

Assault Public Officer

ss 318 and 318A *Criminal Code*

From 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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
PG	plead guilty
ct	count
TES	total effective sentence
EFP	eligible for parole
VRO	violence restraining order
poss	possess
wiss	with intent to sell or supply
methyl	methylamphetamine
SIO	suspended imprisonment order
CBO	community based order
agg burg	aggravated burglary
VRO	violence restraining order
SW	search warrant

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
10.	<p><i>Quirk v The State of Western Australia</i></p> <p>[2019] WASCA 76</p> <p>Delivered 21/05/2019</p>	<p>34 yrs at time offending. 36 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history, including common assault and assaulting a public officer.</p> <p>Youngest of four children; parents separated when young child.</p> <p>Struggled at school; adequate literacy and numeracy skills; expelled yr 11.</p> <p>Stable employment mining industry; suffered workplace injury; received workers compensation payments; eventually made redundant.</p> <p>Stable 15 yr relationship; supportive.</p> <p>Personal stresses, including financial and deaths of family members shortly before offending.</p>	<p>Cts 1 & 2: Assault public officer. Ct 3: With intent to harm did an act likely to endanger life, health or safety.</p> <p>Police attended Quirk's home to execute a SW and forced entry when he refused to open the door.</p> <p>As the officers entered they saw a small fire burning on the carpet and Quirk standing nearby, shouting abuse at them. He then pointed a fire extinguisher at the officers and sprayed it in their faces. He did not stop when repeatedly asked to do so.</p> <p>Concerned they had been sprayed with a flammable liquid one officer tried to deploy pepper spray, but the force of the spray from the fire extinguisher blew it back onto him.</p> <p>Quirk retreated into the room where the fire was burning and, as the police officers approached, threw an accelerant onto the fire. It immediately ignited engulfing the room in flames and smoke.</p> <p>Putting on a helmet Quirk charged at the officers. He was tasered and fell to the floor. After a considerable struggle he was restrained and taken out of the house.</p> <p>The two officers suffered smoke inhalation and sustained minor injuries. The home was largely destroyed by the fire.</p>	<p>Ct 1: 1 yr 6 mths imp (cum). Ct 2: 2 yrs imp (conc). Ct 3: 3 yrs imp (cum).</p> <p>4 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found while the police officers were not seriously injured, the potential consequences of the appellant's conduct involved a 'very real risk of serious injury'.</p> <p>The sentencing judge sentenced on basis the appellant's intention was not to cause harm to the police officers, but to hinder the execution of the SW.</p> <p>The sentencing judge accepted the appellant was affected by drugs at the time; whilst his conduct was not pre-meditated, it was deliberately aggressive and placed the lives of police officers at risk; his conduct in using a volatile</p>	<p>Appeal dismissed.</p> <p>Appeal concerned totality principle; individual sentences not challenged.</p> <p>At [53] ... the appellant's offending as a whole was very serious. It involved the commission of three offences which, individually, were serious by their nature, and constituted serious instances of offending of that kind.</p> <p>At [56] ... While the appellant's intent was not to endanger the life, health or safety of the police officers, his act of throwing accelerant onto the fire, in a confined space, and where the officers were in close proximity, was extremely dangerous, and placed the lives, health or safety of those officers at risk. The fact that the officers sustained only minor physical injuries as a result of the appellant's conduct does not detract from the</p>

		<p>Past history of cannabis and alcohol abuse; commenced using methyl 12 mths prior to offending.</p>		<p>substance on a fire in circumstances where police officers were in close proximity was most dangerous; it was 'serious offending by any measure' and this was a serious example of the offence under s 304(2).</p> <p>The sentencing judge found the use of the fire extinguisher as a weapon and the use of the accelerant in a confined space aggravated the seriousness of the offences.</p> <p>Remorseful; belated insight into his offending; counselling undertaken to address drug use and dealing with life stressors; low risk of re-offending in a violent manner; increased risk if recommences use of illicit substances.</p>	<p>fact that the offending the subject of ct 3 was of a very serious nature.</p> <p>At [58] ... the offending in respect of [cts 1 and 2] was also serious. In spraying the fire extinguisher onto the two police officers, the appellant clearly sought to impede them in their exercise of the SW. In the case of offences involving assaults on police officers, to resist or hinder police officers in the performance of their lawful duties, deterrence, including general deterrence, is an important sentencing consideration.</p> <p>At [60] ... The offending the subject of cts 1 and 2 clearly added to the criminality of the offending the subject of ct 3. ... a degree of accumulation between the sentences for ct 1 (or cts 1 and 2) on the one hand, and ct 3 on the other hand, was warranted to reflect the overall criminality of the appellant's conduct.</p>
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<p>9.</p>	<p><i>Walters v The State of Western Australia</i></p> <p>[2019] WASCA 61</p> <p>Delivered 20/03/2019</p>	<p>48 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior NZ criminal history; no previous sentences of imp or ‘real history of violence’; no record of offending in Australia.</p> <p>Born in NZ.</p> <p>Excellent work history; employed long haul road train driver in north-west.</p> <p>Banned from flying; moved to WA from QLD to maintain his job.</p> <p>Partner; five children; youngest aged 17 yrs.</p>	<p>1 x Unlawful assault member of aircraft crew.</p> <p>Walters was employed as a FIFO worker. He had completed his fortnight shift and was flying interstate on a commercial flight.</p> <p>On board there was an issue with Walters and another passenger’s boarding passes. The other passenger had not boarded. Cabin crew were trying to sort out the issue when the missing passenger appeared, intoxicated, at the top of the aircraft stairs. Due to his intoxication and others seated with Walters there was discussion among the cabin crew about whether they should be allowed to remain on the flight and if so, whether they should be allowed to sit in the emergency row.</p> <p>The intoxicated passenger was not allowed to board. Walters was told he was to be seated elsewhere and that he was not allowed to drink.</p> <p>Walters held up his mobile phone, in a manner which made witnesses believe he was filming the cabin crew. He was asked by a member of the crew to stop filming. Another crew member, the victim, saw what was going on and asked him ‘politely but firmly’ to stop filming her. She then tried to stop him filming.</p> <p>Walters responded by lowering his right shoulder and slamming into the victim, pushing her backwards into the galley causing her injury. Other passengers intervened.</p>	<p>12 mths imp.</p> <p>EFP.</p> <p>The trial judge regarded the assault of a crew member of an aircraft as a serious matter; the appellant’s conduct was highly disruptive with serious consequences, even though the aircraft was not in-flight, and it resulted in the flight being delayed with inconvenience to the crew and passengers.</p> <p>The trial judge found the appellant was considerably heavier than the victim and he used ‘considerable force’; the crew were in a confined space and a vulnerable position and the assault affected the victim’s ability to work.</p> <p>The trial judge found the seriousness of the offence and the protection of the community meant that imp was the only appropriate disposition; a suspended sentence was not imposed having regard to the nature</p>	<p>Appeal dismissed.</p> <p>Appeal concerned length of sentence.</p> <p>At [32] - [34] ... this was a serious offence. ... the appellant used actual violence to a member of the crew, causing injury that has had lasting consequences for her. ... the crew are in a confined space ... They are vulnerable to such assaults. ... the offence interfered with the victim’s ability to perform an important function connected with the operation of the aircraft.</p> <p>At [44] ... it was reasonably open to the trial judge to be satisfied that it was inappropriate to impose suspended or conditionally suspended imp. ...</p>
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8.	<p><i>Alford v The State of Western Australia</i></p> <p>[2018] WASCA 186</p> <p>Delivered 23/10/2018</p>	<p>27 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after PG (17.5% discount).</p> <p>Lengthy criminal history.</p> <p>Raised loving and stable home; aged 13 yrs struggled with tragic death of his brother; supportive family and partner; father of young child.</p> <p>Excellent sportsman; cricket scholarship; struggled academically; did not complete yr 12; diagnosed with ADHA.</p> <p>Employed various jobs.</p> <p>Problems with alcohol and illicit drug use from aged 16 yrs; history of methyl</p>	<p>2 x Agg assault public officer.</p> <p>A search warrant was executed at Alford's home. When police entered he produced a loaded .22 calibre revolver and pointed it, at close range, at the heads of two police officers. When officers yelled, 'Police, do not move, drop the gun' he did not obey the command.</p> <p>He was quickly disarmed.</p> <p>Each of the officers thought that he was about to be killed.</p>	<p>2 yrs imp each ct (cum).</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge took into account the sentence of 2 yrs imp the appellant was already serving in respect of further offences arising from the same search warrant.</p> <p>Devastating and enduring consequences on both victims.</p> <p>Some demonstrated remorse.</p> <p>Low risk of violent reoffending.</p>	<p>Appeal dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [29] The overall criminality engaged in by the appellant was unquestionably of a very high order. There was nothing 'accidental' about the appellant's conduct.</p> <p>At [31] ... Police officers acting lawfully in the execution of their duty must be protected. Offenders who threaten or use firearms against police officers have to expect serious punishment.</p> <p>At [35] ... The present case is one where to impose totally conc sentences would have resulted in a</p>

		use.			<p>TES that did not adequately reflect the total criminality involved in the offences. ... [the appellant's] criminality was increased by the fact that the incident involved two police officers, not one.</p> <p>At [38] ... [the TES] bore a proper relationship to the overall criminality involved in the offences the appellant committed, viewed in their entirety and having regard to the circumstances of the case, including those referable to the offender personally. ...</p>
7.	<p><i>The State of Western Australia v. Darroch</i></p> <p>[2018] WASCA 114</p> <p>Delivered 13/07/2018</p>	<p>44 yrs at time offending. 45 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Prior history of violent offending; including two offences of assaulting a police officer causing bodily harm while armed with a tomahawk.</p> <p>Unremarkable childhood.</p> <p>Left school yr 10.</p>	<p>Ct 1: With intent to harm did an act likely to endanger life, health or safety. Ct 2: Assault public officer causing bodily harm.</p> <p>Darroch drove to a country store. He repeatedly entered the store and towards the toilets at the rear of the premises. He did not ask the attendant for a key. He left the store and waited outside by his vehicle.</p> <p>Meanwhile, the victim, a long-haul truck driver, entered the store, obtained the key, and went to use the facilities.</p> <p>By this time Darroch had refuelled his car. As a result of taking his time to pay for the fuel the store attendant went outside and challenged him</p>	<p>Ct 1: 5 yrs imp (cum). Ct 2: 12 mths imp (cum).</p> <p>TES 6 yrs imp. EFP.</p> <p>The sentencing judge found ct 1 a very serious example of this type of offending and 'clearly in the worst category for this type of offending'.</p> <p>The sentencing judge found the offending aggravated by the vulnerability of the victim who was taken by</p>	<p>Allowed.</p> <p>Appeal against length of sentence (ct 1).</p> <p>Re-sentenced:</p> <p>Ct 1: 10 yrs imp (conc). Ct 2: 12 mths imp (conc).</p> <p>TES 10 yrs imp. EFP.</p> <p>At [34] ... the catastrophic and permanent injuries suffered by the victim were a seriously agg feature of</p>

		<p>Completed trade apprenticeship.</p> <p>Unwell as a result of heavy drug abuse; on disability support pension; unable to cope with full-time work.</p> <p>History of physical and mental health issues; exacerbated by illicit drug use; long term schizoaffective disorder; long history of non-compliance with medication.</p> <p>Entrenched illicit drug use.</p>	<p>regarding payment. Darroch began to drive off, before stopping and challenging the attendant to a fight when he noticed him chasing his vehicle. He then returned to his car and drove off.</p> <p>A few minutes later Darroch returned and entered the store armed with a hammer. Walking straight into the toilets he struck the victim a number of times to the head with the hammer, inflicting serious life-threatening injuries. He immediately left the store and drove off.</p> <p>Darroch was later arrested. He was not interviewed due to his mental state and aggressive behaviour. When taken to an interview room he punched a police officer, knocking his glasses from his face. The officer suffered a cut to his eyebrow, which bled and caused bruising and swelling.</p>	<p>surprise by an unprovoked and senseless attack; he used considerable violence and struck the victim multiple times to the head; resulting in the victim suffering brain injuries and requiring 24-hr a day care and supervision for the rest of his life.</p> <p>The sentencing judge described the victim's injuries as being 'in the upper range of seriousness for this type of offence'.</p> <p>Remorseful.</p> <p>High risk of future violence.</p>	<p>the appellant's offence.</p> <p>At [35] There were also mitigating factors, the most relevant of which were the plea of guilty at the first reasonable opportunity, the respondent's remorse and his mental health issues.</p> <p>At [43] ... the sentence imposed on ct 1 inadequately reflects the very serious nature of the offending, including deterrence and community protection. The sentence was not commensurate with the seriousness of the offence.</p>
6.	<p><i>Papworth v The State of Western Australia</i></p> <p>[2017] WASCA 82</p> <p>Delivered 21/04/2017</p>	<p>27 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Extensive prior criminal history; including driving and drug offences.</p> <p>Dysfunctional childhood.</p> <p>Efforts made at rehabilitation.</p>	<p>Ct 1: Agg reckless driving. Ct 2: Agg assault public officer. Ct 3: Obstruct public officer.</p> <p>Papworth had consumed methyl and was heavily intoxicated. He drove without a licence and in a car that he was not entitled to drive.</p> <p>When police attempted to stop Papworth's car he accelerated heavily. He was pursued for about 34 mins. He travelled at excessive speeds, frequently exceeding the speed limit by more than 45km per hour. He disregarded a number of red traffic lights and other traffic control signs.</p>	<p>Ct 1: 18 mths imp. Ct 2: 18 mths imp (cum). Ct 3: 12 mths imp (conc).</p> <p>TES 3 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge erroneously found that Papworth deliberately rammed his car into the police vehicle, endangering the occupants.</p>	<p>Dismissed.</p> <p>Appeal concerned Judge's finding that Papworth deliberately "rammed" the police car.</p> <p>CofA found (at [33] – [48]) that his Honour erred by making the finding, but that the error did not require a different sentence to be imposed.</p>

			<p>On two occasions he collided with roadwork signs and drove on the incorrect side of the road.</p> <p>Despite the front tyres of Papworth's car being shredded by a stinger deflation device, he continued to drive. His car fishtailed from left to right as a result of damage. Police stopped their cars across two lanes in an effort to stop and prevent him continuing. He did not stop; he collided with one of the police vehicles.</p> <p>Papworth ignored directions to alight from his vehicle. As police attempted to remove him he threw a tomahawk at an officer, which narrowly missed his head. He threw various other items at police. He was eventually tasered, removed from his car and arrested.</p>	Remorse.	<p>At [42]... the appellant's assault on Detective Hartley was also very serious. The tomahawk thrown by the appellant narrowly missed Detective Hartley's head. If the tomahawk had struck his head there would have been a serious risk of at least very significant injury.</p> <p>At [47]... The sentence imposed on the appellant (for the agg assault public officer charge) was, in the circumstances, within the available range but lenient.</p>
5.	<p><i>Cleminson v The State of Western Australia</i></p> <p>[2017] WASCA 58</p> <p>Delivered 15/03/2017</p>	<p>25 yrs at time offending.</p> <p>Convicted after PG (25% discount).</p> <p>Lengthy criminal history; including convictions for agg AOBH and common assault.</p> <p>Childhood 'fairly dysfunctional'.</p> <p>Completed yr 12.</p> <p>Irregular employment history.</p>	<p><u>Indictment</u></p> <p>Ct 1 & 3: Criminal damage. Ct 2: Threat to kill. Ct 4: Armed to cause fear. Ct 5: Poss firearms. Ct 6: Assault public officer.</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: Discharging a firearm. Ch 2: Refusing a disease test.</p> <p>The victims are Cleminson's mother KC, and her partner GJ. They lived in a family and domestic relationship on an isolated property.</p> <p>Agitated Cleminson took some of his belongings and set fire to them. The fire was extinguished.</p>	<p><u>Indictment</u></p> <p>Ct 1: 6 mths imp (conc). Ct 2: 2 yrs imp (cum). Ct 3: 12 mths imp (conc). Ct 4: 2 yrs imp (cum). Ct 5: 2 yrs imp (conc). Ct 6: 12 mths imp (conc).</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: 6 mths imp (conc). Ch 2: 2 mths imp (cum).</p> <p>TES 4 yrs 2 mths imp. EFP.</p> <p>The sentencing judge described the overall</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of sentence for ct 4 and totality.</p> <p>At [26] ... Although the offences were committed on the same day in one (extended) incident, some accumulation of the sentences was appropriate in order to properly reflect the appellant's overall criminality.</p>

		<p>Father of a six-yr-old child; no contact with his ex-partner and child.</p> <p>History of alcohol and drug abuse.</p>	<p>He said ‘I’m going to kill everyone’. Inside he smashed items, including two power boxes to the house and shed, cutting off the main power supply.</p> <p>KC left the property but GJ remained and hid outside, too frightened to go into the house.</p> <p>Cleminson said on several occasions ‘You fucking cunts, I’m going to kill you’. He unlocked a gun safe and removed two firearms, forced entry to a box of ammunition and loaded one of the rifles. Outside he fired a round into a target. He did not hold a firearms licence or permit.</p> <p>Police arrived and he submitted himself, unarmed, to police. As he was being assisted into the police vehicle he spat in the face of a police officer. A mixture of saliva and blood hit the officer in the eyes. He refused to undergo a mandatory blood test.</p>	<p>offending as very serious and found the offending was not uncharacteristic of the appellant.</p> <p>Lacks insight into causes of his offending behaviour; elevated risk of re-offending.</p>	
4.	<p>Winmar v State of Western Australia</p> <p>[2016] WASCA 184</p> <p>Delivered 28/10/2016</p>	<p>29 yrs at time sentencing.</p> <p>Convicted after late PG (15% discount – Ind 1049) (20% discount – Ind 494).</p> <p>Subject to an SIO at time offending for 5 convictions of unlicensed driving.</p> <p>Significant criminal history, including prior convictions for burg and assault.</p>	<p><u>Indictment 1049 of 2015</u> Ct 1: Dangerous driving to escape pursuit. Cts 3 & 5: Assault public officer.</p> <p><u>Indictment 494 of 2015</u> Cts 1-4 & 6: Agg burg. Ct 5: Reckless driving.</p> <p><u>Indictment 1049 of 2015</u> Winmar was driving with a passenger in a car when police signalled for her to stop. She sped from police, drove on the wrong side of the road</p>	<p><u>Indictment 1049 of 2015</u> Ct 1: 6 mths imp (cum). Ct 3: 9 mths imp (cum). Ct 5: 9 mths imp (cum).</p> <p><u>Indictment 494 of 2015</u> Ct 1: 15 mths imp (head sentence) Ct 2: 2 yrs imp (conc). Ct 3: 2 yrs imp (cum) Ct 4: 18 mths imp (conc). Ct 5: 18 mths imp (cum) Ct 6: 18 mths imp (conc).</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality principle.</p> <p>At [27] The overall criminality involved in the offences which the appellant committed was high. She drove in a manner which placed police officers and other road users at very high risk of</p>

		<p>Daily user of methyl at time offending.</p> <p>Dysfunctional upbringing; sexually abused and used illicit drugs from a young age.</p> <p>Completed schooling to yr 9; never worked.</p> <p>Three children; pregnant at time sentencing.</p> <p>Suffers from depression.</p>	<p>and in and out of traffic at about 100km p/h. Caught in traffic she was informed she was under arrest.</p> <p>During an altercation with police Winmar managed to start the car and drive off, throwing two police officers to the ground. They suffered minor injuries.</p> <p><u>Indictment 494 of 2015</u> Winmar entered the 73-yr-old victim's home and rummaged through drawers, stealing jewellery. The victim was outside at the time.</p> <p>Winmar and co-offenders broke a window and entered the victim's home. Stealing a handbag and jewellery. The victim was not at home.</p> <p>Winmar smashed a window and entered the 74-yr-old victim's home, stealing jewellery. The victim came home to see Winmar or a co-offender climbing out a window.</p> <p>Winmar and co-offenders entered the 78-yr-old victim's home and stole jewellery and a TV. The victim returned home and saw Winmar or one of the co-accused leaving the house.</p> <p>Winmar and her co-offender entered the victim's home and stole her handbag containing cash and other items. The victim, outside the house, saw Winmar and her co-offender flee the house.</p> <p>Winmar drove with false licence plates. Police requested she stop but she accelerated away at</p>	<p><u>Breach of SIO</u> 8 mths imp each (conc with each other and other sentences imposed).</p> <p>TES 6 yrs.</p> <p>EFP.</p> <p>The sentencing judge regarded the seriousness of the driving and burg offences and the need to impose a deterrent penalty.</p> <p>The sentencing judge noted positive steps taken towards rehabilitation and engaged in voluntary work.</p> <p>Demonstrated remorse and acceptance of responsibility.</p>	<p>death or serious injury on two occasions. The assaults on the two police officers ... placed them at risk when performing their important public duties and called for a cumulative sentence. The burg offences were agg by the fact that the appellant was in company, and by the impact of the offences on often elderly victims.</p>
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			high speed, mounting a verge. Police pursued Winmar who drove through a red traffic light and on the wrong side of the road. Other vehicles were forced to brake and swerve and at one point she struck a police vehicle.		
3.	<p><i>The State of Western Australia v Smith</i></p> <p>[2016] WASCA 153</p> <p>Delivered 31/08/2016</p>	<p>25 yrs at time offending. 26 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Significant and lengthy prior criminal history, including convictions for breaching VRO, agg common assault and being armed in public in a way that may cause fear.</p> <p>History of domestic violence towards his partners.</p> <p>Emotional trauma associated with the death of his father.</p> <p>History of methyl use; affected by drugs at time offending.</p> <p>Offending occurred while appellant was subject to an SIO of 10 months imp, susp 12 mths.</p>	<p><u>Indictment</u> Ct 1: Agg unlawful wounding. Ct 2: Agg GBH. Ct 3: Att steal motor vehicle. Ct 4: Assault public officer. Ct 5: Obstructing public officer.</p> <p><u>s.32 notice</u> Ch 1: Trespass. Ch 2: Steal motor vehicle. Ch 3: Cruelty to an animal.</p> <p><u>Ct 1</u> Smith and the victim were in a domestic relationship. They were at home using drugs and Smith left the house armed with a hammer and in an agitated state. He returned with the hammer and argued with the victim. He threatened to hit her with the hammer. The victim turned her back to Smith and he violently hit her head with the hammer, exposing her skull.</p> <p><u>Ct 2</u> Smith struck the victim again as she tried to flee, hitting and fracturing her hand.</p> <p><u>Ct 3</u> Police found Smith walking down the street. As the officer got out of his patrol car and</p>	<p><u>Indictment</u> Ct 1: 6 mths imp (conc). Ct 2: 18 mths imp. Ct 3: 3 mths imp (conc). Ct 4: 6 mths imp (cum). Ct 5: 3 mths imp (conc).</p> <p><u>s.32 notice</u> Ch 1: \$500 fine. Ch 2: 3 mths imp (conc). Ch 3: 2 mths imp (cum).</p> <p><u>SIO</u> Ordered to serve 6 mths of 10 mths SIO (conc).</p> <p>TES 2 yrs 2 mths imp.</p> <p>EFP.</p> <p>The sentencing judge noted the offences reflected an escalation in his offending behaviour, but that Smith had not been before the courts from 2005-2010.</p> <p>Remorseful; claimed no recollection of actions due to drug intoxication.</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence for cts 1 and 2 and totality.</p> <p>Re-sentenced to:</p> <p>Ct 1 (ind): 2 yrs imp (conc). Ct 2 (ind): 3 yrs 6 mths imp.</p> <p>Sentences for ct 4 (ind) and ch 3 (s32 notice) and 6 mths imp for SIO cum upon each other and cum upon new sentence for ct 2 (ind). All other sentences conc.</p> <p>TES 4 yrs 8 mths imp. EFP.</p> <p>At [30] The respondent had a history of domestic violence towards his partners, and this underscored the importance of personal deterrence as a sentencing factor.</p> <p>At [39] ... the respondent's</p>

			<p>approached Smith, Smith ran to the other side of the car, got into the driver's seat and attempted to drive away.</p> <p><u>Cts 4-5 and ch3</u> The officer tried to stop Smith and was struck on the arm by the car's door. They wrestled for control of the car. Smith pulled out a knife and the officer attempted to knock it from his hand. The officer then attempted to taser Smith.</p> <p>A police dog grabbed Smith by his leg and pulled him from the car. Smith struck the dog on the head with the hammer and hit the officer's arm with the hammer. He attempted to hit the dog again, but the officer tasered him and he fell to the ground. Continuing to fight the officer, still armed with the hammer, he was tasered a third time. The officer kicked the hammer from Smith's hand and restrained him until assistance arrived.</p>	<p>Psychological report indicated developing insight into his behaviour and reasons for it.</p> <p>High risk of re-offending if illicit drug use continues.</p>	<p>offending was serious... The respondent armed himself with a ... weapon capable of inflicting serious harm, and his attacked upon the victim was unprovoked... The respondent's conduct in striking the victim ... had the potential to cause her extremely serious injury. He was physically stronger and more powerful than her.</p> <p>At [95] ... it was significant that the injury in fact sustained [for ct 2] was a defensive wound caused by an attempt to strike the victim with a hammer, in circumstances where the respondent had just struck her with the hammer to the back of her head. The use of the hammer in that manner was likely to permanently injure or even kill the victim. The level of violence employed against the victim was high. The infliction of the injury formed part of a sustained attack against the victim which ceased only after she</p>
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					<p>was able to take refuge at the neighbour's premises. The victim had not provoked the attack, and posed no threat to the respondent.</p> <p>At [100] The respondent acknowledged that he had perpetrated domestic violence on a regular basis.</p> <p>At [104] Any AOBH to a police officer performing his or her important community function is a serious matter. That is particularly so where weapons are involved. The respondent produced a knife, which he did not have the opportunity of using, and employed a claw hammer to inflict bodily injury...</p>
2.	<p><i>Moir v The State of Western Australia</i></p> <p>[2014] WASCA 25</p> <p>Delivered 04/02/2014</p>	<p>32 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal record including burglary, dishonesty, traffic offences and breaching court orders.</p> <p>Suffered significant trauma</p>	<p><u>Indictment</u></p> <p>Ct 1: Unlawful wounding.</p> <p>Ct 2: Stealing.</p> <p><u>s32 notice</u></p> <p>Ct 1: Assault public officer.</p> <p>Ct 2: Trespass.</p> <p>Ct 3: Obstruct public officer.</p> <p><u>Breach</u></p>	<p><u>Indictment</u></p> <p>Ct 1: 16 mths imp (cum).</p> <p>Ct 2: 6 mths imp.</p> <p><u>s32 notice</u></p> <p>Ct 1: 6 mths imp (cum).</p> <p>Ct 2: 3 mths imp.</p> <p>Ct 3: 3 mths imp.</p> <p><u>Breach</u></p>	<p>Dismissed – on papers.</p> <p>At [24] When viewed as a whole, the appellant's offending was unquestionably serious. On two separate occasions she, without any justification, unlawfully wounded her victims.</p>

		<p>as a child and adult; history of severe sexual abuse and domestic violence.</p> <p>Abused alcohol for many years.</p> <p>Diagnosed with ADHD; some characteristics of post-traumatic stress disorder; personality disorder with emotionally unstable paranoid and antisocial features.</p> <p>Claimed that the offences on Indictment and s32 were whilst she was adversely affected by the effects of her medication.</p> <p>At time of committing these offences was subject to an 18 mth ISO imposed for agg unlawful wounding.</p>	<p>Breach of ISO - agg unlawful wounding. (By re-offending and non-compliance).</p> <p><u>Breach</u> The appellant was drinking at a nightclub when she encountered the victim and his partner. During a conversation with them, she threw the contents of her glass over the victim's partner. Either the victim or his partner then threw the contents of their drink at the appellant. She reacted by throwing the rest of the contents of her glass at the victim and, in doing so, the glass she was holding left her hand and struck the victim just above his left eye with such force that the glass broke and inflicted a 5 cm cut to the victim's forehead.</p> <p><u>Indictment and s32 notice</u> The victim and her 10 year old son were at their community library. The appellant, who was intoxicated, was seated at a computer station a couple of seats away from them. Without warning the appellant struck the victim to the left side of her face with a partially filled bottle of whisky which broke on contact. The victim suffered a 10cm cut to her left eyebrow and damage to the retina of her left eye. She then fled after stealing a purse from the victim's handbag.</p> <p>The appellant then went to and entered an acquaintances address in Orelia without his consent. The victim returned home and made several requests for her to leave however his requests were ignored. The police were</p>	<p>9 mths imp (cum). TES 2 yrs 7 mths imp.</p> <p>EFP.</p> <p>Appellant told sentencing judge she intended to re-engage in rehabilitation programs.</p> <p>Both unlawful wounding offences were unprovoked, unexpected and unjustified.</p>	
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			<p>contacted. Instead of leaving, the appellant took a bath and then hid under the victim's bed. She refused all requests by police to leave. Eventually she climbed out a window, stood in the garden and pleaded with the victim to allow her to stay. She resisted police attempts to arrest her and kicked a police officer in the face and leg.</p>		
1.	<p><i>Hume v Pettyfer</i> [2014] WASC 22</p> <p>Delivered 29/01/2014</p>	<p>22 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Prior criminal record including breach police order and obstruct public officer.</p> <p>Difficult childhood; cared for by her aunt.</p> <p>Commenced using drugs at 14 yrs.</p> <p>Unemployed.</p> <p>Has young son; not in her care.</p> <p>Little or no family support.</p> <p>Non-compliant with regards to the preparation of PSR.</p> <p>Reluctant to engage with an</p>	<p>s 318 Criminal Code Assault person working in a hospital. s 74A(2)(a) <i>Criminal Code</i> Disorderly behaviour.</p> <p>The appellant was taken to the Peel Health Campus in ambulance because she was heavily intoxicated. She later said she had been using amphetamine for several days.</p> <p>Whilst being attended to by nursing staff the appellant became aggressive and thrashed her arms about. A security guard was called. He attempted to restrain the appellant but she kicked him in the groin. She continued to be aggressive and non-compliant with nursing staff. The security guard escorted her out of the hospital.</p> <p>A short time later the appellant returned and went to the toilets. Nursing staff and the same security guard removed the appellant from the toilets and took her outside. Attempts were made to calm her down and ascertain what assistance she needed. As other nursing staff and patients walked past the appellant attempted to attack them. The security guard again had to restrain the appellant. She then started lashing out and</p>	<p>7 mths imp.</p> <p>\$750 fine & \$68 costs.</p> <p>Remorse and regret.</p> <p>Told author of PSR had no memory of what occurred in hospital.</p> <p>Magistrate characterised offending as 'abhorrent and totally unacceptable'.</p> <p>Continued use of drugs raises the risk of re-offending.</p>	<p>Dismissed.</p> <p>At [22] Hospitals provide an important public service. It is essential to the delivery of that service that those who work in hospitals should not be subject to violent attacks. Such attacks not only pose the risk of harm to hospital staff but can disrupt or prevent the delivery of medical care to the sick and injured. The importance of ensuring the safety of hospital staff makes general deterrence an important sentencing factor.</p> <p>At [25] As regards the standards of sentencing for offences of this type, there are no reported cases involving sentences imposed for assaults upon</p>

		order; no steps taken to address drug problem.	punched the security guard in the face. After the security guard had restrained the appellant she commenced spitting on him.		hospital employees pursuant to s318.
<p><i>Mandatory sentencing introduced (22/09/2009)</i> <i>s 318(5) sets out prescribed circumstances where mandatory sentencing applies – certain categories of officer who suffer bodily harm</i></p> <p><i>Minimum penalty where offending falls within s 318(1)(l) set at 9 mths immediate imp</i> <i>Minimum penalty in all other instances set at 6 mths immediate imp</i></p>					
<p><i>Transitional provisions repealed (14/01/2009)</i></p>					
<p><i>Maximum penalty s 318, other than those falling within s 318(1)(l), reduced to 7 yrs imp (27/04/2008)</i></p>					
<p><i>Transitional Provisions Enacted (31/08/2003)</i></p>					
<p><i>Maximum penalty for s 318 increased from 5 yrs to 10 yrs imp (20/01/1995)</i></p>					