

Assaults with Intent

s 317A 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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
conc	concurrent
cum	cumulative
PG	plead guilty
agg	aggravated
burg	burglary
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
att	attempted
EFP	eligible for parole
CBO	community based order
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
1.	<p><i>Ashley v The State of Western Australia</i></p> <p>[2017] WASCA 131</p> <p>Delivered 11/07/2017</p>	<p>26 yrs at time offending.</p> <p>Convicted after early PG (20% discount).</p> <p>No relevant prior criminal history.</p> <p>Parents separated aged 9.</p> <p>Completing a university degree at time of offending.</p> <p>Employed.</p> <p>Health issues at time of sentencing resulting from injuries received; will require significant degree of assistance and life long care.</p> <p>Suffering depression time of offending.</p>	<p>Ct 1: Agg burg.</p> <p>Ct 2: Being armed to cause fear.</p> <p>Cts 3-7: Detained another with intent to compel the doing of an act.</p> <p>Ct 8: Agg assault.</p> <p>Ashley was in a relationship with a woman. Some months after the relationship ended he spoke with a former colleague, now a police constable, about the police response to hostage situations. On the same day he attended various retail outlets and purchased numerous items for the purpose of his plan.</p> <p>Two weeks later Ashley went to the home of his ex-girlfriend and spoke with one of the occupants. The house was for sale and he purported to be a potential buyer and asked to see inside the house, but this was refused.</p> <p>Later that evening Ashley returned to the house armed with weapons, including a replica gun and a baton. When his ex-girlfriend answered the door he pointed the pistol at her and forced his way in, striking her to the shoulder and knocking her to the ground.</p> <p>He ordered his ex-girlfriend and the four other occupants of the home into a room and to lie on the floor. When his ex-girlfriend continued to defy his instructions he threatened her, before striking her twice to the elbow with the baton, causing pain and temporary loss of</p>	<p>Ct 1: 3 yrs imp.</p> <p>Ct 2: 12 mths imp (conc).</p> <p>Cts 3-7: 3 yrs imp each ct (conc).</p> <p>Ct 8: 12 mths imp (conc).</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge accepted it was not the appellant's intention to cause physical harm to the hostages; rather, his intention that day was to end his life by 'cop suicide'.</p> <p>The sentencing judge found the offending extremely serious; premeditated and accompanied by a considerable degree of planning.</p> <p>The sentencing judge found the appellant's behaviour threatening and the victims</p>	<p>Allowed.</p> <p>Appeal concerned totality.</p> <p>Re-sentenced on ct 3 to 18 mths imp (cum upon ct 1).</p> <p>All other sentences and orders unchanged.</p> <p>TES 4 yrs 6 mths imp.</p> <p>EFP.</p> <p>At [50] ... even allowing for the fact that the appellant's purpose was to bring about his own death, if his injuries were put to one side, the TES of 6 yrs; imp imposed on the appellant would have been well within the available sentencing range and an appropriate reflection of the criminality of his offences as a whole ...</p> <p>At [56] ... in the circumstances of this case, we think the injuries suffered by the appellant were a mitigating factor</p>

		<p>feeling in her hand (ct 8).</p> <p>Ashley bound his victims' hands and feet with flexi cuffs and covered two of the victims' mouths with tape he had brought with him. He turned off their mobile phones.</p> <p>Ashley called 000 and demanded to speak with a police negotiator, threatening to shoot someone if his demands were not met.</p> <p>For three hours Ashley detained the victims', eventually exiting the house with the replica pistol. When he ignored police commands to drop his gun he was shot twice, resulting in serious permanent injury, including paraplegia.</p>	<p>vulnerable and extremely intimidated by his actions. The victims were entitled to feel safe in their own home at night.</p> <p>Remorseful; engaged in steps towards rehabilitation; physical disabilities make him a low risk of reoffending.</p>	<p>attracting very significant weight.... The appellant's injuries significantly moderated the importance of punishment, retribution, and personal deterrence.</p> <p>At [59] ... the total sentence imposed exceeded the bounds of sentences available upon a proper exercise of the sentencing discretion in the circumstances of this case.</p>
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Transitional Provisions Repealed (14/01/2009)

Transitional Provisions Enacted (31/08/2003)