

Armed robbery

smaller, more vulnerable targets eg pharmacy, post office, shop etc...

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
- Transitional provisions period
- Pre-transitional provisions period

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

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

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
50.	<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>At sentencing was serving 6 mths and 1 day imp for AOBH.</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>Ct 2:</u></p> <p>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</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 described the appellant as "a dangerous man, but a sad and pathetic one as well".</p> <p>No inclination to reform.</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>

			<p>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>		
49.	<p><i>Wroth v The State of Western Australia</i></p> <p>[2013] WASCA 155</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>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>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>Sole ground of appeal breach of totality principle.</p> <p>Dismissed – on papers.</p> <p>At [22] ... The fact that the appellant was armed</p>

	Delivered 28/06/2013	<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>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>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>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>
48.	<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</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</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</p>

		1.	<p>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 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>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 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>
47.	<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>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</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>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 imp.</p> <p>Appeal allowed on basis</p>

		<p>Four children aged between 5-14 yrs.</p> <p>Long history of drug and alcohol abuse.</p>	<p>obtaining \$650 in cash, the appellant fled the store.</p> <p><u>Ct 2:</u> The appellant stole items from the frozen food 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>Full admissions in VROI.</p> <p>Remorseful for armed robbery; written letter to victim; engaged in victim mediation.</p>	<p>stealing offences were not of any particular seriousness and the sentences were disproportionate to the 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>
46.	<p><i>Miller v The State of Western Australia</i></p> <p>[2013] WASCA 84</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</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>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>Dismissed – on papers.</p> <p>At [26] General deterrence was a significant consideration. It light of the appellant's prior</p>

<p>Delivered 28/03/2013</p>	<p>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>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 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></p> <p>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</p>	<p>TES 4 yrs imp cum on existing term of 5 yrs imp for armed robbery.</p> <p>EFP.</p> <p>Little insight.</p> <p>No real remorse.</p>	<p>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>
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			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.		
45.	<i>Cotterill v The State of Western Australia</i> [2013] WASCA 52 Delivered 26/02/2013	23 yrs at time sentencing. Convicted after early PG. No prior criminal record. Long history of significant alcohol and drug abuse and had continuously used anabolic steroids since 20 yrs. Mental illness. Following the commission of these offences the appellant formed the intention to commit suicide soon after realising he was a suspect.	Ct 1: Ass with intent to rob. Ct 2: GBH Ct 3: GBH 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. 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 to threaten any person if they were disturbed whilst in the store.	Ct 1: 8 yrs imp. Ct 2: 5 yrs imp. Ct 3: 3 yrs 6 mths imp. Cts 2-3 cum. Ct 1 conc. TES 8 yrs 6 mths imp. Made full admissions to police. 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 hallucinations at the time. Sentencing judge found that the appellant's	Allowed. Resentenced. Ct 1: 7 yrs 6 mths imp. Ct 2: 4 yrs 6 mths imp. Ct 3: 3 yrs imp. Served conc. TES 7 yrs 6 mths. EFP. At [23] The sentence for count 3 was at the upper end of the sound discretionary range but not manifestly excessive. At [27] What emerges from this analysis is that very significant care had to be taken to avoid any

		<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>voluntary drug abuse contributed to his subsequent mental health problems.</p>	<p>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.		
44.	<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 escalated to daily use. Drank alcohol about once every fortnight and enjoyed getting intoxicated.</p> <p>PSR indicated that the respondent</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</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</p>

		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.	victim's head. The bottle broke upon contact with his head and he fell unconscious to the ground. The respondent and Bropho fled. The victim received a depressed fracture of his skull and blood clots on his brain.		personal antecedents. 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.
43.	<i>The State of Western Australia v Bropho</i> [2013] WASCA 44 Delivered 30/11/2012 Published 2013 <i>Co-offender The State of Western Australia v Boundry</i> [2013] WASCA 46	21 at time of offending. Convicted after early PG. Prior criminal record including convictions for aggravated robbery and aggravated armed robbery. Had a transient, deprived and unstable upbringing. He witnessed domestic violence, excessive alcohol consumption and illicit drug use. Left school in Year 10 and never been employed. Commenced smoking cannabis and drinking alcohol at 8 yrs. Has been in a relationship since he was 16 and has 2 children.	1 x Agg armed robbery. 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. The juvenile co-offender ran to a side door with a bottle and fled without paying. The respondent and the co-offender attempted to leave with a bottle through the main entrance without paying. 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 was about 2m from the manager while the victim sought to detain the respondent by holding him.	3 yrs imp conditionally susp 2 yrs. Made full admissions in his VROI. Sentencing judge said that a factor which he considered 'to be very prominent' was the respondent's youth. Participated in mediation with the victim.	Allowed. Order for suspension set aside. Re-sentenced to 3 yrs immediate imp. 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. At [45] Youth must be weighed against the

		<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>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>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>
42.	<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</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>	<p>Dismissed – leave refused on papers.</p>

			<p>waiting.</p> <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>		
41.	<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</p>	<p>Ct 1: Assault with intent to facilitate crime.</p> <p>Ct 2: Agg armed robbery.</p> <p>Ct 3: Dep lib.</p> <p>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</p>	<p>Ct 1: 2 yrs 6 mths imp.</p> <p>Ct 2: 7 yrs imp.</p> <p>Ct 3: 3 yrs imp.</p> <p>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>violence; escape legal custody.</p> <p>Charged with 23 drug related prison charges since October 2002.</p> <p>Entrenched history poly-substance abuse – heroin addict at 16 yrs old; used amphetamines, cocaine, cannabis and ecstasy.</p>	<p>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 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>		
40.	<i>The State of Western Australia</i>	<p>19 yrs at time offending.</p> <p>20 yrs at time sentencing.</p>	<p>Cts 1-5: Armed robbery.</p> <p>Ct 6: Agg armed robbery.</p>	<p>2 yrs imp each ct.</p> <p>2 yrs 6 mths imp.</p>	Dismissed.

<p><i>v Drew</i></p> <p>[2012] WASCA 86</p> <p>Delivered 16/04/2012</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>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 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></p>	<p>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>At [43] Individual sentences and TES were lenient.</p> <p>At [43]-[44] The sentences were merciful given the seriousness of the offending.</p>
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			<p>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>		
39.	<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 motor vehicle; attempted robbery;</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>Overall criminality at upper end of scale of</p>	<p>TES 8 yrs imp.</p> <p>EFP.</p> <p>Moderate risk violent re-offending; engaged in victim mediation;</p>	<p>Dismissed – extension of time refused on papers.</p> <p>NB: Individual sentences not challenged.</p>

	Delivered 2/03/2012	driving offences. Started using drugs and alcohol at 12 yrs old. Supportive family.	seriousness. 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. 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. 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.	some prospect of rehabilitation.	
38.	<i>Fredericks v The State of Western Australia</i>	18 yrs at time offending. Convicted after fast-track PG.	1 x Agg armed robbery. Also re-sentenced for breached CBO offences: 1 x Burg.	3 yrs imp. 1 yr imp.	Allowed. TES reduced to 3 yrs imp.

	<p>[2011] WASCA 270</p> <p>Delivered 23/12/2011</p>	<p>Offending breached CBO.</p> <p>Extensive prior criminal record – stealing; receiving; damage.</p> <p>Entrenched alcohol and substance abuse problem – poor performance with previous substance abuse programs.</p>	<p>1 x Stealing. 1 x Obstruct police officer. 2 x Trespass. 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>1 yr imp. 3 mths imp. 3 mths imp. 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>Individual sentences not altered – sentences on 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>
37.	<p><i>The State of Western Australia v Eades</i></p> <p>[2011] WASCA 157</p>	<p>32 yrs at time offending.</p> <p>Convicted after fast track PG.</p> <p>Extensive prior criminal record – armed robbery; robbery; steal</p>	<p>Ct 1: Armed robbery. Ct 2: Robbery. Ct 3: Armed robbery. Ct 4: Armed robbery. Ct 5: Armed robbery.</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.</p>	<p>Allowed.</p> <p>TES increased to 8 yrs imp.</p> <p>EFP after 6 yrs.</p>

<p>Delivered 22/07/2011</p>	<p>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; no positive role models.</p> <p>History poly substance abuse beginning at 11 yrs of age.</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. 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>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>High risk re-offending.</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 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 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><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</p>		
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			<p>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). <u>Ct 12:</u> Respondent stole car from restaurant car park and became involved in a police chase before being arrested.</p>		
36.	<p><i>Medlen v The State of Western Australia</i></p> <p>[2011] WASCA 91</p> <p>Delivered 12/04/2011</p>	<p>30 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Prior criminal record – primarily driving offences.</p> <p>Married with a young son.</p>	<p>1 x Agg armed robbery (in company).</p> <p>Appellant and co-offender formed plan 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. 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. No money (cash drawer wouldn’t open) taken but laptop stolen.</p> <p>Consumed significant amount alcohol prior to offending.</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-brother) and the fact that he was not to participate in the spoils do not materially reduce the level of his culpability.</i>’</p>

<p>35.</p>	<p><i>TRK v The State of Western Australia</i></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 for 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 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.</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.</p> <p>Downplayed responsibility; no personal responsibility; high risk re-offending.</p>	<p>Dismissed.</p>
<p>34.</p>	<p><i>McGregor v The State of Western Australia</i></p>	<p>35 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p>	<p>1 x Agg armed robbery (in company).</p> <p>Appellant and co-offender robbed a service</p>	<p>18 mths imp.</p> <p>Remorse.</p>	<p>Dismissed – leave refused on papers.</p>

	<p>[2011] WASCA 88</p> <p>Delivered 7/04/2011</p>	<p>Prior criminal record – agg burglary; conspiracy; stealing; possession of drugs. Not previously served term imprisonment.</p> <p>Casual connection between offending and drug addiction.</p> <p>Appellant’s 3 children removed from her care as result of addiction.</p>	<p>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.</p> <p>Originally sentenced to 18 mth ISO due to progress in rehabilitation following successful completion of a 6 mth PSO.</p> <p>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.</p>		
33.	<p><i>TRKKH v The State of Western Australia</i></p> <p>[2001] WASCA 36</p> <p>Delivered 22/02/2011</p>	<p>17 yrs and 9 mths at time offending.</p> <p>Convicted after PG.</p> <p>Significant prior criminal record – stealing; causing explosion; armed robbery; false details to police; obstruct public officer; damaging property; stealing; dangerous driving.</p> <p>Substance abuse issues.</p>	<p>1 x Agg armed robbery. 1 x Common assault.</p> <p>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 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-</p>	<p>2 yrs 6 mths imp. 2 mths imp.</p> <p>TES 2 yrs 6 mths imp.</p>	<p>Dismissed.</p> <p>At [25] given actual and planned violence and impact on victim, sentence lenient notwithstanding youth.</p>

		Father died in 2009; negative peer influences.	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.		
32.	<i>MOD v The State of Western Australia</i> [2011] WASCA 23 Delivered 23/12/2010	Youth mitigating factor. Convicted after fast-track PG. No relevant prior criminal record. Diagnosed ADHD at an early age and has had difficulties with education as result. Supportive family; 5 yr old child from previous relationship; current partner pregnant.	1 x Agg Armed robbery (in company). 4 x s 32 notice offences. 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. 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	2 yrs imp. 2 mths imp and 3 fines. TES 2 yrs imp. EFP. PSR – some insight into offending; victim empathy.	Allowed. TES reduced to 14 mths imp. EFP. Original sentence did not properly reflect co-operation with authorities – appellant had signed a written undertaking to provide information to police.

			<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>		
31.	<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 rug 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 s32 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.
30.	<i>Bello v The State</i>	41 yrs at time offending.	Ct 1: Armed robbery.	3 yrs imp.	Dismissed - in range and

	<p><i>of Western Australia</i></p> <p>[2010] WASCA 181</p> <p>Delivered 17/09/2010</p>	<p>Convicted after trial.</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>Ct 2: Agg Armed Robbery (victim over 60 yrs). Ct 3: Armed Robbery.</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>3 yrs imp.</p> <p>3 yrs imp.</p> <p>TES 7 yrs imp.</p> <p>EFP.</p> <p>No remorse.</p>	<p>reflective of degree of criminality.</p>
29.	<p><i>Manyam v The State of Western Australia</i></p>	<p>36 yrs at time sentencing.</p> <p>Convicted after trial.</p>	<p>1 x Agg armed robbery. 4 x Dep lib.</p>	<p>7 yrs imp armed rob. 4 yrs imp each count dep lib.</p>	<p>Dismissed.</p> <p>At [29] ‘...very serious</p>

	<p>[2009] WASCA 164</p> <p>Delivered 11/09/2009</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>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.</p> <p>Psychological damage of robberies on victims noted in sentencing.</p>	<p>TES 7yrs.</p> <p>EFP.</p>	<p><i>case of aggravated armed robbery</i>.</p> <p>Aggravating factors include targeting young workers providing service to public at night; premeditation and preparation; ‘methodical and systematic’ manner in which offence carried out.</p>
28.	<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).</p> <p>Motive was to relieve financial pressure on family – one child and pregnant partner.</p>	<p>Ct 1: 1 x Assault intent to rob s393(c) <i>Criminal Code</i>.</p> <p>Ct 2: x Assault intent to rob in company s393(c) & (d) <i>Criminal Code</i>.</p> <p>Ct 3: 1 x Assault intent to rob s393(c) <i>Criminal Code</i>.</p> <p>6 s32 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</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>Sole ground of appeal totality (disprop to crim).</p> <p>Has 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>

		History drug addiction and financial problems.	<p>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 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>		
27.	<i>Mejtska v State of Western Australia</i> [2009] WASCA	21 yrs at time offending. Convicted after fast track PG.	2 x Armed robbery. <u>Count 1:</u> Appellant placed bladed kitchen multi-tool	Ct 1: 2 yrs imp Ct 2: 3 yrs imp TES 5 yrs.	Dismissed. NB: original sentence, upheld by the Court of

	<p>80</p> <p>Delivered 7/05/2009</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>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>EFP.</p> <p>Some insight into behaviour.</p>	<p>Appeal, was imposed whilst the transitional provisions were in force.</p>
26.	<p><i>Oaks v State of Western Australia</i></p> <p>[2009] WASCA 43</p> <p>Delivered 27/02/2009</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>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.</p> <p>Health issues – one kidney.</p>	<p>1 x Agg armed robbery.</p> <p>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.</p>	<p>3yrs imp.</p> <p>TES 3 yrs imp.</p> <p>EFP.</p> <p>Tendency minimise conduct and distort truth; no victim empathy.</p>	<p>Dismissed.</p> <p>At [27] range in <i>Miles v The Queen</i> upheld.</p> <p>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.’</p>

					NB: the original sentence, upheld by the Court of Appeal, was imposed whilst the transitional provisions were in force.
<i>Transitional Provisions Repealed (14/01/2009)</i>					
25.	<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 time sentence taking Antabuse and had not drunk since then.</p>	<p>1 x Armed robbery s392 <i>Criminal Code</i>.</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.’</p> <p>Appellant then lifted his short 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</p>	<p>18 mths imp.</p> <p>EFP.</p> <p>PSR & psych report – considerable insight into problems.</p>	<p>Allowed</p> <p>TES 18 mths suspended 18 mths substituted.</p> <p>At [26] exceptional circumstances noted.</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).	his house and found the appellant threatening self-harm.		
24.	<p><i>State of The Western Australia v Viskari</i></p> <p>[2008] WASCA 143</p> <p>Delivered 10/07/2008</p>	<p>31 yrs at time offending.</p> <p>Convicted after PG at start of trial.</p> <p>Prior criminal record - 'Entrenched' history offending and spent majority adult life in custody.</p> <p>Offending breached parole.</p> <p>Extensive history substance abuse and depression.</p>	<p>Ct 1: Steal motor vehicle. Ct 2: Armed robbery. Ct 3 Criminal damage by fire. Ct 4: Steal motor vehicle. Ct 5: Armed robbery. Ct 6: Criminal damage by fire. 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: Criminal damage by fire.</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</p>	<p>Ct 1: 9 mths imp. Ct 2: 4 yrs 9 mths 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.</p> <p>EFP.</p> <p>High risk re-offending.</p>	<p>Allowed</p> <p>TES increased to 9 yrs 1 mth.</p> <p>NB: individual sentences not disturbed.</p> <p>NB: Double jeopardy applied to State appeals.</p>

			<p>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 with knife and demanded money. Left with money in stolen vehicle which appellant later set on fire.</p>		
23.	<p><i>Roffey v The State of Western Australia</i></p> <p>[2007] WASCA 246</p> <p>Delivered 14/11/2007</p>	<p>21 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>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.</p> <p>Began sign amphetamines at 15 yrs – causative factor in offending.</p> <p>Father member motor cycle gang and served numerous periods imprisonment. Parents normalised</p>	<p>15 x Armed robbery s392 <i>Criminal Code</i>.</p> <p>3 x Attempted armed robbery.</p> <p>13 x Deprivation liberty.</p> <p>3 x Crim damage by fire.</p> <p>5 x Steal motor vehicle.</p> <p>1 x Possess altered firearm.</p> <p>1 x AOBH with intent.</p> <p>7 x s32 offences (no effect on aggregate sentence).</p> <p>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).</p>	<p>3 yrs imp each ct</p> <p>2 yrs imp each ct.</p> <p>2 yrs imp each ct.</p> <p>2 yrs imp each ct.</p> <p>18 mths imp each ct</p> <p>1 yr imp.</p> <p>3 yrs imp.</p> <p>TES 18 yrs.</p> <p>EFP.</p> <p>Limited insight.</p>	<p>Allowed.</p> <p>TES reduced to 13 yrs 6 mths.</p> <p>NB: Individual sentences not disturbed only cumulation and concurrency.</p> <p>Nature and frequency offending require lengthy custodial sentence.</p> <p>Some case summaries for multiple offences armed robbery.</p>

		criminal activity and antisocial behaviour to high degree.			
22.	<p><i>Davis v The State of Western Australia</i></p> <p>[2007] WASCA 147</p> <p>Delivered 13/07/2007</p>	<p>37 yrs at time sentencing.</p> <p>Prior criminal record – incl armed robberies at 20 yrs which resulted in probation.</p> <p>Alcohol & illicit drug problem since teenager – including heroin addiction.</p> <p>Under influence Interferon at time offending (treat Hep C) but not substantial causative factor in offending.</p>	<p>8 x Armed robbery (2 counts claimed armed, 4 counts showed weapon, 3 counts threatened with weapon).</p> <p>1 x Attempted armed robbery.</p> <p>2 x Assault intent to prevent arrest.</p> <p>1 x Fraud.</p> <p>s 32 offences - 8 x fraud and 1 x stealing.</p> <p>Offending occurred over period 2 ½ mths – escalating throughout that period and only 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>	<p>3 yrs imp (claimed to have weapon).</p> <p>3 yrs 6 mths imp (weapon shown)</p> <p>4 yrs imp robbery (threatened with weapon).</p> <p>3 yrs imp.</p> <p>18 mths imp each assault.</p> <p>12 mths imp.</p> <p>6 mths imp each s 32 offence.</p> <p>TES 10 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [40] ‘...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.’</p>
21.	<p><i>Wheeler v The State of Western Australia</i></p> <p>[2007] WASCA 109</p>	<p>58 yrs at time sentencing.</p> <p>PG 4 charges out of 8 after complainants gave evidence at trial and after intercepted phone call during which appellant admitted offences was tendered (remaining 4</p>	<p>4 x Armed robbery s392 <i>Criminal Code</i>.</p> <p>Offences of this kind regarded ‘extremely seriously by the legislature’, at [8].</p> <p>Armed in all cases with what appeared to be a handgun – targeted two TABS and two petrol</p>	<p>5 yrs imp two counts.</p> <p>4 yrs imp 2 counts.</p> <p>TES 10 yrs (incl 2318 parole days).</p> <p>Not EFP.</p>	Dismissed.

	Delivered 15/05/2007	charges NOD as part plea). Extensive prior criminal record – 14 offences armed robbery; dishonesty and property offences. Offending breached parole.	stations. Disguised himself on each occasion (black stocking like mask).	Little prospect rehabilitation. Characterised as a 'career criminal'.	
20.	<i>Abbott v The State of Western Australia</i> [2007] WASCA 105 Delivered 24/05/2007	24 yrs at time offending. Convicted after fast-track PG. No relevant prior criminal record. History drug abuse since teenager – history physical, sexual and emotional abuse as child. Good employment history. 7 yr old daughter.	1 x Armed robbery. Towards lower end of scale of seriousness – mainly owing to lack aggression. 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. 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. 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.	3 yrs 5 mths. TES 3 yrs 5 mths imp. EFP. Initially place on PSO but cancelled as felt untenable appellant able live drug free life in foreseeable future. Victim put to court that appellant needed help and offence did not have huge impact on her. Extremely remorseful.	Allowed. TES reduced to 2 yrs imp. EFP.
19.	<i>Nancarrow v The State of Western</i>	Convicted after fast-track PG.	Cts 1, 2, 3 & 5: Agg armed robbery.	3 yrs 6 mths imp each ct.	Dismissed.

<p><i>Australia</i></p> <p>[2006] WASCA 238</p> <p>Delivered 14/11/2006</p>	<p>Prior criminal record.</p> <p>Offending breach CRO.</p> <p>Long history drug abuse and drug-induced psychoses.</p>	<p>Ct 4: Agg armed robber. s 32: AOBH.</p> <p>Series five armed robberies committed over a period of approx 6 wks.</p> <p><u>Ct 1:</u> Appellant and co-offender left appellant's home armed with a knife for the purpose of robbing a 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>4 yrs imp. 9 mths imp.</p> <p>TES 8 yrs 3 mths imp.</p>	<p>At [50] Sentences at low end of the range.</p> <p>At [68]-[72] The imposition of wholly concurrent sentences would not mark the seriousness of the offending.</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 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 so 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><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>		
18.	<p><i>Pezzino v The State of Western Australia</i></p> <p>[2006] WASCA 131</p>	<p>26 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Significant prior criminal record – drugs, escape custody, burglary and</p>	<p>4 x Armed robbery. 1 x Attempted armed robbery. 1 x Burglary. 1 x Steal motor vehicle.</p> <p>Armed robberies involved pharmacies, a post</p>	<p>6 yrs imp each ct. 6 yrs imp. 2 yrs imp. 3 yrs imp.</p> <p>TES 9 yrs.</p>	<p>Dismissed - severe but reflective of criminality and within range.</p>

	Delivered 21/06/2006	<p>assault. Children's court convictions (not considered in sentencing process).</p> <p>History drug abuse – partly explain, but not excuse, offending. Dysfunctional childhood.</p>	<p>office and newsagency. In each case appellant entered wearing a visored motorcycle helmet and armed (either with a large knife or a metal pole).</p> <p>Relatively serious offending – aggressive and involved use of violence against person over 60 yrs in one instance.</p>	<p>Not EFP.</p> <p>Some insight into offending; limited prospects rehabilitation.</p>	
17.	<p><i>Kiesey v The State of Western Australia</i></p> <p>[2005] WASCA 229</p> <p>Delivered 30/11/2005</p>	<p>25 yrs at time offending.</p> <p>Convicted after PG.</p> <p>Offending breached parole.</p> <p>Significant prior criminal record – burglary; stealing; fraud; resisting arrest; assault public officer; possess 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>1 x Agg armed robbery. 1 x Agg armed robbery. s32 offences - 2 x Steal motor vehicle (used in commission armed robberies).</p> <p><u>Ct 1:</u> Robbed chemist, with co-offender, whilst armed with shotgun and wearing balaclavas. Appellant used degrading and abusive language even 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>3 yrs 6 mths imp. 3 yrs 6 mths imp. 2 yrs imp each ct.</p> <p>TES 7 yrs imp.</p> <p>Not EFP.</p> <p>Cum on parole days owed (465days).</p>	Dismissed.

<p>16.</p>	<p><i>Readhead v The State of Western Australia</i></p> <p>[2005] WASCA 191</p> <p>Delivered 5/10/2005</p>	<p>35 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Prior criminal record – armed robbery; stealing motor vehicle; breach ISO & parole.</p> <p>On parole at time offending (5 days since release when first offence committed).</p> <p>Parents separated when appellant young and mother died, leaving assets in trust to him and siblings. Lack of family support</p> <p>Diagnosed schizophrenic – controlled by medication, may have been drug induced. Poor interpersonal skills, no enduring relationships and marked social disconnectedness.</p>	<p>5 x Armed robbery (max life imprisonment). 1 x Attempted armed robbery (max 14yrs).</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 cum with owed parole days (almost 3 yrs).</p> <p>High risk re-offending; lack of empathy for victims; no true remorse.</p>	<p>Allowed.</p> <p>TES reduced to 7 yrs imp.</p>
<p>15.</p>	<p><i>Munro v The State of Western Australia</i></p> <p>[2005] WASCA 31</p> <p>Delivered 4/3/2005</p>	<p>Convicted after trial.</p>	<p>Ct 1: Agg burg. Ct 2: Dep lib. 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 returned, wearing balaclavas and gloves and armed with firearms. Entered deli after owner answered a knock on the door, shortly after</p>	<p>Ct 1: 1 yr 4mths imp. Ct 2: 1 yrs 4 mths imp. Ct 3: 4 yrs 8 mths imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>NB: co-offender also had sentence appeal dismissed <i>Snider v The State of Western Australia</i> [2005] WASCA 61 (sentence on ct 3 was 4 yrs; TES 5 yrs 4 mths imp).</p>

			<p>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>		
14.	<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 suspended.</p>
13.	<p><i>Moyle v The State of Western Australia</i></p> <p>[2004] WASCA 166</p>	<p>Convicted after early PG.</p> <p>Juvenile conviction for armed robbery in company. Previous conviction for assault.</p>	<p>1 x Agg armed robbery.</p> <p>1 x Attempted agg armed robbery.</p> <p>1 x Assault with intent to prevent arrest.</p> <p>1x Breach ISO (imposed for attempted agg robbery).</p> <p>1 x Breach ISO (imposed for assault)</p>	<p>2 yrs 8 mths imp.</p> <p>4 yrs imp.</p> <p>8 mths imp.</p> <p>12 mths imp.</p> <p>4 mths imp.</p>	<p>Dismissed - TES severe given youth, but does not manifest error.</p>

Delivered 9/08/2004	<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 impulsivity.</p> <p>History alcohol, cannabis and amphetamine abuse.</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 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>	<p>TES 6 yrs imp. EFP. Considerable remorse.</p>	
<i>Transitional Provisions Enacted (31/08/2003)</i>				
12.	<i>The Queen v</i>	25 yrs at time offending.	7 x Armed robbery s392 <i>Criminal Code</i> .	5 yrs 6 mths imp Allowed.

	<p>Roworth</p> <p>[2003] WASCA 120</p> <p>Delivered 13/06/2003</p>	<p>Convicted after PG.</p> <p>Appalling prior criminal record – began offending 11yrs (1998); by 1996 convicted over 115 offences.</p> <p>Offences committed on parole and on bail.</p>	<p>5 x Steal motor vehicle ss371A & 378 <i>Criminal Code</i>.</p> <p>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.</p>	<p>each ct. 1 yr imp each ct.</p> <p>TES 9 yrs 6 mths imp. Equivalent to 6 yrs 2 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	<p>TES increased to 12 yrs 6 mths</p> <p>NB: indiv sentences not disturbed.</p> <p>EFP.</p> <p>NB: Double jeopardy applied to State appeals - 1yr removed to compensate.</p>
11.	<p>Rafferty v The Queen (2002) 135 A Crim R 282; [2002] WASCA 312</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</p>	<p>4 yrs imp. 3 yrs imp.</p> <p>TES 7 yrs imp. Equivalent to 4 yrs 8 mths imp after</p>	<p>Allowed.</p> <p>Only to allow for time spent in custody to be credited.</p>

	Delivered 22/11/2002		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.	implementation of transitional provisions. EFP. (Initially received 18mths ISO and 120 hours community service. Re-offended several times while on PSO and was eventually sentenced as above)	
10.	<i>Mannix v The Queen</i> [2002] WASCA 244 Delivered 4/09/2002	33 yrs at time sentencing. Convicted after early PG. Offending breached bail (AOBH). Minor prior criminal record – assault; drugs; traffic offences. Severe depression and suicidal tendencies following recent breakdown of relationship of mother of his two children – their daughter stillborn 2 days prior to offending. No rational purpose to offending – not driven by need for money.	1 x Armed robbery (pretending to be armed). 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. Intoxicated at time offending.	5 yrs imp. TES 5 yrs imp. Equivalent to 3 yrs 4 mths imp after implementation of transitional provisions. EFP. Strong remorse – written letter of apology.	Dismissed.

<p>9.</p>	<p><i>Wale v The Queen</i> (2001) 126 A Crim R 370; [2001] WASCA 418 Delivered 20/12/2001</p>	<p>35 yrs at time sentencing. Convicted after fast-track PG. Extensive criminal history – beginning at 16 yrs and in excess 100 convictions. Refused to identify co-offender. Heroin addict- motivation for robberies drug debt.</p>	<p>8 x Armed robbery. 1 x Robbery. Offending period approx 1mth. 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. NB: judgement does not note type business robbed.</p>	<p>TES 14 yrs. Equivalent to 9 yrs 4 mths imp after implementation of transitional provisions. EFP.</p>	<p>Dismissed.</p>
<p>8.</p>	<p><i>Cable v The Queen</i> [2001] WASCA 390 Delivered 6/12/2001</p>	<p>20 yrs at time offending. Convicted after fast-track PG. Relatively long prior criminal record given age – including car theft and dangerous driving causing bodily harm. 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. History sexual abuse as adolescent.</p>	<p>1 x Armed robbery in company. 1 x Steal motor vehicle and drive recklessly. 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 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>5 yrs imp. 4 yrs imp. TES 9 yrs imp. Equivalent to 6 yrs imp after implementation of transitional provisions. EFP.</p>	<p>Allowed. Sentence steal motor vehicle and rive recklessly reduced to 2 yrs imp. Sentence for armed robbery not disturbed. TES reduced to 7 yrs imp. EFP.</p>

<p>7.</p> <p><i>Veneziani v The Queen</i> [2001] WASCA 246</p> <p>Delivered 15/06/2001</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal record - children's court convictions not factor in sentencing; adult convictions of fraud, heroin, stealing & receiving.</p> <p>On parole at time offending.</p> <p>19 mth old son; doing an apprenticeship.</p>	<p>3 x Armed robbery in company s 393 <i>Criminal Code</i>.</p> <p>1 x Armed robbery in company (with violence) s 393 <i>Criminal Code</i>.</p> <p>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>	<p>Dismissed.</p>
<p>6.</p> <p><i>Smith v State of Western Australia</i> [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). 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.</p> <p>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.</p> <p>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>Dismissed.</p>

				EFP.	
5.	<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.</p> <p>1 x Armed robbery.</p> <p>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.</p> <p>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.</p> <p>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>	Dismissed.
4.	<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</p>	<p>1 x Armed robbery (armed with letter opener).</p> <p>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.</p> <p>Appellant went to victim’s workplace wearing a disguise with the intent of stealing the days</p>	<p>6 yrs 5 mths imp.</p> <p>2 yrs imp.</p> <p>TES 6 yrs 5 mths imp.</p> <p>Equivalent to 4 yrs 4 mths imp after implementation of</p>	Dismissed.

		committed while under the influence of alcohol.	<p>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.</p> <p>Victim suffered severe post-traumatic stress and it was unclear at sentencing if she would ever properly recover to lead a normal life.</p>	transitional provisions. EFP.	
3.	<p><i>Bryant v State of Western Australia</i></p> <p>[2000] WASCA 226 Delivered 24/08/2000</p>	<p>21 yrs at time offending.</p> <p>Convicted after PG.</p> <p>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.</p> <p>Stable upbringing; left school and 14 yrs and fell in with wrong crowd.</p>	<p>2 x Armed robbery in company. 2 x Steal motor vehicle (used in armed robberies).</p> <p>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.</p> <p>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</p>	<p>5 ½ yrs imp each count armed robbery. 12 mths imp each count steal motor vehicle.</p> <p>TES 11 yrs imp. Equivalent to 7 yrs 4 mths imp after implementation of transitional provisions.</p>	<p>Allowed.</p> <p>TES reduced to 9 ½ yrs</p>

		Heroin user at 16 yrs – relapsed after release from prison and addiction causative factor in offending.	ground. Approx \$6500 stolen.	EFP.	
2.	<i>Eldridge v The Queen</i> [2000] WASCA 41 Delivered 1/03/2000	23 yrs at time appeal. Convicted after PG. Minor prior criminal record -included conviction armed robbery in company where appellatant was lookout only. Severe heroin addiction. Supportive family; 3 young children from 2 different relationships; de facto relationship ended since offending.	7 x Armed robbery. 2 x Armed robbery in company. All robbery targets were pharmacists – armed with machete six times, replica pistol twice, knife once. Demanded and received drugs and cash.	Sentence range 4-8 yrs imp. TES 12 yrs imp. Equivalent to 8 yrs imp after implementation of transitional provisions. EFP.	Dismissed. <i>At [18] ‘...a deterrent sentence was called for having regard to the number and nature of the offences of violence committed by the applicant.’.</i>
1.	<i>Miles v the Queen</i> (1997) 17 WAR 518	24 yrs at time offending. Convicted after fast-track PG. Prior criminal record (juvenile and adult) – no violent offences. Offences motivated by drug habit – commenced drug use at 13 yrs (amphetamines, ecstasy, LSD, cocaine & heroin) Single; unemployed and on	2 x Armed robbery with violence in company. 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 identification. Received approx \$130. About 5 ½ hrs later, robbed taxi driver, threatening him with ‘dirty prick’. Received \$100.	3 yrs imp each count. TES 6 yrs imp. Equivalent to 4 yrs imp after implementation of transitional provisions.	Dismissed. <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 p522.</i>

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