

Unlawful Wounding Offences

s 301 *Criminal Code* – excluding ‘glassing’ offences

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
indec	indecent
pen	penetrate
TES	total effective sentence
ISO	intensive supervision order
SIO	suspended imprisonment order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
16.	<p><i>Pagana v The State of Western Australia</i></p> <p>[2012] WASCA 248</p> <p>Delivered 29/11/2012</p> <p>Co-offender of <i>Kaschull v WA</i> [2012] WASCA 245 – judgements should be read in conjunction with one another.</p>	<p>Convicted after trial.</p>	<p>Ct 1: AOBH (victim 1). Ct 2: AOBH (victim 2). Ct 3: Unlawful wounding (victim 3).</p> <p>Appellant and six others were involved in a violent altercation with the three victims.</p> <p>Co-offender (Kaschull) PG on first day of trial while appellant went to trial on same charges. Kaschull, as part of the plea agreement, was to be sentenced on a factual basis agreed to by the State which contradicted significant aspects of the State’s case at trial and which reduced the seriousness of the facts of the offending. First sentencing judge, who presided over the appellant’s trial, refused to sentence Kaschull on that basis and the matter was sent to a different judge for sentencing. Court of Appeal held that the respondent’s agreement to such a course of action was difficult to justify.</p> <p>Kaschull sentenced to 14 mths imp on ct 1, 12 mths imp on ct 2 and 6 mths imp on ct 3 for a TES of 14 mths imp.</p> <p><u>Facts on which appellant sentenced</u> Appellant had recently broken up with his girl friend and had tried, with no success, to contact her in the days preceding the offending. Appellant mistakenly believed that victim 1 was possibly involved with his ex-girlfriend. Day prior to the offending, appellant went to</p>	<p>2 yrs imp. 18 mths imp. 18 mths imp.</p> <p>TES 3 yrs 6 mths imp.</p> <p>EFP.</p>	<p>Dismissed – leave refused on papers.</p>

			<p>victim 1's house three times looking for his ex-girlfriend and was told to leave on each occasion. On the second and third occasions, victim 1 punched appellant in the face. After the third visit, appellant was highly emotional and, after a series of phone calls, appellant and six others (including the appellant) had assembled at appellant's house. The groups armed themselves – Kaschull with a baseball bat, another with a sword and at least one other with an unknown weapon and went to victim 1's house.</p> <p>When the group arrived at the house, the victims went outside, victim 1 armed with a baseball bat, and victim 1 asked what was going on. Kaschull hit victim 1 over the head with the baseball bat. Kaschull hit victim 1 twice more with the bat and victim 1 fell to the ground where he was set upon in a sustained attack during which the appellant held him so that the others could attack him. Victim 2 tried to help victim 1 and was attacked by several people, including Kaschull who hit him multiple times with the baseball bat. Victim 2 was also slashed with a machete or sword. Victim 3 tried to assist victim 2 and suffered slashes from an unknown weapon to his legs.</p> <p>No direct evidence to show the appellant personally inflicted any of the injuries but was sentenced on the basis he counselled or procured and encouraged the offending.</p> <p><u>Facts on which Kaschull sentenced</u> The arrival of the group at victim 1's house is essentially the same. The subsequent</p>		
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			confrontation was found not to be precisely clear but roughly matches the sequence above with except that the State agreed for the purposes of Kaschull's sentencing, that Kaschull only hit victim 1 with the bat once and that he did not strike victim 2 but was responsible for all the acts of violence by virtue of s 8 <i>Criminal Code</i> .		
15.	<p><i>Kaschull v The State of Western Australia</i></p> <p>[2012] WASCA 245</p> <p>Delivered 29/11/2012</p> <p>Co-offender of <i>Pagana v WA</i> [2012] WASCA 248 – judgements should be read in conjunction with one another.</p>	<p>Convicted after late PG – on first day of trial.</p> <p>No prior criminal record.</p> <p>Excellent antecedents.</p> <p>Good, supportive family and partner.</p> <p>Good employment history and supportive employer.</p>	<p>Ct 1: AOBH (victim 1). Ct 2: AOBH (victim 2). Ct 3: Unlawful wounding (victim 3).</p> <p>Appellant and six others were involved in a violent altercation with the three victims.</p> <p>Appellant PG on first day of trial while co-offender (Pagana) went to trial on same charges. Appellant, as part of the plea agreement, was to be sentenced on a factual basis agreed to by the State which contradicted significant aspects of the State's case at trial and which reduced the seriousness of the facts of the offending. First sentencing judge, who presided over the Pagana's trial, refused to sentence the appellant on that basis and the matter was sent to a different judge for sentencing. Court of Appeal held that the respondent's agreement to such a course of action was difficult to justify.</p> <p>Pagana sentenced to 2yrs imp on ct 1, 18 mths imp on ct 2 and 18 mths imp on ct 3 for a TES of 3 yrs 6 mths imp.</p> <p><u>Facts on which Pagana sentenced</u> Pagana had recently broken up with his girl</p>	<p>14 mths imp. 12 mths imp. 6 mths imp.</p> <p>TES 14 mths imp.</p> <p>EFP.</p> <p>Genuine remorse.</p>	<p>Dismissed – leave refused on papers.</p> <p>At [38] None of the individual sentences were manifestly excessive.</p> <p>At [43] Youthful violence of this kind is a problem in the community and, in sentencing, general deterrence must be emphasised.</p>

			<p>friend and had tried, with no success, to contact her in the days preceding the offending. Pagana mistakenly believed that victim 1 was possibly involved with his ex-girlfriend.</p> <p>Day prior to the offending, Pagana went to victim 1's house three times looking for his ex-girlfriend and was told to leave on each occasion. On the second and third occasions, victim 1 punched Pagana in the face.</p> <p>After the third visit, Pagana was highly emotional and, after a series of phone calls, Pagana and six others (including the appellant) had assembled at Pagana's house. The groups armed themselves – the appellant with a baseball bat, another with a sword and at least one other with an unknown weapon) and went to victim 1's house.</p> <p>When the group arrived at the house, the victims went outside, victim 1 armed with a baseball bat, and victim 1 asked what was going on. The appellant hit victim 1 over the head with the baseball bat. Appellant hit victim 1 twice more with the bat and victim 1 fell to the ground where he was set upon in a sustained attack during which Pagana held him so that the others could attack him. Victim 2 tried to help victim 1 and was attacked by several people, including the appellant who hit him multiple times with the baseball bat. Victim 2 was also slashed with a machete or sword. Victim 3 tried to assist victim 2 and suffered slashes from an unknown weapon to his legs.</p> <p>No direct evidence to show Pagana personally inflicted any of the injuries but was sentenced on the basis he counselled or procured and</p>		
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			<p>encouraged the offending.</p> <p><u>Facts on which appellant sentenced</u> The arrival of the group at victim 1's house is essentially the same. The subsequent confrontation was found not to be precisely clear but roughly matches the sequence above with except that the State agreed for the purposes of the appellant's sentencing, that the appellant only hit victim 1 with the bat once and that he did not strike victim 2 but was responsible for all the acts of violence by virtue of s 8 <i>Criminal Code</i>.</p>		
14.	<p><i>Roncevic v The State of Western Australia</i></p> <p>[2012] WASCA 43</p> <p>Delivered 27/02/2012</p>	<p>37 yrs at time offending.</p> <p>Convicted after late PG.</p> <p>Significant and serious prior criminal record.</p> <p>Offending breached parole.</p> <p>Drug addiction – offending due to self-induced drug psychosis.</p>	<p>1 x Poss methyl wiss 114.1g at 9%.</p> <p>1 x Poss methyl wiss 5.27g at 64%.</p> <p>1 x Unlawful wounding s 301 <i>Criminal Code</i>.</p> <p>2 x Assault police officer.</p> <p>10 x s 32 offences.</p> <p>Appellant and another person involved in a dispute with brothers (one of whom was victim). Brothers attended address appellant and other person living at. Argument took place and appellant made threats to shoot the brothers. Appellant fired shots from a handgun through the front security screen and shot victim in upper thigh. Victim, brother and associates started to leave property. Appellant opened front door and followed them while still armed with the gun. Victim and others drove off and appellant fired further shots at the car as it was driving off. Appellant later phoned and sent text messages to</p>	<p>4 yrs 6 mths imp.</p> <p>18 mths imp.</p> <p>2 yrs 6 mths imp.</p> <p>2 yrs 4 mths imp each ct.</p> <p>Sentence range \$200 fine – 12 mths imp.</p> <p>Owed 2 yrs 10mths parole time at sentencing – ordered wholly concurrent with TES.</p> <p>TES 9 yrs 2 mths imp.</p> <p>EFP.</p> <p>No genuine remorse; late acceptance of</p>	<p>Dismissed – leave refused on papers.</p> <p>At [42] “<i>The use of potentially lethal firearms to settle any kind of dispute, let alone a drug dispute, must be denounced and deterred.</i>”</p>

			<p>the victim taunting him about being shot.</p> <p>Other offences occurred on occasions unrelated from the circumstances of the unlawful wounding.</p>	responsibility.	
13.	<p><i>Chowdury v Kenny</i></p> <p>[2012] WASCA 35</p> <p>Delivered 17/02/2012</p>	<p>Convicted after fast-track PG.</p> <p>Extreme financial pressure at time of the offence; had been made redundant earlier that year.</p> <p>Previously a teacher; excellent education.</p> <p>Good character references.</p> <p>Otherwise good character.</p>	<p>1 x Unlawful wounding s 301 <i>Criminal Code</i>.</p> <p>Appellant and victim were housemates. The victim could not pay rent, and the victim and appellant argued about money. The victim had not paid rent for 3 mths, and had run up extremely high bills which the appellant could not pay. The appellant had also been helping the victim pay for tuition.</p> <p>The appellant picked up a 20cm knife from the kitchen bench and stabbed the victim. The victim sustained a small laceration to the shoulder, and a puncture wound on his face near his eye. The victim then locked himself in the pantry to prevent further attack. The victim asked the appellant to drive him to hospital, but the appellant had no vehicle. The victim drove himself to the train station where transit guards called police. The victim was admitted to Royal Perth Hospital for surgery.</p> <p>Offending was a spontaneous and sudden act.</p>	<p>12 mth ISO.</p> <p>Very remorseful; little victim empathy.</p> <p>Motivated to attend counselling and willing to comply with any orders made.</p>	Offender's appeal dismissed.
12.	<p><i>Moran v The State of Western Australia</i></p>	<p>44 yrs at time offending.</p> <p>Convicted after early PG.</p>	<p>1 x Unlawful wounding s 301(1) <i>Criminal Code</i>.</p> <p>Victim was the 16 yr old son of appellant's de facto partner.</p>	<p>14 mths imp.</p> <p>TES 14 mths imp.</p>	<p>Dismissed.</p> <p>Only failure to suspend sentence challenged.</p>

	<p>[2011] WASCA 137</p> <p>Delivered 28/06/2011</p>	<p>No relevant prior criminal record.</p> <p>9 mths prior to offending appellant was victim of violent home invasion – suffered PTSD as a result which contributed to the offending.</p>	<p>Victim was a ward of the State but had run off from his residence and returned to live with his mother and the appellant.</p> <p>Appellant and victim had an argument during which a small knife was produced. Unclear who had initial possession of the knife but at some point the appellant has inflicted multiple stabs wound on the victim – two wounds to the chest, one above the right ear, one close to his right eye, three wounds to the back, laceration on the forehead, several small lacerations on the hand and a significant wound to the thigh (almost to the femur).</p> <p>Altercation broken up by appellant's partner and the neighbours. Both the victim and the appellant received hospital treatment. Victim's injuries required surgery under anaesthetic and for the wounds to be debrided and sutured.</p>	<p>Remorse; accepted responsibility.</p>	<p>At [30] reduced moral culpability by way of PTSD offset by the fact that PTSD increased likelihood of re-offending.</p> <p>At [20]-[38] discussion of comparable cases.</p>
11.	<p>McAlinden v Clifton</p> <p>[2010] WASC 387</p> <p>Delivered 17/12/2010</p>	<p>21 yrs at time of offending.</p> <p>Convicted after fast-track PG.</p> <p>No prior criminal record.</p> <p>Stable employment.</p> <p>No psychiatric or psychological illness; suffering from a mental disorder, abnormality or dysfunction at the time of the offence; suffered from a form of post-traumatic shock at the time of offence.</p>	<p>1 x Unlawful wounding s 301(1) <i>Criminal Code</i>.</p> <p>Offence in the serious range, but on the lower end of seriousness.</p> <p>The appellant and victim were unknown to each other at the time of the offence.</p> <p>The victim has been invited to a party at the house of a friend of the appellant. The appellant's friend later asked him to leave the party. The victim did not leave, but sat out the front of the house with some other people. The appellant then approached the victim. The appellant then struck the victim in the chest with an unknown 'instrument'. The victim and the</p>	<p>15 mths imp.</p> <p>TES 15 mths imp.</p> <p>EFP.</p> <p>No evidence of remorse.</p>	<p>Offender's appeal allowed.</p> <p>At [56] there was a causal connection between his mental condition and the offending.</p> <p>At [60] the impact of the condition on the offender's capacity to understand what they faced and to control their actions is undoubtedly potentially relevant.</p>

		Appellant had ceased taking anti-depressant medication 2/3 weeks prior to offence.	<p>appellant then punched each other until they both fell to the ground.</p> <p>When they were both on the ground the appellant then ‘slashed’ the victim’s abdomen with an unknown instrument.</p> <p>The victim sustained a wound to his right side [lateral to the sternum] which drained 300ml of blood, and a superficial wound to the interior abdomen. The victim also sustained a collapsed lung and an accumulation of blood in the pleural cavity.</p> <p>As the victim was then leaving, the appellant yelled words to the effect that he would ‘Slit you throat’.</p> <p>There was no provocation or substantial interaction between the victim and the appellant before the offence.</p>		
10.	<p><i>Black v The State of Western Australia</i> [No. 2]</p> <p>[2010] WASCA 145</p> <p>Delivered 12/03/2010</p>	<p>21 yrs at time offending. 22 yrs at time sentencing.</p> <p>Convicted after fast track PG.</p> <p>No prior criminal record.</p> <p>Lived at home with parents; apprenticeship at risk as a result of imp.</p> <p>Diagnosed ADHD 10 yrs old; prescribed dexamphetamine; medical evidence that at time offending medication would have worn off and appellant distracted, impulsive and hyperactive as result ADHD.</p>	<p>1 x GBH with intent <i>Criminal Code</i> s 294. 1 x Unlawful wounding <i>Criminal Code</i> s 301.</p> <p>Co-offender had verbal altercation with two victims as drove past their Australia day party. Co-offender told appellant and two others that he had been assaulted and a female passenger in his car punched in the face. Information false but appellant believed it. All agreed to go to the house with intent assault guests.</p> <p>On arrival, co-offender had verbal argument with victim 1 and was told to leave the premises. Appellant armed himself with a knife that was in the car and approached group. Victim 2 come across the lawn and appellant pulled out knife and swung it at victim 2 – causing 12cm cut to the left side of his chest (penetrated chest cavity,</p>	<p>2 yrs 6 mths imp. 6 mths imp.</p> <p>TES 3 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [31] Need for general deterrence given prevalence this type offending.</p>

			<p>cut artery and damaged 3 ribs). Victim 2 also sustained knife injuries to left middle finger (tendon severed and plastic surgery required). Victim 1 also injured in incident by knife (stab wound 3cm wide and 4cm deep to his left side requiring stitches).</p> <p>Appellant and co-offenders fled scene, drove to a park and swapped shirts so in an attempt to conceal identities before splitting up.</p>		
9.	<p><i>Smith v The State of Western Australia</i></p> <p>[2010] WASCA 176</p> <p>Delivered 09/09/2010</p>	<p>18 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>No prior criminal record.</p> <p>Adopted as a baby; suffered drug withdrawal at birth due to biological mother's drug abuse; ADHD.</p> <p>Paranoid schizophrenic (being treated through medication) – causal link to offending.</p>	<p>1 x Agg unlawful wounding s 301(1) <i>Criminal Code</i>.</p> <p>Serious instance wounding – unprovoked, committed without warning and with potentially fatal consequences.</p> <p>The appellant was living with his mother and his mother's partner (the victim). The appellant removed a large serrate knife from the kitchen and went into the victim's bedroom where the victim was sitting on the bed with the appellant's mother. The appellant then stabbed the victim in the throat. The appellant erroneously believed that his mother was bullied by the victim. The appellant also stated that 'voices' told him to 'do something' to the victim.</p> <p>The victim sustained a deep, 8cm long cut. He was hospitalised but the wound was not life threatening.</p> <p>After PG, the appellant was admitted as an involuntary in-patient at Graylands Hospital under the <i>Mental Health Act 1996 (WA)</i>. The appellant was still hospitalised at the time of</p>	<p>2 yrs imp.</p> <p>TES 2 yrs imp.</p> <p>EFP.</p>	Dismissed.

			sentence.		
Transitional provisions repealed (14/01/2009)					
8.	Reid v Quigg [2007] WASC 35 Delivered 21/02/2007	28 yrs at time offending. Convicted after fast-track PG. Offending breached parole. Prior criminal record - armed robbery; receiving stolen goods; stealing. Evicted from residential rehab program and residing with his father.	1 x Unlawful wounding s 301(1) <i>Criminal Code</i> . 3 x Burglary s 401(2)(b) <i>Criminal Code</i> . Appellant and victim unknown to each other before the offence. The offences all occurred on the same date. The appellant entered premises to commit the burglaries (property stolen to the value of \$3,500). As the appellant was exiting he was confronted by the victim who was working on one of the nearby houses as a glazier. The appellant stabbed the victim in the hand with a screwdriver. The police later located the appellant nearby with a bag containing items from the burglary. Claimed burglary committed for funds as father had limited means.	20 mths imp. 3 ½ yrs parole owing to be served cum. TES 56 mths. Poor response to supervision on parole.	Offender's appeal allowed. TES reduced to 3 ½ yrs imp – 20 mths concurrent with parole days owing. EFP. Error in sentencing – incorrect information given to sentencing judge regarding parole days owing.
7.	Harvey v The State of Western Australia [2005] WASCA 117 Delivered 20/05/2005	29 yrs at time sentencing. Convicted after trial. Significant prior criminal record – drugs, traffic, weapons and assault offences. 2 children; dysfunctional childhood.	Ct 1: Agg burg. Ct 2: Agg unlawful wounding. Ct 3: Criminal damage. On the evening of the offence, members of the appellant's family attended a buck's party. The victim (the subject of Counts 2 and 3) was present and behaving badly, with acts of violence and abuse against the guests at the party. The appellant's family called the	Ct 1: 6 yrs imp. Ct 2: 2 yrs imp. Ct 3: 2 yrs imp. TES 6 yrs. EFP. Lack of remorse and insight.	Dismissed. At [22] the violence perpetrated by the applicant was extreme and disproportionate to the violence which the complainant had perpetrated upon the guests at the party.

		<p>History of substance abuse.</p> <p>History of schizophrenia.</p>	<p>appellant to come to the party and deal with the victim's behaviour.</p> <p>The appellant located the victim's house. When he arrived the victim told the appellant to leave, which he did.</p> <p>Later that evening, the appellant returned to the victim's home and forced his way into the house, which was occupied by the victim's de facto partner and her 2 children. The victim was not home at the time. The appellant damaged property while in the victim's home. The appellant then left, and located the victim down the street. The appellant attacked the victim with weapons.</p> <p>The victim sustained a laceration to his head, and a subdural haematoma.</p> <p>The 'circumstances of aggravation' for Ct 2 (unlawful wounding) were not mentioned on the indictment.</p>		<p>The offence had been followed by another offence of attempting to defeat the course of justice (threatened the de facto partner of the victim if they went through with the trial).</p> <p>No circumstance of aggravation were found (as originally sentenced for), but as the court would not have ordered a different sentence, the sentence was not disturbed.</p>
<i>Transitional provisions enacted (31/08/2003)</i>					
6.	<p><i>R v Barbis & Rouse</i></p> <p>[2003] WASCA 107</p> <p>Delivered 28/05/2003</p>	<p><u>Barbis:</u> Aged 22 at time of offence.</p> <p>Convicted after fast-track PG. Agreed to give evidence against Rouse.</p> <p>No significant prior criminal record.</p> <p><u>Rouse:</u> Convicted after fast-track PG.</p>	<p><u>Barbis:</u> Ct 1: Agg burg. Ct 2: Unlawful wounding.</p> <p><u>Rouse:</u> Ct 1: Agg burg. Ct 2: Unlawful wounding.</p> <p>Victim aged 55 yrs at the time of offence. Barbis believed that the victim's son owed him money. Barbis and Rouse went to the victim's</p>	<p>Ct 1: 12 mths. Ct 2: 8 mths.</p> <p>TES 20 mths imp.</p> <p>Ct 1: 12 mths. Ct 2: 2 yrs 6 mths imp.</p> <p>TES 3 yrs 6 mths susp 2 yrs.</p>	Dismissed.

		<p>No relevant prior criminal record – minor traffic offences.</p> <p>Dysfunctional family life.</p> <p>Good references; steady relationship with girlfriend; strong family support; member of local church.</p>	<p>home to demand the money. The victim refused to let the respondents into the house. The respondents pushed their way into the house.</p> <p>Once inside the victim attempted to push Rouse out the door with a piece of wood. Barbis grabbed the victim’s arm. Rouse then produced a knife. Barbis was aware that Rouse had the knife (although was not aware before arriving at the victim’s home that Rouse had brought a weapon). While Barbis was still holding the victim’s arm, Rouse stabbed the victim in the abdomen. Both respondents then fled the scene.</p> <p>Severe wound (7cm length; 3cm depth). Victim recovered physically but suffered long-term psychological impact.</p>	<p>Barbis accepted responsibility but did not appreciate how serious offending was.</p> <p>Rouse remorseful.</p>	
5.	<p><i>Abdullah v The Queen</i></p> <p>[2002] WASCA 57</p> <p>Delivered 11/03/2002</p>	<p>Aged 30 at time of offence.</p> <p>Convicted after fast-track PG.</p> <p>Prior criminal record - armed robbery; violent offences.</p> <p>Offending breached SIO (assault public officer and breach of bail).</p> <p>Serious history of breaches – bail; suspended imp; parole (6 separate occasions); home detention; community service; work orders.</p> <p>Substance abuse issues (alcohol and</p>	<p>Ct 1: Armed robbery. Ct 2: Unlawful wounding.</p> <p>The appellant entered an Ezy Plus 24-hour convenience store with his face covered. The appellant carried a knife and demanded the store attendant (victim) give him money. He then cut the victim on the arm and stabbed the victim’s thigh. The appellant then stole the sum of \$415 and 2 packets of cigarettes.</p> <p>The stab wound required 3 stitches.</p>	<p>Ct1: 4 yrs imp. Ct 2: 2 yrs imp.</p> <p>TES 6 yrs imp. Equivalent to 4 yrs imp after implementation of transitional provisions.</p> <p>Not EFP.</p> <p>Genuine remorse.</p>	<p>Dismissed.</p> <p>Refusal to grant EFP correct.</p> <p>At [14] The discretion whether an eligibility for parole order should be made cannot be triggered unless there is something in the materials before the sentencing judge which points positively towards the appropriateness of parole. While it is true that there may be a bias towards</p>

		cannabis).			eligibility, that bias does not mean that the court must start from a presumption in favour of the grant of parole.
4.	<p><i>Evans v Vanderheide</i></p> <p>[2001] WASCA 352</p> <p>Delivered 02/11/2001</p>	<p>19 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Prior criminal record – minor offences; no violence.</p> <p>Lived with his mother.</p>	<p>1 x Unlawful wounding s 301(1) <i>Criminal Code</i>.</p> <p>Both the injury and the offending were serious.</p> <p>The appellant was refused service at a local hotel due to intoxication. He was escorted from the hotel. The appellant then, standing in the car park outside the hotel, began to use a shanghai (catapult) to slingshot stones at various people, including the licensee and patrons. The stones did not hit anyone. The appellant was approached by the victim (the hotel's licensee's son), who pushed the appellant. The appellant used the shanghai to sling a stone at the victim. Hitting him under the right eye.</p> <p>The victim had to be treated in hospital for a 3-4cm gash and required 10 stitches.</p>	<p>12 mths imp.</p> <p>TES 12 mths imp susp 2 yrs.</p> <p>Took responsibility for actions; acknowledged recklessness of act.</p>	<p>Allowed in part.</p> <p>TES 12 mths imp susp 12 mths substituted.</p> <p>At [23] lengthy suspension for purpose rehabilitation not required. Circumstances called for period of suspension to reinforce the need for the appellant to alter his behaviour and refrain from re-offending.</p>
3.	<p><i>Hobbs v The Queen</i></p> <p>[2001] WASCA 104</p> <p>Delivered 29/03/2001</p>	<p>Aged 18 yrs at time of offence.</p> <p>Convicted after trial.</p> <p>No prior criminal record.</p> <p>Loving and supportive family.</p>	<p>1 x Unlawful wounding s 301(1) <i>Criminal Code</i>.</p> <p>After finishing work, the appellant went to the co-offender's home. The appellant and co-offender consumed alcohol and cannabis. Later in the evening, the appellant and co-offender (along with 3 others) went to a bus-</p>	<p>TES 2 yrs imp.</p> <p>Equivalent to 16 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [30] Resort to knives and other weapons calls for a sentence which focuses primarily on general deterrence. It is conduct which the community</p>

		<p>Previous cannabis and amphetamine abuse; no current substance abuse issues.</p>	<p>stop. The victim and a friend were also at the bus-stop. At the bus-stop one of the appellant's friends engaged in a verbal argument with the victim and the victim's friend. The argument continued on the bus, and words were said about a 'fight'.</p> <p>After getting off the bus, the argument continued. The appellant's co-offender produced a knife. The victim pushed the co-offender. The co-offender then stabbed the victim twice, once in the arm and once in the abdomen. The victim's friend then struck the co-offender from behind causing him to drop the knife.</p> <p>The appellant picked up the knife and while the victim was on the ground, crouched forward. The appellant then stabbed the victim in the chest causing a 2 ½ cm deep wound near the victim's lung or liver.</p> <p>The appellant denied the entire altercation to the police.</p>	<p>No acceptance of blame or remorse.</p>	<p>abhors and it is necessary to sentence in a way that sends a message to the community, to the young offender, and to any like-minded person prepared to carry a knife, that conduct involving the use of a knife will be seriously dealt with.</p> <p>Lack of remorse highly relevant.</p>
2.	<p><i>The Queen v Logan</i></p> <p>Supreme Court Library No 950471.</p> <p>Delivered 7/09/1995</p>	<p>Offending breached parole (murder) – 4 mths left of 2 yrs parole period.</p> <p>Prior criminal record – murder (stabbed victim in a street fight).</p>	<p>1 x Unlawful wounding s 301(1) <i>Criminal Code</i>.</p> <p>1 x Assault s 313 <i>Criminal Code</i>.</p> <p>Incident of road rage in which respondent stabbed the victim and the passenger in the victim's car with a Stanley knife.</p>	<p>\$2,000 fine. \$1,000 fine.</p>	<p>Allowed.</p> <p>TES 1 yr imp substituted.</p> <p>EFP.</p> <p><u>Sentences on appeal:</u> 1 yr imp unlawful wounding. 6 mths imp assault.</p> <p>NB: double jeopardy</p>

					applied to State appeals. p 4 ‘...it was necessary for the learned judge to mark the disapproval of the community of the use of violence in general and of knives, in particular, by the imposition of a custodial sentence.’
<i>Maximum penalty increased from 3 yrs to 5 yr imp (20/01/1995)</i>					
1.	Messaoui v R Supreme Court Library No 9210.1 Delivered 04/12/1991	Convicted after trial.	Ct 1: AOBH s 317 <i>Criminal Code</i> . Ct 2: Unlawful wounding s 301 <i>Criminal Code</i> . Appellant and victim were both staying in the same hotel due to work. Appellant and victim argued about whose turn it was to play on the pool table in the hotel bar. Appellant tried to take pool cue off victim and, in doing so, punched the victim in the face several times. (ct 1). Victim was dazed and suffered bruising, abrasions and swelling. Appellant has been asked by bar management to stay calm and wait for his turn on the table. Victim continued his game of pool and verbal altercations between the appellant and the victim continued. Appellant left the bar, went to his room and armed himself with a kitchen knife (4 inch blade). Victim had seen appellant leave and followed him to apologise. Victim and appellant met on the stairs and victim began to	Ct 1: 1 yrs imp. Ct 2: 2 yrs imp. TES 3 yrs imp. Equivalent to 2 yrs imp after implementation of transitional provisions. EFP.	Allowed. TES reduced to 2 yrs imp. <u>Sentences on appeal:</u> Ct 1: 6 mths imp Ct 2: not disturbed. p12-13 ‘A conviction for unlawful wounding need not necessarily attract a sentence of imprisonment. This is not say that unlawful wounding is anything less than a serious offences. It is a serious offence...It is an offence which may be committed in circumstances which stop only barely short of more serious consequences. The threat to life and health

			<p>apologise. Appellant lunged at the victim, wrapping his arm around his back, and a brief struggle ensued before the victim fell to the floor. The appellant keeled on top of the victim and the victim, now aware the appellant had a knife, was holding the appellant's wrists and asking him repeatedly not to use the knife. When victim felt appellant had calmed down he released the appellant's wrists. Appellant's girlfriend came and appellant left with her. As the victim got up he realised he had a cut on his hand and that he had been stabbed in the back.</p> <p>Victim received hospital treatment for 6 stab wounds to his back (each approx 1cm wide and 3cm deep).</p>		<p><i>posed by the offender's actions and the possibility of more serious harm is a relevant sentencing consideration.'</i></p>
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