATM, car-jacking
ss 392 and 393 Criminal Code

Prior to 1 January 2014

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

- Post-transitional provisions period (from 14/01/2009 31/08/2003)
- Transitional provisions period (between 31/08/2003 and 14/01/2009)
- Pre-transitional provisions period (pre 31/08/2003)

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

imp	imprisonment
susp	suspended
conc	concurrent
cum	cumulative
PG	plead guilty
agg	aggravated
burg	burglary
sex pen	sexual penetration without consent
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
Att	attempted
EFP	eligible for parole
TES	total effective sentence
ct	count

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
19.	<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,</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 6 mths imp.</p> <p><u>Supreme Court</u> No recollection of alleged offending; changed his</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>wallet, iphone, car keys and other keys. The appellant and co-offender then left the house.</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> 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</p>	<p>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 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>	
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			<p>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 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>		
18.	<p><i>Wroth v The State of Western Australia</i></p> <p>[2013] WASCA 155</p> <p>Delivered 28/06/2013</p>	<p>27 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Substantial criminal history including 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</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 6: Armed robbery.</p> <p>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</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>Ct 5: 9 mths imp conc.</p> <p>Ct 6: 3 yrs imp cum.</p> <p>Ct 7: 9 mths imp conc.</p> <p>TES 7 yrs imp.</p> <p>EFP.</p>	<p>Sole ground of appeal breach of totality principle. Dismissed – on papers.</p> <p>At [22] ... The fact that the appellant was armed with a firearm was a serious aggravating feature.</p>

		wife. History of drug abuse. Offences committed on a three month binge on amphetamines and cannabis.	aggressive and threatening manner, including pointing the firearm at a service station employee and at people in their houses. He later set a vehicle he stole on fire.	Full admissions. PSR placed the appellant's history of substance abuse at the extreme end of the scale.	At [23] ... The appellant's illicit drug use, while explaining his offending, cannot excuse it.
17.	<i>Gillespie v The State of Western Australia</i> [2013] WASCA 149 Delivered 19/06/2013 Co-offender <i>Nannup v The State of Western Australia</i> [2011] WASCA 257	19 yrs at time sentencing. Convicted after early plea of guilty – disputed the circumstances of aggravation of Ct 2. Criminal history included convictions for burglaries. Has partner and young child. No regular employment; steps taken towards his own rehabilitation prior to sentence. On bail at time the offences were committed. Commission of these offences constituted breaches of 6 mth CBO imposed by the CC and a 12 mth CBO imposed by the Magistrates Court.	<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. <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 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	TES of 8 yrs imp. 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). EFP. Co-operated with Police including providing information which assisted in identifying two co-offenders although did not formally offer to assist police by giving evidence against those co-offenders. Sentencing judge described Cts 1-3 as the utmost seriousness, and	<u>Conviction</u> Dismissed. <u>Sentence</u> Ground 1 against sentence dismissed. Leave to appeal Grounds 2, 3, 4 & 6 dismissed. Ground 5 (chg 6102) allowed. Sentence quashed. At [210] The circumstances of the offences committed by Mr Gillespie during the rampage of crime which resulted in the various counts on the indictment can only be

		<p>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</p>	<p>described the violence used by the appellant towards the victim as ‘one of the worst examples that one can imagine’.</p>	<p>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>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 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>		
16.	<p><i>Chadd v The State of Western Australia</i></p> <p>[2013] WASCA 99</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>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</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>Dismissed – on papers.</p> <p>At [30] Each of the offences of armed robbery committed on the appellant was a serious</p>

<p>Delivered 15/04/2013</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>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 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</p>	<p>TES 7 yrs imp. Fine \$250.</p> <p>EFP.</p> <p>Significant risk of re-offending.</p>	<p>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>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</p>
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			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.		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.
15.	<i>Oubid v The State of Western Australia</i> [2013] WASCA 79 Delivered 21/03/2013	24 yrs at time sentencing. Convicted after trial. Prior criminal history. Offence committed less than 3 months into a CSIO for being armed in public. Long history of cannabis and amphet abuse. Troubled background.	Ct 1: Agg armed robbery. Ct 2: Breach of CSIO (armed in public). The appellant, in company with 3 unidentified co-offenders, went to the victim's house in Banksia Grove with the intention of stealing the victim's car, which had been advertised for sale. 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.	Ct 1: 4 yrs imp. Ct 2: Cancelled – 7 mths imp cum. TES 4 yrs 6 mths imp. High risk of re-offending.	Dismissed. [27] The appellant committed the aggravated robbery less than 3 months into the suspension period of 12 months. Total cumulation was appropriate.
14.	<i>Forkin v The</i>	23 yrs at time offending.	Ct 1: Armed robbery.	Ct 1: 4 yrs imp.	Allowed.

<p><i>State of Western Australia</i></p> <p>[2013] WASCA 51</p> <p>Delivered 26/02/2013</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 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>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>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...</p>
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			<p><u>Ct 5:</u> Later the same day, the appellant was at another shopping centre car park at Quinns Rock where he 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>Also relevant first occasion appellant sentenced to term of immediate imprisonment.</p> <p>At [19] – [27] Considered s 9AA of <i>Sentencing Act</i>.</p>
13.	<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</p>	<p>12 mths detention.</p> <p>TES 12 mths detention.</p>	<p>Dismissed – leave refused on papers.</p>

			<p>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 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>		
12.	<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 State of Western Australia</i> [2013] WASCA 149</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 community based orders.</p> <p>Deprived and dysfunctional upbringing.</p> <p>Young daughter – no contact with child's mother at time sentencing.</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 yrs) at home at the time and heard the appellant and co-offenders in their home. Victims hid in bedroom. One co-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.</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 judge made an express error in not taking co-op with authorities into account when imposing sentence.</p>

			<p>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>		
11.	<p><i>TT v The State of Western Australia</i></p> <p>[2011] WASCA 40</p> <p>Delivered 22/02/2011</p>	<p>16 yrs at time offending. 17 yrs 2 mths at time sentencing.</p> <p>Appalling prior criminal record – numerous agg armed robbery; agg AOBH; disorderly conduct; agg robbery.</p> <p>Convicted after PG – TOI as to whether armed or in company (admitted armed robbery but not circumstances of aggravation).</p> <p>Reasonable stable up-bringing; competed school to yr 11; employed at time offending.</p>	<p>1 x Agg armed robbery (armed and in company).</p> <p><u>Offences unrelated to armed robbery:</u></p> <p>2 x AOBH. 2 x False details. 1 x Stealing. 1 x Common Assault. 3 x Damage. 1 x No railway ticket.</p> <p>Appellant stole backpack from young man while armed with a Stanley knife. During the of the course robbery, appellant held blade to victim's throat.</p>	<p>2 yrs imp.</p> <p>3 mths imp each ct. Fine. Fine. 2 mths imp. Fine. Fine.</p> <p>TES 2 yrs 6 mths imp.</p> <p>1 yrs 3 mths imp before eligible supervised release order.</p>	Dismissed.
10.	<i>Fogg v State of Western</i>	18 yrs at time offending.	1 x Agg armed robbery.	2 yrs imp (reduced from 3 yrs due to co-operation).	Dismissed.

<p><i>Australia</i></p> <p>[2011] WASCA 11</p> <p>Delivered 18/1/2011</p>	<p>Convicted after PG – co-operated with authorities.</p> <p>No prior criminal record.</p>	<p>1 x Dep liberty. 1 x Agg burglary. 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 Converters – the appellant and co-offenders using the money to buy alcohol and drugs which was then shared. Police</p>	<p>1 yr imp. 2 yrs imp. 3 mths imp.</p> <p>TES 2 yrs imp.</p> <p>EFP.</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>
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			<p>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>		
9.	<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 minor offences on s32 notice (all fines).</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 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. Under influence Valium at time offending.</p>	<p>3 yrs imp.</p> <p>TES 3 yrs imp.</p>	Dismissed.

8.	<p><i>Mejtska v 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.</p> <p>Ct 2 breached bail for ct 1.</p> <p>Prior criminal record - no prior violent offences.</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>Count 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>Count 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 demanded money and the victim gave her \$5. The appellant then drove off in the car at speed, eventually crashing it into a fence.</p>	<p>Ct 1: 2 yrs imp Ct 2: 3 yrs imp</p> <p>TES 5 yrs. 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>
<i>Transitional Provisions Repealed (14/01/2009)</i>					
7.	<p><i>State of Western Australia v Barton</i></p> <p>[2008] WASCA 152</p> <p>Delivered</p>	<p>25 yrs at sentencing.</p> <p>Convicted after PG at earliest opportunity.</p> <p>Prior criminal record – including attempted agg burg, breach VRO, trespass, burglary, stealing and resisting arrest.</p> <p>Affected alcohol and amphetamines and</p>	<p>2 x Agg armed robbery. 1 x Attempted agg armed robbery.</p> <p>Offences all committed on same day. Respondent and friends at shopping centre and saw a group people, one of whom withdrew money from ATM. Respondent and friends approached group and demanded money. Person who withdrew money fled on bicycle and victim and friend went to walk away.</p>	<p>2 yrs imp each ct. 18 mths imp.</p> <p>TES 2 yrs imp.</p>	<p>Allowed.</p> <p>TES increased to 3 yrs 6 mths.</p>

	24/07/2008	<p>claimed not to remember incidents. Significant drug problem which had causative link to offending.</p> <p>Unemployed.</p>	<p>Respondent took crowbar from his backpack and raised it in threatening manner, demanding phones and wallets. Victim and friend said they had nothing and pleaded with respondent to stop. Co-offender took out knife and threatened the victim's friend. Another co-offender also produced a knife and threatened victim, demanding money from him. Respondent pushed victim into a wall behind some bushes and ripped off necklace and rummaged in victim's pockets, ultimately taking a number of cigarette lighters. Respondent on bottom level car park when shouted to victim on top floor 'give me your wallet'. Respondent took crowbar from backpack and began to scale stairs in victim's direction. Victim ran to car and got in. Respondent smashed left front window with crow bar but victim able to drive away. Respondent in car park when approached victim seated in car and demanded mobile phone and purse – had crowbar in hand which he swung at right hand door window and smashed. Respondent reached into car and grabbed bag and ran off. Co-offender waved knife at member of public who tried to help.</p>		
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<p>6.</p>	<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>Offending breached home detention bail (3 armed robberies, including 2 car-jackings)</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 (victim 1's car). 1 x Agg armed robbery (money from victim 1). 1 x Agg armed robbery (victim 2's 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 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.</p>	<p>4 yrs 6 mths imp. 5 yrs imp. 3 yrs imp. 5 yrs imp.</p> <p>TES 8 yrs imp.</p> <p>Serving 7 yr term imp at tem sentencing – concurrent with 2 yrs of this term.</p> <p>No remorse.</p>	<p>Dismissed - appropriate measure of criminality.</p>
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			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.		
<i>Transitional Provisions Enacted (31/08/2003)</i>					
5.	<i>Mobilia v The Queen</i> [2002] WASCA 130 Date delivered 10/04/2002	24 yrs at sentencing. Convicted after PG at earliest opportunity. No relevant prior criminal record. 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 temazepam for pain. Good employment history. Stable, supportive family.	1 x Armed robbery 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. No apparent motive for robbery – no intent or rational reason for criminal behaviour.	4 yrs imp. TES 4 yrs imp. EFP. Genuine remorse and deep regret – written to victim and wife.	Allowed. TES suspended - antecedents and bizarre circumstances of offence meant open to suspend.
4.	<i>Eades v The Queen</i>	19 yrs at time offending.	1 x Attempted armed robbery.	4 yrs imp.	Dismissed.

	<p>[2001] WASCA 205</p> <p>Date delivered 20/07/2001</p>	<p>Convicted after PG (not at earliest opportunity but before trial date set).</p> <p>Long criminal history – including convictions in children’s court 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 institutions.</p>	<p>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> 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> 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>	<p>5 yrs 6 mths imp. 6 yrs imp.</p> <p>TES 10 yrs imp.</p> <p>EFP.</p>	
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3.	<p><i>Little v The Queen</i></p> <p>[2001] WASCA 87</p> <p>Date delivered 23/03/2001</p>	<p>22 yrs at sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Extensive prior criminal record – beginning at 12 yrs and extending to approx 257 prior convictions.</p> <p>On parole at time offences.</p>	<p>1 x Armed robbery in company. 1 x Agg burg. 3 x Steal motor vehicle.</p> <p>Offences committed over 4 day period.</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 imp steal motor vehicle; 1 yr imp steal motor vehicle; 3 yrs imp steal motor vehicle.</p> <p>TES 10 yrs imp.</p> <p>Not EFP.</p>	<p>Allowed</p> <p>Not given appropriate discount for PG.</p> <p>TES reduced to 9 yrs (sentence for armed robbery not disturbed).</p>
2.	<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.</p> <p>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 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.</p>	<p>6 yrs imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p>
1.	<p><i>Sein-Thet v The Queen</i></p>	<p>18 yrs at time offending.</p>	<p>5 x Armed robbery.</p>	<p>TES 3 yrs.</p>	<p>Dismissed</p>

	<p>[1999] WASCA 186</p> <p>Dated delivered 6/09/1999</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><u>Ct 1:</u> Appellant, at bus stop, approached 15yr old 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>EFP. Ct 1: 3 yrs imp.</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>Appeal on ground failure to suspend.</p> <p>At [13] <i>'His Honour considered every relevant matter and in my opinion imposed a very moderate sentence in all the circumstances.'</i></p>
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