

Attempted armed robbery & Assault with intent to rob

from an individual, committed on smaller establishments, using a syringe

ss 552, 392 and 393 *Criminal Code*

Prior to 1 January 2014

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

imp	imprisonment
susp	suspended
conc	concurrent
cum	cumulative
PG	plead guilty
agg	aggravated
burg	burglary
sex pen	sexual penetration without consent
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
att	attempted
EFP	eligible for parole
indec	indecent
pen	penetrate
TES	total effective sentence
CRO	conditional release order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
19.	<p><i>Hill v The State of Western Australia</i></p> <p>[2013] WASCA 282</p> <p>Delivered 06/12/2013</p>	<p>29 yrs at time sentencing.</p> <p>Convicted after late PG (first day of Trial).</p> <p>Criminal record including convictions for unlawful assault, AOBH, agg assault & being armed to cause fear.</p> <p>Parents had a difficult relationship marked by alcohol abuse.</p> <p>Single; unemployed.</p> <p>Drinks heavily most days of the week; regular user of cannabis and intravenous amphetamines.</p> <p>Failed to attend Community Corrections and psychological interviews.</p> <p>May suffer underlying antisocial personality disorder.</p> <p>Co-offender Lewis Punch</p>	<p>Agg assault w/i to rob.</p> <p>The victim, a 15 yr old boy, was riding his pushbike through a park on his way home from part-time work.</p> <p>As the victim rode a large black dog ran at him, jumped at him and knocked him off his bike. While he was on the ground the appellant and his co-offender approached the victim and both stood over him. The co-offender was holding the dog back by the collar.</p> <p>The appellant demanded to be shown the victim's bag and asked him if he had any money. The victim started to open his backpack to show the offender. The co-offender told the victim to hurry up or he would set the dog on him again.</p> <p>The appellant then said 'Twenty bucks will do'. The co-offender became impatient and let go of the dog, which lunged forward and jumped up at the victim. The victim dropped his bag and started to run away with the dog chasing him. The dog bit into the victim's right calf. Both offenders were shouting 'Get him, get him'.</p> <p>The victim ran off.</p>	<p>2 yrs 6 mths imp.</p> <p>Very little remorse.</p> <p>Sentencing judge noted that offenders had sought not only to get the victim's possessions but to cause him fear.</p> <p>High risk of re-offending.</p>	<p>Dismissed on papers.</p> <p>Grounds of appeal – parity.</p> <p>At [18] ... Whilst his Honour considered that both the appellant and Punch were equally culpable in respect of the offending, he considered that, in light of the appellant's worst antecedents, the need for personal deterrence and public protection called for a higher sentence in his case.</p> <p>At [21] ... The appellant has shown a propensity for violence. His record of violent offending, coupled with the assessment that he is at a high risk of reoffending, meant that personal</p>

		sentenced to 1 yr 8 mths imp. EFP.			deterrence and protection of the public were more significant in his cast than in the case of Punch.
18.	<i>Wroth v The State of Western Australia</i> [2013] WASCA 155 Delivered 28/06/2013	27 yrs at time sentencing. Convicted after early PG. Substantial criminal history including aggravated burglary, arson, assault and stealing. Unhappy childhood; parents separated when he was 3 yrs; left home at 12 yrs. Married & two step-children; supportive wife. History of drug abuse. Offences committed on a three month binge on amphetamines and cannabis.	Ct 1: Agg burg. Ct 2: Att. armed robbery. Ct 3: Att. armed robbery. Ct 4: Armed robbery. Ct 5: Steal motor vehicle. Ct 6: Armed robbery. Ct 7: Arson. 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.	Ct 1: 12 mths imp cum. Ct 2: 3 yrs imp cum. Ct 3: 3 yrs imp conc. Ct 4: 3 yrs imp conc. Ct 5: 9 mths imp conc. Ct 6: 3 yrs imp cum. Ct 7: 9 mths imp conc. TES 7 yrs imp. EFP. Full admissions. PSR placed the appellant's history of substance abuse at the extreme end of the scale.	Dismissed – on papers. Sole ground of appeal breach of totality principle. At [22] ... The fact that the appellant was armed with a firearm was a serious aggravating feature. At [23] ... The appellant's illicit drug use, while explaining his offending, cannot excuse it.
17.	<i>Chadd v The State of Western Australia</i>	24 yrs at time sentencing. Convicted after early PG.	Ct 1: Agg Armed robbery. Ct 2: Armed robbery. Ct 3: Att Armed robbery.	Ct 1: 3 yrs imp. Ct 2: 4 yrs imp. Ct 3: 3 yrs imp.	Dismissed – on papers.

	<p>[2013] WASCA 99</p> <p>Delivered 15/04/2013</p>	<p>Long criminal history involving serious offending including multiple convictions for agg burglary, agg armed robbery, robbery and steal motor vehicle.</p> <p>Offences committed whilst on bail for steal motor vehicle.</p> <p>Spent much of his life in prison.</p> <p>Addicted to cannabis and alcohol.</p> <p>Co-offender (younger brother) sentenced to 2 yrs susp imp for Ct 1.</p>	<p>4 x s32 offences.</p> <p><u>Ct 1:</u> The appellant and co-offender (his younger brother) went to a liquor store. There they stole bottles of liquor, secreting them in their clothing. The appellant and co-offender were confronted by a shop assistant. The appellant threatened the shop assistant with a small axe. The shop assistant moved away. The appellant and co-offender took more liquor and then ran from the shop.</p> <p><u>Cts 2 & 3:</u> 10 days later the appellant; who was intoxicated; was at an address and wanted to go home. He approached a man who was in a car with a woman. The appellant asked the man if he could 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</p>	<p>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>At [30] Each of the offences of armed robbery committed on the appellant was a serious example of its nature.</p> <p>At [31] In light of the appellant's antecedents, personal deterrence was an important sentencing consideration.</p> <p>At [37] The difference between the appellant and his brother justified the different outcomes in this case.</p> <p>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</p>
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			went home. He had in his possession the woman's handbag.		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.
16.	<p><i>Cotterill v The State of Western Australia</i></p> <p>[2013] WASCA 52</p> <p>Delivered 26/02/2013</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No prior criminal record.</p> <p>Long history of significant alcohol and drug abuse and had continuously used anabolic steroids since 20 yrs.</p> <p>Mental illness.</p> <p>Following the commission of these offences the appellant formed the intention to commit suicide soon after realising he was a suspect.</p>	<p>Ct 1: Ass with intent to rob.</p> <p>Ct 2: GBH</p> <p>Ct 3: GBH</p> <p>The appellant and two co-offender's Simpson and Hall, agreed and planned to steal cash and property from a hardware store in Broome. Hall, an employee of the store, provided the appellant and Simpson with information regarding the security of the premises and the potential amount of cash that might be present after a long weekend. The appellant was aware that his offending would in all likelihood require him to confront somebody at the store.</p> <p>The appellant and his co-offender drove to the hardware store. The victim (Ct 2) Ms Lee, was the sole employee at the store at the time. She was attending to Ms Chin, a customer and victim (Ct 3). The appellant had in his possession a large maglite torch. The appellant told his co-offenders on the way to the store that he could use the torch to threaten any person if they were disturbed whilst in the store.</p>	<p>Ct 1: 8 yrs imp.</p> <p>Ct 2: 5 yrs imp.</p> <p>Ct 3: 3 yrs 6 mths imp.</p> <p>Cts 2-3 cum.</p> <p>Ct 1 conc.</p> <p>TES 8 yrs 6 mths imp.</p> <p>Made full admissions to police.</p> <p>Sentencing judge accepted that at the time of the offending he was suffering a depressive illness but did not accept that he was suffering from a psychosis or auditory hallucinations at the</p>	<p>Allowed.</p> <p>Resentenced.</p> <p>Ct 1: 7 yrs 6 mths imp.</p> <p>Ct 2: 4 yrs 6 mths imp.</p> <p>Ct 3: 3 yrs imp.</p> <p>Served conc.</p> <p>TES 7 yrs 6 mths.</p> <p>EFP.</p> <p>At [23] The sentence for count 3 was at the upper end of the sound discretionary range but not manifestly excessive.</p>

			<p>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>time.</p> <p>Sentencing judge found that the appellant's voluntary drug abuse contributed to his subsequent mental health problems.</p>	<p>At [27] What emerges from this analysis is that very significant care had to be taken to avoid any double (or more) punishment in sentencing for these offences.</p> <p>Held none of the individual sentences reflected the factual overlap. Appeal allowed as individual sentences reflected on impermissible level of double punishment.</p>
15.	<i>Nicolaidis v The State of Western Australia</i>	<p>38yrs at time sentencing.</p> <p>Convicted after trial.</p>	<p>Ct 1: Assault with intent to facilitate crime. Ct 2: Agg armed robbery. Ct 3: Dep lib.</p>	<p>Ct 1: 2 yrs 6 mths imp. Ct 2: 7 yrs imp.</p>	<p>Dismissed – leave refused on the papers.</p>

	<p>[2012] WASCA 199</p> <p>Delivered 9/10/2012</p>	<p>Significant prior criminal record – including 8 robbery convictions (7 armed and 2 in company); GBH with intent; going armed in public to cause terror.</p> <p>Offending breached bail and curfew requirements; history breaching parole by re-offending; firearms offences; poss drugs; poss smoking implement; steal motor vehicle with violence; escape legal custody.</p> <p>Charged with 23 drug related prison charges since October 2002.</p> <p>Entrenched history poly-substance abuse – heroin addict at 16 yrs old; used amphetamines, cocaine, cannabis and ecstasy.</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 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</p>	<p>Ct 3: 3 yrs imp. Ct 4: 1 yr imp.</p> <p>TES 8 yrs imp.</p> <p>Not EFP.</p> <p>No remorse; no victim empathy.</p>	
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			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.		
14.	<p><i>The State of Western Australia v Eades</i></p> <p>[2011] WASCA 157</p> <p>Delivered 22/07/2011</p>	<p>32 yrs at time offending.</p> <p>Convicted after fast track PG.</p> <p>Extensive prior criminal record – armed robbery' robbery; steal motor vehicle; criminal damage; escape custody; over 23 pages of juvenile convictions.</p> <p>Offending occurred 15 days after respondent's release from custody – served full term of 3 yrs 4 mths imp for previous armed robbery offence.</p> <p>Significantly disadvantaged childhood; violent mother; alcoholic father; little supervision or guidance; no positive role models.</p> <p>History poly substance</p>	<p>Ct 1: Armed robbery. Ct 2: Robbery. Ct 3: Armed robbery. Ct 4: Armed robbery. Ct 5: Armed robbery.</p> <p>Ct 6: Criminal damage. Ct 7: Steal motor vehicle. Ct 8: Att armed robbery. Ct 9: Armed robbery. Ct 10: Robbery. Ct 11: Armed robbery. Ct 12: Steal motor vehicle.</p> <p><u>Ct 1:</u> Respondent entered convenience store at approx 12.30am. Staff member seen that respondent carrying large shifting spanner in his pocket. 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>Ct 1: 2 yrs imp. Ct 2: 18 mths imp. Ct 3: 2 yrs imp. Ct 4: 2 yrs imp. Ct 5: 2 yrs 6 mths imp. Ct 6: 9 mths imp. Ct 7: 12 mths imp. Ct 8: 18 mths imp. Ct 9: 2 yrs imp. Ct 10: 18 mths imp. Ct 11: 2 yrs imp. Ct 12: 12 mths imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>High risk re-offending.</p>	<p>Allowed.</p> <p>TES increased to 8 yrs imp.</p> <p>EFP after 6 yrs.</p> <p>Only sentences for armed robbery cts challenged on appeal.</p> <p>At [20] sentence of 4-6 yrs imp is common for a single offence of armed robbery.</p> <p>At [23] notes that individual sentences 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</p>

		<p>abuse beginning at 11 yrs of age.</p>	<p><u>Ct 3:</u> Approx 4 days after ct 2, respondent entered restaurant at approx 8.22pm. Respondent threatened staff member with a hammer, banging it several times on the bench and demanded money. Staff member removed \$380 from till but respondent demanded money from the safe as well. Staff member said he could not open the safe and respondent left with money from till.</p> <p><u>Ct 4:</u> Following day, respondent entered liquor store. Respondent placed six pack of UDL cans on counter which staff member scanned and placed in a bag. Respondent pulled out a chisel, threatened staff member and demanded money. Respondent given approx \$400 from the till, took the drinks and left.</p> <p><u>Cts 5 & 6:</u> 3 days after ct 4, respondent entered café at approx 9pm holding a claw hammer and a screwdriver. Respondent demanded money from till. Staff member had difficulties opening till and respondent shattered glass display cabinet with hammer. Respondent given \$1,500 and left the store.</p> <p><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</p>		<p>appropriate TES.</p>
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			<p>containing \$1,500 (ct 9).</p> <p><u>Cts 10 & 11:</u></p> <p>Following day, respondent entered newsagent at approx 6.30am. Respondent threatened staff with screwdriver and demanded money and cigarettes. Respondent given approx \$200 and 5 packets of cigarettes and left (ct 10).</p> <p>Approx 20 minutes later, respondent entered deli in same area and demanded money while threatening staff with screwdriver. staff informed respondent security cameras were recording him and he attempted to hide his face. Respondent reached over counter, grabbed the till and ran from the store. The till contained approx \$1,500 (ct 11).</p> <p><u>Ct 12:</u></p> <p>Respondent stole car from restaurant car park and became involved in a police chase before being arrested.</p>		
			<i>Transitional Provisions Repealed (14/01/2009)</i>		
13.	<p><i>The State of Western Australia v Barton</i></p> <p>[2008] WASCA 152</p> <p>Delivered 27/07/2008</p>	<p>25yrs at sentencing.</p> <p>Convicted after PG at earliest opportunity.</p> <p>History continual offending – including attempted agg burg, breach VRO, trespass, burglary, stealing and resisting arrest.</p> <p>Affected by alcohol and</p>	<p>2 x Agg armed robbery.</p> <p>1 x Attempted agg armed robbery.</p> <p>Offences all committed on same day.</p> <p>Respondent and friends at shopping centre and saw a group people, one of whom withdrew money from ATM. Respondent and friends approached group and demanded money. Person who withdrew money fled on bicycle and victim and friend went to walk away. Respondent took crowbar from his backpack and raised it in threatening manner, demanding phones and wallets. Victim and friend said they had nothing and</p>	<p>2yrs each count agg armed robbery.</p> <p>18mths attempted agg armed robbery.</p>	<p>Allowed.</p> <p>Resentenced to 3yrs 6mths. Individual sentences low but not so low as to manifest error but aggregate sentence failed reflect seriousness of offending.</p> <p>At [25] ‘There is no</p>

		<p>amphetamines and claimed not to remember incidents. Significant drug problem which had causative link to offending.</p> <p>Unemployed.</p>	<p>pleaded with respondent to stop. Co-offender took out knife and threatened the victim's friend. Another co-offender also produced and knife and threatened victim, demanding money from him. Respondent pushed victim into a wall behind some bushes and ripped of necklace and rummaged in victim's pockets, ultimately taking a number of cigarette lighters.</p> <p>Respondent on bottom level car park when shouted to victim on top floor 'give me your wallet'. Respondent took crowbar from backpack and began to scale stairs in victim's direction. Victim ran to car and got in. Respondent smashed left front window with crow bar and victim able to drive away.</p> <p>Respondent in car park when approached victim seated in car and demanded mobile phone and purse – had crowbar in hand which he swung at right hand door window and smashed. Respondent reached into car and grabbed bag and ran off. Co-offender waved knife at member of public who tried to help.</p>		<p>doubt that the individual offences of 2 years' imprisonment on each of counts 1 and 3 and 18 months' imprisonment on count 2 were at the low end of the scale.'</p>
12.	<p><i>McDonald v The State of Western Australia</i></p> <p>[2008] WASCA 132</p> <p>Delivered 27/06/2008</p>	<p>23yrs at time offending.</p> <p>Convicted after PG.</p> <p>Some juvenile and adult convictions but nothing of significance.</p> <p>On ISO which was breached by attempted armed robbery offence (false details and attempt steal motor vehicle).</p>	<p>1 x Attempted armed robbery.</p> <p>s32 charges of stealing, assault and attempted theft motor car.</p> <p>Appellant babysitting and ordered pizza. Delivery driver arrived and appellant gave him \$20 note. Driver told appellant total was \$30.95 and appellant reached into trouser pocket and pulled out replica handgun. Appellant put gun to driver's head and forced him to his knees. Appellant demanded money, food and drink. The driver moved and heard a spring in the gun and realised it was not real. Driver left with food and drink.</p>	<p>3yrs attempted armed robbery.</p> <p>Total effective sentence 4yrs 6mths. EFP.</p>	<p>Allowed.</p> <p>Sentence for attempted armed robbery reduced to 2yrs due to unusual circumstances.</p>

		<p>‘Unfortunate childhood’ – living on street since 13-14yrs; heroin and amphetamine addictions.</p> <p>Heavily intoxicated at time attempted armed robbery.</p>			
11.	<p><i>Roffey v The State of Western Australia</i></p> <p>[2007] WASCA 246</p> <p>Delivered 14/11/2007</p>	<p>21yrs at time offending.</p> <p>Fast-track PG.</p> <p>Began offending at 15yrs (11 juvenile convictions for armed robbery and attempted armed robbery – received 4yrs 6mths detention). Spent majority adult life in custody.</p> <p>Began using amphetamines at 15yrs – causative factor in offending.</p> <p>Father member motor cycle gang and served numerous periods imprisonment. Parents normalised criminal activity and antisocial behaviour to high degree.</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>Also 7 counts on s32 notice (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>Two attempted armed robberies occurred on same day – appellant armed sawn-off shot gun and co-offenders with hammer and crowbar went to supermarket with intent to rob it. Store closed when arrived, appellant knocked on door and demanded entry. Shop assistants hid and offenders left. They then went to another</p>	<p>3yrs each count armed robbery.</p> <p>2yrs each count attempted armed robbery.</p> <p>2yrs each count dep liberty.</p> <p>2yrs each count crim damage.</p> <p>18mths each count steal motor vehicle.</p> <p>1yr altered firearm.</p> <p>3yrs assault.</p> <p>Total effective sentence 18yrs. EFP.</p> <p>Limited insight.</p>	<p>Allowed – sentence reduced to 13yrs 6mths.</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>

			<p>supermarket, which was also closed and they could not gain entry.</p> <p>Third attempt occurred when appellant and co-offenders went to video store with intent to rob it. Appellant armed with machete and co-offenders with hammer and crowbar. Door locked and they could not enter. Co-offender struck glass pane with crowbar several times, causing it to crack. Offenders then walked off.</p>		
10.	<p><i>Davis v The State of Western Australia</i></p> <p>[2007] WASCA 147</p> <p>Delivered 13/07/2007</p>	<p>37yrs at time sentencing.</p> <p>Prior record offending – including armed robberies at 20yrs 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). 1 x Agg armed robbery. 1 x Attempted armed robbery. 2 x Assault intent to prevent arrest. 1 x Fraud. s32 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>Appellant pursued after last armed robbery by off duty police woman in her car. Victim told appellant to give himself up. Appellant pointed firearm at head and demanded victim give up her vehicle. Victim refused and was threatened again causing her to leave vehicle. Victim refused to hand over keys and appellant ran off.</p>	<p>3yrs for robbery (claimed to have weapon). 3yrs 6mths robbery (showed weapon). 4yrs robbery (threatened with weapon). 3yrs attempted armed robbery. 18mths each assault. 12mths fraud. 6mths each s32 offence.</p> <p>Total effective sentence 10yrs. EFP.</p> <p>Noted deterrence prime factor in sentencing at [19].</p>	<p>Dismissed – leave to appeal refused.</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>

			<i>'The appellant committed a series of very bad offences....vulnerable people were threatened with frightening weapons and a very substantial amount of money was stole. They were multiple offences in which at least 10 different people were terrorised on different occasions with a firearm, or a replica firearm.'</i> at [39].		
9.	<i>Pezino v The State of Western Australia</i> [2006] WASCA 131 Delivered 26/06/2006	26 yrs at time offending. Convicted after trial. Significant prior history offending – drugs, escape custody, burglary and assault. Children’s Court convictions (not considered in sentencing process). History drug abuse – partly explain, but not excuse, offending. Dysfunctional childhood.	4 x Armed robbery. 1 x Attempted armed robbery. 1 x Burglary. 1 x Steal motor vehicle. Relatively serious offending – aggressive and involved use of violence against person over 60yrs in one instance. Armed robberies involved pharmacies, a post office and newsagency. In each case appellant entered wearing a visored motorcycle helmet and armed (either with a large knife or a metal pole). Attempted armed robbery – appellant attempted to rob pharmacy armed with knife. Robbery was aborted when owner of pharmacy threatened appellant with machete.	6yrs each count armed robbery and attempted armed robbery. 2yrs burglary. 3yrs steal motor vehicle. Total effective sentence 9yrs. Not EFP. Some insight into offending. Limited prospects rehabilitation.	Dismissed. Sentences severe but reflective of criminality and within range.
8.	<i>Readhead v The State of Western Australia</i> [2005] WASCA 191 Delivered	35yrs at sentencing. Convicted after early PG. Numerous prior convictions – including armed robbery, stealing motor vehicle, breaches ISOs & parole.	5 x Armed robbery (max life imprisonment). 1 x Attempted armed robbery. 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.	3yrs each count armed robbery. 2yrs attempted armed robbery. Total effective sentence 9yrs to run	Allowed – on totality. Total effective sentence reduced to 7yrs. NB: Individual sentences not

	05/10/2005	<p>On parole at time offending (5 days since release when first offence committed).</p> <p>Parents separated when appellant young and mother died. Lack of support.</p> <p>Schizophrenic. Poor interpersonal skills, no enduring r/ships.</p>	<p>Attempted armed robbery committed at service station. Appellant cut holes in shirt and place it over his head and tried to enter premises armed with knife. Attendant locked doors prior to appellant gaining entry and appellant left after failing to prise doors open.</p>	<p>cumulatively with owed parole days (almost 3yrs).</p> <p>High risk re-offending. Lack of empathy for victims and no true remorse.</p>	<p>disturbed only cumulation and concurrency.</p>
7.	<p><i>Gullelo v The State of Western Australia</i></p> <p>[2005] WASCA 12</p> <p>Delivered 04/02/2005</p>	<p>24/25yrs at time offending (sentenced 27yrs and had 1yr old child).</p> <p>Convicted after early PG – refused identify co-offenders.</p> <p>Extensive criminal record beginning at 14yrs – robbery, burglary, drugs and previous violent offences.</p> <p>History illicit drug abuse, including heroin. At time arrest, both appellant and de facto heroin addicts and both had made some progress since arrest to</p>	<p><u>Indictment 1</u> Count 1: Steal motor vehicle. Count 2: Armed robbery in company. Count 3: Steal motor vehicle. Count 4: Armed robbery in company.</p> <p><u>Indictment 2</u> Count 1: Steal motor vehicle. Count 2: Attempted armed robbery in company with violence. Count 3: AOBH. Count 4: Steal 2 motor vehicle registration plates. Count 5: Armed robbery with violence.</p> <p>Indictment 1: Robbed a pharmacy and a bank. Other offences occurred in commission/lead up to armed robberies. Appellant armed with screwdriver, co-offender with knife and in bank robbery appellant disguised himself with stocking over the head.</p> <p>Indictment 2: Robbed newsagent, wearing masks – one</p>	<p><u>Indictment 1</u> Count 1: 1yr. Count 2: 6yrs. Count 3: 1yr. Count 4: 6yrs.</p> <p>Total effective sentence 12yrs.</p> <p><u>Indictment 2</u> Count 1: 1yr. Count 2: 5yrs. Count 3: 2yrs. Count 4: 3mths. Count 5: 6yrs.</p> <p>Total effective sentence 6yrs concurrent sentence indictment 1.</p>	<p>Dismissed by majority (Murray J dissenting).</p>

		<p>address addiction.</p> <p>Disturbed and disrupted childhood.</p>	<p>offender armed with shotgun and shopkeeper knocked to ground and kicked several times. Appellant and co-offender fled without anything when member public intervened. Appellant drove to pharmacy and committed armed robbery – again, shopkeeper assaulted in course offending. Other offences occurred in commission/lead up to armed robberies – stolen motor vehicle and stole registration plates used as transport for robbery.</p> <p>Firearm used modified so could not fire – victims could not have known this so has very little mitigatory value.</p>	<p>Aggregate sentence 12yrs both indictments. EFP.</p> <p>Sentences imposed pre-transitional.</p> <p>Degree insight and desire break addiction.</p>	
6.	<p><i>Wong v The State of Western Australia</i></p> <p>[2004] WASCA 286</p> <p>Delivered 01/12/2004</p>	<p>19yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>No prior convictions.</p> <p>Substance abuse problem.</p>	<p>1 x Attempted armed robbery. 2 x Attempted aggravated burglary. 1 x Possess methyl with intent sell/supply.</p> <p>Appellant and co-offenders drove to victim's house with intent to enter it and steal money. All offenders wore masks and gloves and victim was home alone at time. Attempted to gain entry but could not and left premises. Offenders returned to same house following day with same intent. Attempted to gain entry to house but could not. Victim left premises by front door and was confronted by group. Co-offender demanded 'security' money from victim and threatened violence. Victim was told group had been sent to collect \$7000 owed by victim. Victim stated he did not owe money and tried to walk away. Appellant, armed with metal baton, stopped victim and told him to go into the house or he would break his leg. Appellant struck victim with</p>	<p>2yrs 6mths attempted armed robbery. 18mths each count attempted aggravated burglary. 2yrs 6mths poss methyl wiss.</p> <p>Total effective sentence 5yrs. EFP.</p>	<p>Dismissed.</p> <p>At [37] '...the attempted armed robbery offence in which the applicant was both armed and in company, as well as demonstrating that he was prepared to use violence in the context of the attempted armed robbery in company, was a serious example of such an offence.'</p>

			baton. A car drove past and the victim was able to escape to a neighbour's house.		
5.	<i>Moyle v The State of Western Australia</i> [2004] WASCA 166 Delivered 09/08/2004	<p>Convicted after early PG.</p> <p>Juvenile conviction for armed robbery in company. Previous conviction for assault.</p> <p>On ISO at time offending.</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>Count 1: Agg armed robbery.</p> <p>Count 2: Attempted agg armed robbery.</p> <p>Count 3: Assault with intent to prevent arrest.</p> <p>Count 4: Breach ISO (imposed for attempted agg robbery).</p> <p>Count 5: Breach ISO (imposed for assault)</p> <p>Offending period 7mths.</p> <p>Count 1: 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>Count 2 & 3: 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>Count 4: Stole bottle bourbon from liquor store.</p>	<p>Count 1: 2yrs 8mths.</p> <p>Count 2: 4yrs.</p> <p>Count 3: 8mths.</p> <p>Count 4: 12mths.</p> <p>Count 5: 4mths.</p> <p>Total effective sentence 6yrs. EFP.</p> <p>Considerable remorse.</p>	<p>Dismissed.</p> <p>Effective sentence severe given youth, but not so severe as to reveal error.</p>
4.	<i>Rafferty v The</i>	Convicted after fast-track	1 x Armed robbery.	4 yrs imp.	Allowed.

	<p><i>Queen</i></p> <p>(2002) 135 A Crim R 282; [2002] WASCA 312</p> <p>Delivered 22/11/2002</p>	<p>PG.</p> <p>Alcohol and illicit drug abuse.</p>	<p>1 x Attempted armed robbery.</p> <p>Attempted rob McDonalds store armed with a knife but was stopped by resistance from staff. Left McDonalds and walked a short distance to a cake shop – staffed by one female staff member. Entered shop and demanded money armed with knife. Given money from till and ran off but was apprehended by police a short distance away after McDonalds staff raised alarm.</p>	<p>3 yrs imp.</p> <p>TES 7 yrs imp. Equivalent to 4 yrs 8 mths imp after implementation of transitional provisions.</p> <p>EFP.</p> <p>Initially received 18mths ISO and 120 hours community service. Re-offended several times while on PSO and was eventually sentenced as above.</p>	<p>Only to allow for time spent in custody to be credited.</p>
3.	<p><i>Bloomfield v The Queen</i></p> <p>[2001] WASCA 253</p> <p>Delivered 02/08/2001</p>	<p>Convicted after PG at earliest opportunity.</p> <p>Co-operated with Police – after police found stocking and balaclava at his house.</p>	<p>2 x Attempted armed robbery. 3 x Armed robbery.</p> <p>First attempted armed robbery – appellant wearing balaclava and gloves and armed with sawn-off firearm. Entered service station and threatened to shoot attendant. Demanded money. Attendant stalled by saying cash register couldn't open because of a problem with the computer. Appellant eventually left. Second attempted armed robbery - following failure above, appellant went to house and knocked on door. Householder started to open door and appellant pushed gun barrel through gap. Door had a security chain and</p>	<p>4yrs first attempted armed robbery. (approx 2yrs 8mths post trans) 5yrs second attempted armed robbery. (approx 3yrs 4mths post trans) 6yrs each count armed robbery.</p> <p>Total effective</p>	<p>Dismissed.</p> <p>At [10] ‘...the applicant could not, in our opinion, properly have been given sentences of less than...4 and 5 years’ imprisonment respectively in respect of the attempted armed robberies.’</p>

			<p>householder able to push door shut. Appellant bashed on door and threatened to shoot householder through the door before leaving.</p> <p>Armed robberies on small businesses with same weapon.</p>	<p>sentence 10yrs. EFP.</p>	
2.	<p><i>Eades v The Queen</i></p> <p>[2001] WASCA 205</p> <p>Delivered 20/07/2001</p>	<p>19 yrs at time offending.</p> <p>Convicted after PG (not at earliest opportunity but before trial date set).</p> <p>Long prior criminal record – including juvenile convictions for burglary and armed robbery.</p> <p>Affected by heroin at time offending.</p> <p>Poor family history – born in prison and had spent much time in institutions.</p>	<p>1 x Attempted armed robbery.</p> <p>1 x Armed robbery in company.</p> <p>1 x Armed robbery in company.</p> <p><u>Ct 1:</u> Appellant approached 18 yr old female at train station at approx 7am and asked if she had bus fare. Victim replied she did not and walked off. Appellant approached her again and asked for her purse. Victim replied no and appellant lifted shirt to show replica pistol. Victim walked away, distressed and crying.</p> <p><u>Ct 2:</u> Approx 15 minutes later, appellant and co-offender approached second victim (18yr old female). Appellant demanded her purse, money and phone and pointed replica pistol at her. Appellant threatened to shoot victim. Victim gave bag to appellant.</p> <p><u>Ct 3:</u> Short time later, appellant and co-offender approached third victim as he walked to train station and asked for \$1. Appellant pointed replica pistol at victim’s chest and demanded all money. Victim took out wallet. Appellant said ‘give me the whole wallet or I’ll shoot you. I just feel like shooting someone today’. Victim handed over approx\$12 and co-offender tried to stop appellant. Appellant then demanded mobile phone.</p>	<p>4 yrs imp.</p> <p>5 yrs 6 mths imp.</p> <p>6 yrs imp.</p> <p>TES 10 yrs imp.</p> <p>Equivalent to 6 yrs 8 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.

			Victim handed over mobile phone and lighter. Co-offender apologised and both walked off.		
1.	<p><i>"J" (a child) v The Queen</i></p> <p>[2001] WASCA 107</p> <p>Delivered 02/04/2001</p>	<p>14yrs at time offending.</p> <p>Convicted after PG.</p> <p>Poor family history – little contact bio father; severe domestic violence from mother's new partner.</p> <p>History cannabis abuse – ceased since recently moved in with girlfriend's family.</p>	<p>3 x Attempted armed robbery in company.</p> <p>1 x Armed robbery.</p> <p>1 x Unlawful wounding.</p> <p>Appellant and four co-offenders drove around looking for places to rob. Armed with wooden sticks, metal bars and a machete. Appellant took T-shirt with him to place over his head as a disguise.</p> <p>First attempt was at Waldecks. Offenders smashed computer equipment and cash registers. Attendant came out and called for help and the group ran off.</p> <p>Next attempt was at Chicken Inn Deli and co-offender demanded wallets from customers. Staff behind counter began throwing things at group – one offender received a cut on his elbow from a knife that was thrown – and the group fled.</p> <p>Third attempt was robbery of man using toilets at service station. Appellant struck victim with metal bar during course attempt – causing a fractured skull.</p>	<p>6mths detention each offence attempted armed robbery.</p> <p>12mths detention armed robbery and unlawful wounding.</p>	Dismissed.