

Armed Robbery

ss 392 and 393 *Criminal Code*

Divided by immediate and suspended imprisonment

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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
att	attempted
EFP	eligible for parole
TES	total effective sentence
ct	count
SIO	suspended imprisonment order

Part A – Immediate custodial sentence upheld or imposed on appeal

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
16.	<p><i>Mamkin v The State of Western Australia</i></p> <p>[2017] WASCA 61</p> <p>Delivered 31/03/2017</p>	<p>18 yrs at time offending. 19 yrs at time sentencing.</p> <p>Convicted after PG (25% discount for cts 1 and 7).</p> <p>Current offending are the first convictions as an adult.</p> <p>Extensive prior criminal history as a juvenile, including sanctions of detention.</p> <p>On bail for cts 1-6 at time offending for ct 7.</p>	<p>Ct 1: Armed robbery. Ct 2: Stealing. Ct 3: Agg robbery. Ct 4: Att agg robbery. Ct 5: Agg burg. Ct 6: Steal motor vehicle. Ct 7: Agg armed robbery.</p> <p><u>Ct 1</u> The victim parked his car at a shopping centre and remained in the driver's seat. Mamkin approached the victim, produced a long knife and told him, 'Don't do anything or I'm going to stab you'. Mamkin got into the car, behind the victim, and asked what he had on him. The victim handed a mobile and \$50 cash to Mamkin.</p> <p>On Mamkin's instruction, the victim drove to an ATM to withdraw cash. While holding the knife against the victim's ribs, Mamkin demanded the victim's PIN for his bankcard and said, 'If you lie I will stab you'.</p> <p>On Mamkin's instructions, the victim drove to a cul-de-sac and got out of the car. Mamkin patted the victim's pockets and took his car keys and house keys. Mamkin fled in the car which contained the victim's property.</p> <p><u>Ct 2</u></p>	<p>Ct 1: 4 yrs 9 mths imp (reduced from 7 yrs imp). Ct 2: 1 mth imp (conc). Ct 3: 12 mths imp (conc). Ct 4: 10 mths imp (conc). Ct 5: 2 yrs 6 mths imp (conc). Ct 6: 12 mths imp (conc). Ct 7: 5 yrs 3 mths imp (reduced from 8 yrs imp) (to commence 1 yr 7 mths after commencement of ct 1). TES 6 yrs 10 mths imp. EFP. Sentences on cts 1 and 7 reduced for PG and youth. Sentence on ct 7 also reduced</p>	<p>Dismissed.</p> <p>Appeal concerned totality and discount for cooperation.</p> <p>At [34] ...the appellant's admissions were not made as a consequence of genuine remorse or contrition. They did not involve the provision of useful information to the police... The admissions were made in confined parts of the video-recorded interview during which the appellant repeatedly, but unsuccessfully, endeavoured to mislead the police as to the truth about the serious offences in which he was involved as a principal offender.</p> <p>At [35] The appellant made no admissions of any significance</p>

			<p>On the same date as ct 1, Mamkin and his associates stole fuel to the value of \$76.46.</p> <p><u>Cts 3 and 4</u> On the same date as ct 1, Mamkin and his associates parked the stolen car behind the victims who were attempting to withdraw cash at an ATM. Mamkin approached the victims and said 'Do you want to pull some money out or get mobbed?'. Mamkin took a wallet from one victim. The other victim attempted to prevent Mamkin from taking the wallet and Mamkin punched the second victim to the face. A violent confrontation ensued and the victims escaped on foot.</p> <p><u>Cts 5 and 6</u> The following day, Mamkin entered the victim's house while the victim was asleep. He stole the victim's handbag which contained her wallet, car keys and the keys to a vault at her work. Mamkin then stole the victim's car.</p> <p><u>Ct 7</u> The victim was a taxi driver. On another date, Mamkin arranged for the victim to collect him from Bassendean. As Mamkin could not pay a deposit, the victim refused to drive him to his destination but offered to drive him, without charge, to a train station.</p> <p>As the victim drove around the corner, Mamkin produced a long knife and held it at the victim's throat. He threatened to kill the victim if he did not hand over his money, his mobile and the passcode for the mobile. The victim complied with those demands. His wallet contained \$450</p>	<p>for time in custody.</p> <p>Sentencing judge took into account PG, youth and cooperation with police (admissions to police) for cts 2-6.</p> <p>PSR indicated no real appreciation of the effect which Mamkin's conduct must have had on his victims, or a willingness or real capacity to deal with the issues which led to his offending.</p> <p>Sentencing judge commented that the current offences indicate a serious escalation in the level of violence involved in Mamkin's offending.</p> <p>No remorse or contrition.</p> <p>Very serious risk of re-offending.</p>	<p>concerning ct 1. His cooperation with the police when they searched his premises was insignificant. His insubstantial admissions and cooperation were not of any material weight for sentencing purposes. In any event, a different individual sentence for ct 1 should not have been imposed.</p> <p>At [36] His Honour did not state the discount he applied but his Honour was not bound to do so. In any event, a different sentence should not have been imposed for any of cts 2, 3 or 4.</p> <p>At [37] The appellant's overall offending was, no doubt, extremely serious... The offences involved some planning... The actual or threatened violence associated with the commission of cts 1 and 7 was significant. The victims must have feared for their lives. They would have suffered</p>
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			<p>cash.</p> <p>Mamkin's two associates approached the taxi, opened the door and told Mamkin to take the mobile and cash and get out of the taxi.</p>		<p>emotional trauma... The victim of ct 7 was a taxi driver. People who work as taxi drivers are vulnerable to attacks of this kind.</p> <p>At [48] The egregious character of the appellant's offending, and the very serious risk that he will reoffend, reduced the extent to which he could be given credit in the sentencing process for his youth.</p>
15.	<p><i>Williams v The State of Western Australia</i></p> <p>[2016] WASCA 232</p> <p>Delivered 23/12/2016</p>	<p>31 yrs at time offending (cts 1-7). 34 yrs at time offending (ct 8).</p> <p>Convicted after trial.</p> <p>Lengthy criminal history. Ct 8 committed when on bail.</p> <p>Troubled childhood, father died when very young. Cared for her seriously ill mother until her death several months before offence of ct 8.</p> <p>Abused from age 14 yrs. Left home at 16 yrs.</p> <p>Irregular school attendance.</p> <p>No vocational skills.</p>	<p>Ct 1: Steal motor vehicle. Ct 2: Armed robbery. Ct 3: Att armed robbery. Ct 4: Stealing. Ct 5: Agg armed robbery Ct 6: Robbery. Ct 7: Armed robbery. Ct 8: Att armed robbery.</p> <p>Williams stole a car (ct 1). With her face concealed by a hat, sunglasses and bandana she went to a hotel bottle shop and threatened staff with a knife, yelling for the till be opened. She stole \$500 (ct 2).</p> <p>Armed with a knife Williams went to a petrol station and demanded the keys to a vehicle. The mechanic ran and called police (ct 3). Williams rummaged through the car and took a mobile phone (ct 4).</p>	<p>Ct 1: 1 yr imp (conc). Ct 2: 4 yrs imp (cum). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 3 mths imp (conc). Ct 5: 5 yrs imp (conc). Ct 6: 2 yrs imp (conc). Ct 7: 3 yrs imp (cum). Ct 8: 3 yrs imp (conc).</p> <p>TES 7 yrs imp. EFP.</p> <p>The sentencing judge noted the offences as</p>	<p>Dismissed.</p> <p>Appellant appealed totality principle, individual sentences not challenged.</p> <p>At [36] The existence of a causal relationship between a mental illness and the offences does not automatically result in the offender receiving a lesser sentence. While the existence of a causal connection might reduce moral blameworthiness and the importance of general deterrence, it might also, in some</p>

		<p>Four children; all cared for by others.</p> <p>Entrenched history of illicit drug and alcohol abuse.</p> <p>Diagnosed with schizophrenia. Impaired insight into her mental illness and tendency to avoid psychiatric treatment.</p>	<p>Williams approached a 75 yr-old female and demanded her car keys. Grabbing the keys from the victim's hand she then held a knife to her neck. Pushing the victim aside she got into the car and drove away, narrowly missing the victim, who was pulled from the path of the reversing car by a passerby (ct 5).</p> <p>With her jumper pulled over her head and wearing sunglasses Williams entered a bank. With her hands concealed in her jumper she told a teller to put money into a bag. The teller handed her \$700 (ct 6).</p> <p>With her face concealed by a jumper, sunglasses and a cloth Williams entered a bank. She produced a knife and repeatedly yelled at a teller to give her money. When given money she demanded more and produced another knife. She left taking \$1,450 (ct 7).</p> <p>Holding a knife Williams demanded the victim get out of his vehicle. She tried unsuccessfully to open the car door when the victim refused (ct 8).</p>	<p>'extremely serious' but found her judgment was impaired and her ability to control her actions reduced due to mental illness. This reduced her moral blameworthiness.</p> <p>Risk of re-offending 'medium to high'.</p>	<p>cases, increase the importance of specific deterrence or the need to protect the public. This is such a case.</p> <p>At [37] The protection of the public was an important sentencing factor in this case, having regard to the nature of the offending, its repetitive nature and the risk of reoffending posed by the appellant.</p>
14.	<p><i>Marshall v The State of Western Australia</i></p> <p>[2016] WASCA 171</p> <p>Delivered 29/09/2016</p>	<p>34 yrs at time sentencing.</p> <p>Late PG (8% discount).</p> <p>Extensive prior criminal history, including convictions for armed robbery; stealing; weapon and firearm offences.</p> <p>Raised by his grandparents.</p>	<p>1 x Armed robbery.</p> <p>Armed with a large knife and a jumper over his face Marshall went to the reception desk of a hotel. Brandishing the knife he demanded money. The staff member ran into a rear office so he took \$30 cash from an envelope before fleeing the premises.</p> <p>Marshall was identified from his DNA.</p>	<p>4 yrs 2 mths imp.</p> <p>EFP.</p> <p>High risk of re-offending.</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentence.</p> <p>At [13] ... long history of persistent offending ... that offending demonstrates that the appellant has little regard for the law and</p>

		<p>Left school at yr 8.</p> <p>Never employed.</p> <p>Birth of his first child while in custody for this offence.</p> <p>Long history of heroin abuse. Affected by drugs at time of offending.</p>			<p>that personal deterrence is of particular important in this case.</p> <p>At [15] ... has said that he is motivated to address his substance abuse through programmatic intervention, that assertion has appeared in most of the previous pre-sentence reports without any lifestyle changes being subsequently made.</p>
13.	<p><i>Gittos v The State of Western Australia</i></p> <p>[2016] WASCA 7</p> <p>Delivered 13/01/2016</p>	<p>29 yrs at time offending.</p> <p>Conviction after PG (10% discount for indictable offences; 15% for section 32 offences).</p> <p>Criminal history, including violent offences.</p> <p>Dysfunctional childhood; ADHD as a child.</p> <p>Left school at age 14; good employment history.</p> <p>No contact with three children.</p> <p>Supportive new partner.</p> <p>Substance abuse from age 13.</p>	<p><u>Indictment</u></p> <p>Ct 1: Agg armed robbery. Ct 2: Agg armed assault with intent to rob.</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: Criminal damage. Ch 2: Agg assault. Ch 3: AOBH. Ch 4: Drive MV with number plates not issued for that vehicle. Ch 5: Poss drug paraphernalia containing methyl.</p> <p><u>Ct 1</u></p> <p>The appellant was the front seat passenger in a car that drove up and parked outside the victim's house. The appellant demanded \$150 from the victim, through the open car window. The victim stated that he did not have any money.</p> <p>The appellant pointed a double-barrelled shotgun</p>	<p><u>Indictment</u></p> <p>Ct 1: 4 yrs imp. Ct 2: 3 yrs 6 mths imp to start 6 mths after Ct 1 (conc).</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: 8 mths imp. Ch 2: 6 mths imp. Ch 3: 10 mths imp. Ch 4: \$200 fine. Ch 5: 2 mths imp (cum).</p> <p>Ch 1-3 conc with each other, but cum with sentence on ch 5.</p> <p>TES 5 yrs imp.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality principle. Individual sentences were not challenged.</p> <p>At [30] Both indictable offences ... involved...an apparent element of premeditation and planning, albeit of a simple kind. They were calculated to force the first complainant to pay to the appellant money he considered he was owed from a drug transaction. Both</p>

			<p>at the victim at very close range, through the open car window. He demanded the victim give all property he was carrying. The victim complied. The appellant then stated “Bring the \$150 in cash to [a stated address] within the hour, or I’ll blow your fucking head off”.</p> <p><u>Ct 2</u> 40 minutes later, the victim attended the stated address with two others, to give the appellant \$100. The appellant aimed the shotgun at the victim and then pressed the barrels of the shotgun against his head. The appellant demanded an additional \$300 from the victim and made similar threats as earlier.</p> <p>The victims left and reported the incidents to police.</p> <p><u>Section 32 Notice</u> The second victim is the mother of the appellant’s 10-mth-old son.</p> <p>In attempt to gain entry to the victim’s house, the appellant caused substantial damage to the garage door (ch 1). The appellant gained entry through a window and, in the presence of their son, repeatedly punched and kicked the second victim’s mother (ch 2). The appellant then punched the second victim in the face while she was carrying their son (ch 3).</p> <p>On another date, the appellant drove a car with number plates that were not issued for that car (ch 4). A glass pipe containing traces of methyl was found in the car (ch 5).</p>	<p>EFP.</p> <p>Sentencing judge found that the appellant’s acceptance of responsibility and remorse for cts 1 and 2 were qualified by the appellant showing little insight into his offending.</p> <p>Sentencing judge found significant qualifications on the appellant’s prospects of rehabilitation.</p>	<p>involved the use of a firearm which was not simply brandished by the appellant ... Each act was accompanied by what was, in effect, a threat to kill. ... The fact that a firearm was used, and the manner in which it was used, make these offences particularly serious.</p> <p>At [32] The [section 32] offences ... were also serious offences. Again, these offences were not the result of a momentary aberration ... Given the nature of the assaults, it is only a matter of good fortune that the victims did not suffer more serious injuries.</p> <p>At [33] In relation to these [section 32] offences, there appears on the part of the appellant to have been no acceptance of responsibility, remorse or insight, apart from the pleas of guilty and the appellant's</p>
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					<p>understanding of his anger management problem.</p> <p>At [34] ... there is cause for concern about the appellant's prospects of rehabilitation and that without substantial change on the appellant's part there is a real risk that he will reoffend.</p>
12.	<p><i>Wallam v The State of Western Australia</i></p> <p>[2015] WASCA 132</p> <p>Delivered 29/06/2015</p>	<p>19 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Lengthy criminal history, including violent offending.</p> <p>Parents separated when aged 14; talented footballer; educated to yr 10; no employment history.</p> <p>Appellant had a chronic major depressive episode with significant anti-social personality traits.</p> <p>Using alcohol and drugs at time offending.</p> <p>At time offending, appellant serving a 12 mth CSIO for offence of agg rob. Order breached by bail offence and failing to attend supervision appointments.</p>	<p>Ct 1: Stealing a motor vehicle. Ct 2: Agg assault with intent to rob. Ct 3: Agg armed robbery.</p> <p><u>Ct 1:</u> The appellant was a passenger in a stolen car. He travelled in it knowing it to be stolen and became a party to the offence of stealing by that conduct.</p> <p><u>Ct 2:</u> The stolen car was driven through the car park of a shopping centre. The appellant got out of the car and yelled out to a young woman demanding that she hand her handbag to him. The appellant tried to pull the bag away from her and in the ensuing struggle he struck her to the side of the head with a clenched fist. He continued to demand the handbag and struck the victim to the head several times as she lay on the ground. He was then joined by the driver of the vehicle who also assaulted the victim and a female friend of the victim who was trying to assist. The appellant and his co-offender ran off without the bag.</p>	<p>Ct 1: 9 mths imp (conc). Ct 2: 5 yrs 6 mths imp. Ct 3: 4 yrs 6 mths imp (conc). Breach of CSIO: 12 mths imp (cum).</p> <p>TES 6 yrs 6 mths imp.</p> <p>Sentencing judge accepted that the appellant's mental illness diminished his ability to think rationally.</p> <p>Psychiatric report noted that the risk of reoffending was assessed as being at</p>	<p>Allowed.</p> <p>Resentenced to: Ct 1: 6 mths imp (conc). Ct 2: 4 yrs 9 mths imp. Ct 3: 4 yrs imp (conc).</p> <p>Requirement to serve previously susp sentence was unaffected.</p> <p>TES 5 yrs 9 mths imp.</p> <p>At [34]-[40] Discussion of comparable cases.</p> <p>At [47] The first two offences were committed within two weeks of that [CSIO] sentence being imposed. To offend in these circumstances shows</p>

			<p>The appellant subsequently identified his cousin as being driver of the car.</p> <p><u>Ct 3:</u> The appellant entered a liquor store armed with a machete and approached the counter demanding money. The attendant began to open the tills to get out money and while the appellant menaced him with the machete. After being given a quantity of cash the appellant stole a four pack of pre-mixed alcoholic drinks and left the store.</p>	<p>the higher end of the spectrum.</p>	<p>contempt for the law.</p> <p>At [56] In respect of ct 2 his Honour reduced the sentence by 18 mths, but this is less than the 25% that he said he would allow.</p> <p>At [57] ... it is apparent that the discounts for PG were the only reductions allowed in respect of all three cts. This is not consistent with the fact that the sentencing judge acknowledged that the appellant's youth, limited cooperation and mental illness were deserving of some weight.</p>
11.	<p><i>Fisher v The State of Western Australia</i></p> <p>[2015] WASCA 114</p> <p>Delivered 02/06/2015</p>	<p>27 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history including assault, obstructing police officer and trespass.</p> <p>Stable and supportive family.</p> <p>Drug and alcohol addiction.</p> <p>Accumulated significant drug debt immediately preceding the offences;</p>	<p>Armed robbery x 6.</p> <p>All offences were committed over a 13 hr period.</p> <p>At 8.46pm, the appellant entered a bottle shop and while brandishing an unused syringe, demanded that the attendant give him money from the till. The attendant handed over \$830 (ct 1).</p> <p>At 12.45am, the appellant went to a service station. He placed his right hand under his jumper pretending to be armed with a gun and demanded cash from the attendant, threatening to shoot him if he did not comply. He repeated the threat and</p>	<p>Ct 1: 3 yrs im (cum). Ct 2: 1 yr imp (cum). Ct 3: 2 yrs 9 mths imp (conc). Ct 4: 1 yr imp (cum). Ct 5: 2 yrs 9 mths imp (conc). Ct 6: 2 yrs 9 mths imp (conc).</p> <p>TES 5 yrs imp.</p> <p>Remorseful; low risk of re-offending.</p>	<p>Dismissed – on papers.</p> <p>At [26] ... the fact that there is no weapon that could be used to inflict harm needs to be seen in the context that an offender who pretends to be armed intends that those he confronts will believe that he is armed and will comply with his demands out of fear for their safety. The</p>

		<p>abducted, assaulted and threatened by men seeking repayment of debt.</p> <p>History of depression and anxiety.</p> <p>Appellant completed some programmes in custody prior to sentencing.</p>	<p>the attendant handed over \$900 (ct 2).</p> <p>At 3.55am, the appellant went to another service station. He placed his right hand under his jumper and pretended to be armed with a gun. He demanded cash from the attendant threatening to shoot him if he did not comply. The attendant handed over \$150 (ct 3).</p> <p>Between 3.50am and 4.10am, the appellant attended another service station. He placed his right hand under his jumper pretending to be armed with a gun and demanded that the attendant give him cash from the till. The attendant refused and the appellant jumped on the counter and reached through the security wiring in an attempt to grab cash from the till. The attendant handed over \$1000. In order to leave the store, the appellant kicked at the glass doors until one was dislodged from its mountings, and pushed on the door until the glass shattered (ct 4).</p> <p>At 9.33am, the appellant attended another service station. He placed his right hand under his jumper pretending to be armed with a gun and demanded that the attendant give him cash from the till. The attendant opened the till and started taking out money. The appellant reached over and attempted to take money from the till. The attendant tried to stop him by pushing his hand away. The appellant managed to grab \$150 from the attendant's hand before leaving the store (ct 5).</p> <p>At 9.46am, the appellant attended another service station. He placed his right hand under his jumper pretending to be armed with a gun and demanded</p>	<p>Robberies committed on premises that were very vulnerable.</p> <p>Sentencing judge found that the appellant committed the offences out of desperation as a result of the threats made to him.</p>	<p>appellant clearly had such an intention and reinforced it making verbal threats... The use of a syringe in the first offence was correctly described by the sentencing judge as an aggravating factor.</p> <p>At [29]-[35] Discussion of comparable cases.</p> <p>At [37] In my view it is not reasonably arguable that the TES of 5 yrs imp infringed the totality principle. There is no challenge to the individual sentences imposed in this case and they clearly fell within the range customarily imposed for such offences. Some degree of accumulation was appropriate to reflect the number of offences and the persistence of the offending.</p>
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			that the attendant give him cash from the till. The attendant handed over \$280 (ct 6).		
10.	<p><i>Williams v The State of Western Australia</i></p> <p>[2015] WASCA 16</p> <p>Delivered 22/01/2015</p>	<p>19 yrs at time offending and sentencing.</p> <p>Convicted after PG.</p> <p>Offending breached bail.</p> <p>Significant criminal history, including conviction for aggravated armed robbery.</p> <p>Raised by grandmother after mother received severe injuries from domestic violence.</p> <p>Education to year nine; no employment since stealing from employer in year nine.</p> <p>History of alcohol and substance abuse; counselling failed to rehabilitate him.</p>	<p>Ct 1: Armed Robbery. Ct 2: Armed Robbery. Ct 3: Armed Robbery. Ct 4: Robbery.</p> <p><u>Ct 1:</u> On 18 September 2013, the appellant approached the victim in the street and demanded money two or three times and began to yell at her. He then removed an object from his belt which the victim believed was a knife or a tool. He threatened to harm her if she did not give him the money. The victim gave him \$150.</p> <p><u>Ct 2:</u> At about 1.30pm on 5 October 2013, the appellant blocked the victim's path on the street and asked her to give him money. She said that she did not have any money. He then produced a screwdriver and repeatedly said that he needed her money. The victim gave him \$40. He yelled at her demanding she give him all her money. She showed him her empty wallet. He rode away.</p> <p><u>Ct 3:</u> At about 3.30pm on 6 October 2013, the appellant approached the victim as he was arriving home. The appellant raised a screwdriver and pointed it at the victim's face and demanded money. The victim said he did not have any money. The appellant made stabbing motions with the screwdriver and repeated his demands. The victim gave the appellant \$20. The appellant demanded all his money. The victim gave another \$10 and</p>	<p>Ct 1: 4 yrs imp. Ct 2: 4 yrs imp. Ct 3: 4 yrs imp. Ct 4: 2 yrs imp. All conc, but cum on existing term of 3 yrs 10 mths.</p> <p>TES 7 yrs 10 mths imp.</p>	<p>Allowed.</p> <p>Ct 1: 3 yrs imp. Ct 2: 3 yrs imp. Ct 3: 3 yrs imp. Ct 4: 20 mths imp. All conc, but cum on existing term of 3 yrs 10 mths.</p> <p>TES 6 yrs 10 mths imp.</p> <p>EFP.</p> <p>At [20] It is apparent from the sentencing judge's remarks that he did not in fact give the appellant 25% discount. The reduction that he made in the sentences on each count equate to a 20% discount. This appears to be a simple mathematical error. It would also seem that, notwithstanding his Honour's reference to youth being a factor that would further reduce the sentence, no allowance for that factor appears to have been given.</p>

			<p>then, in compliance with a demand, showed the appellant his empty wallet. The appellant thanked the victim and rode away.</p> <p><u>Ct 4:</u> At about 10.15pm on 6 October 2013, the appellant approached another man as he arrived home. The appellant told the victim that he would 'beat him up' if he did not hand over his money. The appellant became aggressive and continued demands when the money was not handed over. The appellant searched the victim's pants for a wallet or money. The victim gave the appellant \$50 in notes and \$5 in coins. The appellant took the victim's mobile and said that he would give it back if he gave him more money. When the victim demanded his phone back, the appellant told him to lower his voice and not to call the police as he knew where he lived. The appellant gave the phone back to allow the victim to remove the memory card. The appellant fled the scene when the victim's housemate came out of the house.</p>		
9.	<p><i>QJS v The State of Western Australia</i></p> <p>[2015] WASCA 9</p> <p>Delivered 15/01/2015</p>	<p>20 yrs at time of most offending.</p> <p>Conviction after PG.</p> <p>Offending breached ISO.</p> <p>Significant criminal history, including convictions for stealing, burg, breaches of bail, stealing motor vehicle and common assault.</p> <p>Difficult upbringing; attended numerous schools; never had</p>	<p><u>Indictment</u></p> <p>Ct 1: Agg burg (dwelling). Ct 2: Steal motor vehicle. Ct 3: Agg armed robbery. Ct 4: Accessory after the fact to agg armed robbery. Ct 5: Agg armed robbery. Ct 6: Agg robbery.</p> <p><u>Section 32 notice</u> 18 charges.</p> <p><u>Indictment</u></p>	<p><u>Indictment</u></p> <p>Ct 1: 1 yr 9 mths imp (conc). Ct 2: 4 mths imp (conc) Ct 3: 3 yrs 3 mths imp (cum). Ct 4: 1 yr 4 mths imp (conc). Ct 5: 3 yrs 3 mths imp (conc). Ct 6: 2 yrs 4 mths imp (conc).</p>	<p>Dismissed – on papers.</p> <p>At [35] The rationale for treating offending whilst on bail or parole as being an aggravating factor applies equally where a person commits offences whilst on some other form of conditional release, such as an ISO... The commission of an</p>

		<p>significant employment.</p> <p>Significant substance abuse problem.</p> <p>Offending on indictment occurred shortly after the Department of Child Protection took the appellant's young daughters into their care.</p>	<p><u>Ct 1 -2:</u> At about 3.50am on 17 December 2013 the appellant went to a house in company with a co-offender. He forced the garage door open and used an internal door to access the kitchen. He took a car key from the kitchen and used the keys to steal a car from the garage.</p> <p><u>Ct 3:</u> Approx. one hour later, the appellant and co-offender saw a woman walking along the street. They formed an intention to snatch her bag. The co-offender threatened the victim with a screwdriver. He pushed the tip into her cheek and demanded her handbag. The victim gave her handbag to the co-offender. The appellant drove them away.</p> <p><u>Ct 4:</u> At about 3.30pm on the same day the appellant and a co-offender were driving through a shopping centre car park. The co-offender decided to steal the handbag of a passing shopper. The co-offender got out of the car and grabbed the victim's handbag. There was a struggle until the co-offender raised a box cutter knife above the victim's head causing her to let go. The co-offender got back in the car and the appellant drove the co-offender away in order to help him escape.</p> <p><u>Ct 5:</u> About 30 minutes later, the appellant and a co-offender formed an intention to steal a handbag from a shopper at another shopping centre car park. The appellant stopped the car behind the</p>	<p><u>Section 32 notice</u> The appellant received various imp terms for various charges, 2 yrs 9 mths of which was ordered to be served cum.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>Cooperated with police by giving names of co-offenders.</p> <p>Limited insight into offending and effect on victims; remorse; victim empathy.</p>	<p>offence whilst on an ISO not only exposes the offender to resentencing for the original offence, it is a factor relevant to the sentencing for the breaching offences.</p> <p>At [50] The offences contained on the indictment were serious offences of their type.</p>
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			<p>victim who was seated in her parked car. The co-offender opened the victim's car door and, while brandishing a screwdriver, demanded her handbag. The victim handed her bag to the co-offender. The appellant drove them away.</p> <p><u>Ct 6:</u> At about 9.30am on 19 December 2013, the appellant and co-offender formed an intention to steal a handbag from a shopper at a shopping centre car park. The appellant stopped the car in close proximity to the victim. The co-offender got out and pushed the victim from behind causing her to stumble. The co-offender attempted to steal her handbag dragging her as he did so. After a struggle he obtained poss of the bag and ran to the car.</p> <p>The appellant was arrested on the same day. He made admissions to the offences, but denied entering the house in ct 1.</p> <p><u>Section 32 Notice</u> Between 8 August 2012 and 19 December 2013 the appellant committed multiple offences including agg burg on a liquor shop, breach of bail, stealing, wilful damage, trespass, steal motor vehicle, dangerous driving to escape pursuit, traffic offences and poss of a prohibited drug. The appellant made admissions to the section 32 offences when interviewed.</p>		
8.	<p><i>Truslove v The State of Western Australia</i></p> <p>[2015] WASCA 1</p>	<p>49 yrs at time of sentencing.</p> <p>Convicted after PG at earliest opportunity.</p>	<p>1 x Armed robbery.</p> <p>Appellant went into a bank, approached a teller and demanded cash.</p>	<p>2 yrs 8 mths imp.</p> <p>Not EFP.</p> <p>Sentencing judge</p>	<p>Appeal solely in relation to refusal of parole eligibility.</p> <p>Dismissed.</p>

	<p>Delivered 09/01/2015</p>	<p>Long criminal record commencing age 11 yrs. Had offended one or more times each year since 1979, except when imprisoned.</p> <p>Present offence committed within three weeks of release from imp imposed for similar offence in 2010.</p> <p>Neglected and abusive childhood. Record of drug and alcohol abuse from age of 13 yrs. Formerly addicted to heroin, but currently on the methadone programme.</p> <p>Had made little effort to rehabilitate himself while in prison where majority of adult life had been spent.</p> <p>Appellant suffering from a number of medical conditions including severe pulmonary hypertension and cirrhosis which were described as end-state conditions.</p>	<p>Appellant was not armed, but held one hand out of sight by way of pretence.</p> <p>The teller put \$950 cash into the appellant's bag, and the appellant left.</p> <p>Appellant was apprehended later the same day, and admitted the offence. The money was not recovered. Appellant claimed he had given the money to a motorcycle gang in repayment of a drug debt.</p>	<p>noted similarity to offence in 2010.</p> <p>Considered appellant would probably die in prison.</p>	<p>At [20] His Honour concluded that in the light of the appellant's persistent offending primary concern must be protection of the public. In our respectful opinion, that was plainly correct.</p> <p>At [23] The range of sentences commonly imposed for a single offence of armed robbery, excluding matters of mitigation, is 4 to 6 years' imprisonment: <i>Forkin v The State of Western Australia</i> [2013] WASCA 51 [15].</p> <p>At [24] In this case, there was nothing by way of mitigation beyond the appellant's early plea of guilty, for which his Honour allowed the maximum discount of 25%. The appellant evinced no remorse.</p> <p>At [25] In our view, it was plainly within the</p>
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					proper exercise of his Honour's discretion under s 89(4) of the <i>Sentencing Act</i> to refuse to make a parole eligibility order.
7.	<p><i>Wilson v The State of Western Australia</i></p> <p>[2014] WASCA 236</p> <p>Delivered 22/12/2014</p>	<p>47 yrs at time of sentencing in 2000.</p> <p>Convicted after early PG.</p> <p>Criminal record including armed robbery.</p> <p>Appellant suffered abuse as a child.</p> <p>Trained as a psychiatric nurse in WA. Twice attacked by patients in 1980 and 1981, suffering injuries that left him unable to continue nursing.</p> <p>Subsequently became addicted to heroin, and was imprisoned in NSW for offences committed to finance his drug habit.</p> <p>Appellant returned to WA, and in 1992 committed 2 armed robberies. While on work release from prison, he committed further offences that included 6 armed robberies similar to those on current indictment.</p> <p>The appellant was released on parole in 1999, and shortly after committed present offences.</p>	<p>7 x Armed robbery.</p> <p>s 391, 393 <i>Criminal Code</i> (as in force 1999).</p> <p>Over a period of three weeks in 1999, the appellant committed 7 similar robberies.</p> <p>He entered banks, Insurance Fund premises, a shop and a restaurant. He held his hand under his clothes as if armed with a weapon and demanded cash. He obtained between \$250-\$3,300 on each occasion. No money was recovered, save for \$300 which he abandoned as it was stained with anti-theft dye.</p> <p>Only Ct 7 was subject of appeal against sentence.</p> <p>Ct 7 represented a second robbery of the same Insurance Fund premises which he had robbed one week before.</p>	<p>Cts 1-6: 8 yrs imp on each conc. Ct 7: Life imp (non-parole 8 yrs).</p> <p>Sentencing judge noted long-term addiction to heroin. Considered appellant 'would not be able to live in the community without a great deal of supervision and without constant risk to other people.'</p>	<p>Application for leave to appeal out of time (which expired 2000) on Ct 7 only.</p> <p>Allowed.</p> <p>Re-sentenced to TES 15 yrs backdated to original sentencing date. EFP.</p> <p>At [27] and [38], application depended 'on whether there would be a substantial miscarriage of justice.'</p> <p>At [40] The State accepts that the imposition of a life sentence on count 7 was an error. That concession is properly made.</p> <p>At [43] As serious as the offence constituted by count 7 was, it clearly does not fall within the</p>

		<p>While in prison pending appeal, suffered various medical problems.</p> <p>Released on parole in 2010 after serving almost 9 yrs of life sentence (other terms having been completed).</p> <p>While on parole, he committed 2 further similar offences, and was sentenced to 5 yrs imp.</p> <p>Parole was revoked.</p>		<p>worst category of cases of armed robbery.</p> <p>At [47] The range of sentences commonly imposed from robbery after trial in 2000 was six to nine years' imprisonment, without taking mitigating and aggravating factors into account: <i>Miles v The Queen</i> (1997) 17 WAR 518.</p> <p>At [53] and [54] Unless again granted parole on the life sentence he faces the prospect of being in prison for the rest of his natural life. If an extension of time to appeal is not granted there would be significant prejudice to the appellant.</p> <p>At [70] At the time the appellant was sentenced in 2000 the pre-transitional sentencing regime applied. A sentence of 8 years' imprisonment imposed at that time is the equivalent of 5 years</p>
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				<p>and 4 months' imprisonment under the current law. Whilst count 7 was not more serious than the other counts on that indictment, to impose a sentence on that count that was wholly concurrent with the other sentences and produced a total effective sentence of 8 years would not be appropriate. Such a sentence would be manifestly inadequate. This suggests that some degree of accumulation is appropriate. However, any resentencing needs to take into account the different sentencing regime that now applies.</p> <p><u>Re-sentenced</u></p> <p><u>1999 indictment</u></p> <p>Ct 1: 5 yrs imp (cum) Cts 2-6: 5 yrs imp (conc) Ct 7 5 yrs imp (cum)</p> <p><u>2010 indictment:</u></p> <p>Ct 1: 5 yrs imp (conc)</p>
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					<p>Ct 2: 5 yrs imp (conc)</p> <p>2010 sentence cum upon 1999 sentence.</p> <p>TES 15 yrs EFP.</p>
6.	<p><i>Adams v The State of Western Australia</i></p> <p>[2014] WASCA 191</p> <p>Delivered 28/10/2014</p>	<p>44 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>No relevant criminal history.</p> <p>Parents separated when 3 yrs old; raised by his mother; very difficult upbringing.</p> <p>Previously married; long term relationship; no children.</p> <p>Former AFP, Customs and Immigration officer.</p>	<p><u>Indictment</u></p> <p>Deprivation of liberty x 1. Att armed robbery x 1. Armed robbery x 1. Fraud x 9. Attempted fraud x 9. Possess identification material w/i to commit an offence x 1.</p> <p><u>Section 32 Notice</u></p> <p>Stealing Commonwealth property x 1. Bringing stolen goods into State x 1. Stealing x 2. Poss prohibited weapon x 3. Poss controlled weapon x 1. Unlicensed ammunition x 1. Possess stolen or unlawfully obtained property x 2. Possess false number plates x 1.</p> <p>Sometime before the appellant left the AFP in 2006, he dishonestly appropriated a number of items belonging to his employer, including a police radio, a ballistic vest & a container of OC spray.</p> <p>Between 2006 and 2010 the appellant resided and was employed as a customs officer in Darwin. Whilst his neighbours were on holiday the appellant broke into their unit and stole property</p>	<p>TES 10 yrs imp.</p> <p>EFP.</p> <p>\$300 fine.</p> <p>Remorse; victim empathy; acceptance of responsibility.</p> <p>Sentencing judge described robberies and sexual offences as involving ‘a significant measure of premeditation, sexual motivation and planning’; described fraud as ‘deliberate, systematic and planned criminality over a significant period’.</p> <p>Low - moderate risk of re-offending in a sexual way; moderate – high risk of committing further</p>	<p>Allowed – Grounds 3 & 6.</p> <p><u>Section 32 notice</u></p> <p>Ct 1 varied – release after serving 7 mths of it on recognizance in the sum of \$10,000.</p> <p>At [8] It is very difficult, for the purposes of comparison in the context of the first limb of the totality principle, to identify any relevant total effective sentences imposed in previous cases. The nature, extent and diversity of the appellant’s overall offending, by a person with his antecedents, is very unusual. No previous case is truly comparable.</p> <p>At [61] The past, present and likely future conditions of the appellant’s</p>

			<p>and identification. The appellant subsequently transferred to Perth between November 2010 and January 2011 and took with him these items.</p> <p>In 2011 the appellant became an immigration officer. During this time he applied online for credit cards using the stolen identity details as well as incorrect information as to his employment, assets and liabilities. Some of the false information as to his employment came from documents he had accessed through his employment. The applications were approved. The appellant also attempted to apply for further credit cards but when asked for further documentation he did not proceed or did not collect the card.</p> <p>In 2011 the appellant stole a cheque from a letterbox and deposited into one of his false accounts, withdrew money from the credit account he had opened and stole cheques from a cheque deposit box at a bank and then deposited the cheque into an access account he had opened.</p> <p>In 2012 the appellant rented a self-storage unit and post office box under the false name and address previously stolen. The box was used as a mailing address for invoices for the rented storage unit and applications for bank accounts.</p> <p>In March 2012 the appellant received two parking infringements for failing to display an unexpired ticket. Affixed to the vehicle were registration plates from another vehicle. The purpose being he would avoid paying the parking fees.</p>	<p>dishonesty offences.</p>	<p>imprisonment, by reason of his status as a former police officer, were a relevant sentencing consideration that his Honour was bound to take into account.</p> <p>At [138] The appellant's overall offending was self-evidently very serious. It was varied and substantial. It involved deliberate, systematic and planned criminality executed with considerable sophistication... The appellant used the skills he had gained in the work he had undertaken in the banking and law enforcement sectors to commit the offences, and went to considerable lengths to avoid detention.</p> <p>Discussion on the scope of section 32 notices and Commonwealth offences.</p> <p>At [174] Ground 3 is capable of affecting the total effective sentence</p>
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			<p>On 30 March 2012 the victim, a 19 yr old Finnish national, was at a bus stop waiting for a bus. The appellant approached the victim, armed with a BB gun and demanded money. He forced the victim to a secluded location where he digitally penetrated her and performed cunnilingus. The victim tried to attempt to remove the handgun however the appellant produced a large black-handled knife from his backpack and threatened to slash her throat.</p> <p>One month later the appellant approached another female victim. He exposed a handgun tucked into his shorts. Terrified, the victim threw her handbag at the appellant and ran.</p> <p>A search warrant was executed on the appellant's house where police located 38 items of mail stolen by the appellant from addresses in Perth. A further search warrant was executed at the storage facility where nine items of stolen mail was located. Also found were unlicensed registration plates, weapons and unlicensed ammunition.</p>		<p>imposed by his Honour. However, having regard to all of the circumstances of the case and particularly to the seriousness of the appellant's overall offending and the need for deterrence, I would not impose a different sentence.</p>
5.	<p><i>Hill v The State of Western Australia</i></p> <p>[2014] WASCA 150</p> <p>Delivered 19/08/2014</p>	<p>28 yrs at time offending.</p> <p>Convicted after PG.</p> <p>Long and persistent history of serious offending including numerous convictions for burglary and stealing.</p> <p>Highly dysfunctional upbringing exposed to domestic violence, alcoholism and was provided substances to use.</p>	<p><u>Indictment</u></p> <p>Ct 1:Agg armed robbery. Ct 2:Agg armed robbery. Ct 3:Agg Armed robbery. Ct 4:Agg burg (residential). Ct 5:Agg burg (residential).</p> <p><u>Section 32</u> Breach of bail.</p>	<p><u>Indictment</u></p> <p>Ct 1: 4 yrs imp. Ct 2: 4 yrs imp (conc). Ct 3: 4 yrs imp (conc). Ct 4: 3 yrs imp (conc & cum). Ct 5: 3 yrs imp (conc & cum). <u>Section 32</u> 4 mths imp (cum).</p>	<p>Dismissed.</p> <p>At [62] In multiple offending of this kind, comparison with sentences imposed in other cases is difficult because of the very great variations in the number of possible offences and the possible combinations of offences.</p>

		<p>Long history of alcohol and illicit substances abuse.</p> <p>Four significant dysfunctional personal relationships; Father to one child.</p> <p>Unemployed.</p> <p>Failed to make any positive changes as a result of completing programs in prison.</p> <p>Poor record of compliance and completion of previous orders and parole; failure to engage in no-custodial treatment programs.</p>	<p><u>Indictment</u> The appellant, in company with four others were travelling on Tonkin Highway. On seeing a black Audi they decided to steal it and to steal from the Audi's passengers. When stopped at a red traffic light, the driver deliberately drove into the back of the Audi. Both vehicles pulled into a side street where the appellant and co-offender provided false personal details to the driver. The co-offender produced a crowbar and struck the side of the Audi. The offenders demanded money and stole the handbags of passengers. A co-offender then drove off in the Audi.</p> <p><u>Section 32</u> These two offences occurred two months after the agg armed robberies.</p> <p>The appellant and another broke into an unoccupied residence and stole property. They then went to another residence. The appellant acted as a lookout while the co-offender forced his way in. An elderly occupant heard the entry and confronted the co-offender. Both ran from the scene.</p> <p>The appellant breached his bail by not appearing before the Magistrates Court.</p>	<p>TES 7 yrs 4 mths imp.</p> <p>Made full admissions in ROI; co-operation with police was limited.</p> <p>Remorse and victim insight; acceptance of responsibility to some extent; minimised his level of responsibility.</p> <p>The sentencing judge was not satisfied that the appellant's prospects of rehabilitation were at all substantial.</p> <p>Moderate to high risk of violent re-offending and high risk of 'generalist re-offending'.</p>	<p>At [79] the appellant's prospects of rehabilitation through eligibility of parole were outweighed by the need for the protection of the community.</p> <p>At [85] Discussion about determining discount for co-operation.</p> <p>At [91] the offending in this case was very serious.</p>
4.	<p><i>Pilling v The State of Western Australia</i></p> <p>[2014] WASCA 146</p> <p>Delivered</p>	<p>30 yrs at time sentencing.</p> <p>Convicted after very late PG.</p> <p>Significant prior criminal history including burglary and stealing.</p> <p>Committed first of the present</p>	<p>s 392 <i>Criminal Code</i> armed robbery x 3. s 552, 392 <i>Criminal Code</i> att armed robbery x 1. s 392 <i>Criminal Code</i> agg armed robbery x 4.</p> <p>The appellant went on a crime spree in just over a three week period. Four of the offences were committed while the appellant was in company who either entered the premises or drove a</p>	<p>TES 10 yrs imp.</p> <p>EFP.</p> <p>Admitted committing several armed robberies although reluctant to provide</p>	<p>Dismissed – on papers.</p> <p>At [37] the sentencing judge's failure to quantify the s9AA discount was not a material error and did not invalidate the</p>

	12/08/2014	<p>offences less than two weeks after release from prison.</p> <p>Parents separated when 12 yrs old and caused marked instability in his life.</p> <p>Been intermittently in detention and prison since 13 yrs old.</p> <p>Did not perform well at school and was frequently truant.</p> <p>Illicit drug addiction.</p> <p>Suffers an antisocial personality disorder and borderline personality traits.</p> <p>Co-offender in relation to two of the offences Jason Hapke pleaded guilty and sentenced to 4 yrs 6 mths imp.</p>	<p>getaway car.</p> <p>The appellant entered small businesses including pharmacies disguising his face and head.</p> <p>The appellant made threats and demanded money, Sudafed or pseudoephedrine from staff whilst armed with either a screwdriver, small replica handgun or tyre lever.</p> <p>On fleeing the final armed robbery, police had obstructed the appellant's vehicle which stopped. He and his co-offender escaped. The appellant used a tyre lever to smash a window of the police vehicle and demanded the officer get out. His co-offender pointed a replica handgun at the officer through the window. The officer pulled his own firearm and pointed it at the co-offender. The co-offender was distracted by another officer who was approaching with his firearm drawn. The co-offender turned towards the other officer, pointed the replica gun at him and attempted to flee on foot. The appellant also attempted to flee. Both were apprehended by police.</p>	<p>details; committed offences to obtain money to fund his drug addiction.</p> <p>Little by way of mitigation.</p> <p>Sentencing judge concluded was a 'seasoned criminal' and had an 'unregulated and raging substance abuse problem'.</p> <p>Significant risk factors in relation to re-offending.</p>	<p>sentence imposed.</p> <p>At [44] A failure to order a pre-sentence report, psychiatric or psychological report does not in itself indicate any error in the sentence.</p> <p>At [45] It must be recognised that the mitigating effect of mental illness may be offset by other factors eg. where a particular condition or illness raises the risk of re-offending.</p>
3.	<p><i>Pryor v The State of Western Australia</i></p> <p>[2014] WASCA 143</p> <p>Delivered 06/08/2014</p>	<p>36 yrs at time offending and sentencing.</p> <p>Convicted after early PG.</p> <p>Extensive criminal record including breach of VRO, assault, AOBH, stalking, drug possession and burglary.</p> <p>Breached various community and suspended imprisonment orders.</p>	<p>Ct 1: Agg burg (dwelling). Ct 2: Steal MV. Ct 3: Agg burg (dwelling). Ct 4: Steal MV. Ct 5: Agg burg (dwelling). Ct 6: Agg armed robbery. Ct 7: Agg burg (place).</p> <p>The appellant went on a crime spree over an eight day period.</p> <p><u>Ct 1 & Ct 2:</u></p>	<p>Ct 1: 2 yrs imp. Ct 2: 3 yrs imp (conc). Ct 3: 3 yrs imp (conc). Ct 4: 1 yr imp (conc). Ct 5: 2 yrs imp (conc). Ct 6: 4 yrs imp. Ct 7: 1 yr imp (conc).</p> <p>Ct 1 cum on Ct 6.</p>	<p>Dismissed – on papers.</p> <p>At [27] The aggravated armed robbery committed by the appellant was a serious example of its type.</p> <p>At [32] Although the burglaries were not the most serious cases of their type, they were</p>

		<p>Unstable childhood.</p> <p>Father of 4 children from previous relationship; relationship was marred by domestic violence perpetrated by the appellant.</p> <p>Current partner is supportive of appellant.</p> <p>Entrenched substance abuse problem.</p> <p>Made efforts towards his reformation, however not successful.</p>	<p>The appellant entered the victim's house through an unsecured rear door. The victim was home but distracted. The appellant took a set of car keys, left the house and using the keys stole the victim's motor vehicle.</p> <p><u>Ct 3 & 4:</u> Five days later the appellant entered the victim's garage. The victim was home and busy with her 2 small children. The appellant saw the victim had left the keys in her motor vehicle to which he got in and started it. The victim heard this, ran to the garage and attempted to open the car door. The appellant drove away. During her efforts to stop the appellant the victim fell to the ground and grazed her left leg.</p> <p><u>Ct 5:</u> The appellant and another entered the victim's residence through an unsecured door. Inside they searched and located items to take. While committing the offence the victim arrived home. As a result, they fled the scene. No property was taken.</p> <p><u>Ct 6:</u> Early the next day the appellant and his accomplice drove to a service station in the stolen motor vehicle. Carrying a lighter and a plastic bottle which contained petrol, he approached the counter while his accomplice stole a bottle of soft drink. The appellant threatened set fire to the victim if he did not give him money. Fearing for his safety, the victim retreated to the office.</p> <p><u>Ct 7:</u></p>	<p>TES 6 yrs imp.</p> <p>EFP.</p> <p>Remorseful.</p> <p>Made full and frank admissions.</p> <p>Committed the offences in the context of a methyl binge.</p> <p>Sentencing judge noted that the only significant matter in mitigation was the plea of guilty.</p>	<p>serious enough.</p>
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			The appellant and his accomplice then drove to a business which was closed. The appellant used a brick to smash a glass door and the two entered. Inside they stole food and drink.		
2.	<p><i>The State of Western Australia v Walley</i></p> <p>[2014] WASCA 85</p> <p>Delivered 23/04/2014</p>	<p>31 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Criminal history including manslaughter.</p> <p>Exposed to violence in early childhood and during relationships with male sexual partners.</p> <p>Left school at 12 yrs old.</p> <p>Engaged in substance abuse and criminal behaviour in teenage yrs.</p> <p>Consumed methyl for some time.</p> <p>Mother of 5 children; do not reside with her.</p> <p>Respondent's 14 yr old daughter PG to agg robb and sentenced to 6 months YCBO.</p> <p>Charge against adult co-offender did not proceed because of identification issues.</p>	<p>Ct 1: Agg armed robbery. Ct 2: Unlawful wounding.</p> <p>The respondent attended the BWS liquor store in Palmyra with her 14 year old daughter and another adult female. The respondent was armed with a black handled knife with a 10 cm long serrated blade. She brandished the knife, approached an employee and threatened him with the knife.</p> <p>The employee backed away and the responded walked behind the service counter and picked up a bottle of bourbon and dropped it which caused it to smash.</p> <p>She picked up another bottle and was then approached by another employee who confronted and challenged her. The responded lunged at this employee with the knife, striking him underneath the shoulder blade. This caused a 1 cm deep penetration wound. He later attended hospital and the wound was sutured.</p> <p>After the knifing the two employees retreated. The respondent took more bottles of alcohol and placed them on the service counter. She then picked up several bottles and threw them at one of the employees. While the respondent was taking the bottles and throwing them, the respondent's adult female companion and the respondent's 14 year old daughter entered the store, took the</p>	<p>Ct 1: 2 yrs 6 mths imp. Ct 2: 12 mths imp (conc).</p> <p>TES 2 yrs 6 mths imp.</p> <p>EFP.</p> <p>Vague recollection of the offence due to intoxication.</p> <p>Remorseful although limited understanding of impact to victim.</p> <p>Moderate to high risk of re-offending in a violent manner.</p> <p>Admitted in PSR that she formed a plan with the others while drinking to commit the offence to obtain more alcohol.</p>	<p>Allowed.</p> <p>Re-sentenced to 4 yrs imp Ct 1.</p> <p>Respondent conceded appeal should be upheld.</p> <p>At [16] The sentencing judge's statement that the respondent did not have a history of serious violence is surprising in view of the conviction of manslaughter I which she used a knife and fatally stabbed her partner in a drunken argument.</p> <p>At [16] This was a serious case of aggravated armed robbery. The offending was not spontaneous and she armed herself with and was willing to use a knife.</p> <p>At [19] The sentence imposed for the robbery charge was manifestly</p>

			bottles of alcohol and ran.		inadequate and this had the result that the total sentence was manifestly inadequate.
1.	<p><i>Sinclair v The State of Western Australia</i></p> <p>[2014] WASCA 22</p> <p>Delivered 29/01/2014</p>	<p>18 yrs at time offending. 20 yrs at time sentencing.</p> <p>Ct 1: Convicted after Trial. Ct 2: Convicted after PG.</p> <p>Extensive criminal record; minor offences of dishonesty and public disorder and common assault.</p> <p>Parents separated prior to birth; father shown only intermittent interest in him; mother supportive of him.</p> <p>Diagnosed with ADHD at 8 yrs; untreated since 15 yrs.</p> <p>History of alcohol and substance abuse; efforts so far failed to rehabilitate him.</p> <p>Poor history of Children's Court order compliance.</p> <p>Co-offenders not apprehended and not dealt with.</p>	<p>Ct 1: Agg armed robbery. Ct 2: AOBH</p> <p>The appellant knew the victim and held a grudge against him.</p> <p>On the night of the incident the appellant was in company with his two co-offenders. The co-offenders had made an arrangement to meet the victim at a park for a drug transaction. When the appellant and co-offenders got to the park, the appellant recognised the victim.</p> <p>The appellant and co-offenders chased the victim. The co-offenders, who were armed, one with a screwdriver and the other a pole, intended to rob the victim. The appellant, who was armed with a brick and motivated by his grudge, intended to assault him. Each offender used their implements to rob and inflict serious injury on the victim. The appellant came to know his co-offenders were robbing the victim and assisted and encouraged them.</p> <p>The victim received lacerations to his face, a fractured nose and broken elbow. The appellant derived no benefit from the robbery.</p> <p>The sentencing judge was unable to make a finding attributing particular injuries to each offender; however found the appellant's assault 'undoubtedly' contributed to the injuries.</p>	<p>Ct 1: 3 yrs 11 mths imp. Ct 2: s11 no sentence.</p> <p>EFP.</p> <p>Limited remorse.</p> <p>ADHD was a contributor to the offending.</p> <p>Described by judge as 'a serious example of a serious offence'.</p> <p>Found criminal responsibility of appellant was less than his co-offenders although not vast.</p> <p>Moderate risk of future violent offending.</p>	<p>Allowed.</p> <p>Re-sentenced to 2 yrs 9 mths imp.</p> <p>At [32] ... a sentence of immediate imprisonment is imposed for an offence of armed robbery. A non-immediate custodial disposition is exceptional.</p> <p>At [48] [the judge]... having decided that the plea of guilty to count 2 merited some mitigation of the penalty on count 1, needed only to have taken it into account as part of the intuitive synthesis of all of the relevant circumstances of the case... His honour was not required to express the amount of any discount for this factor.</p>

Transitional Provisions Repealed (14/01/2009)

Transitional Provisions Enacted (31/08/2003)

Office of the Director of Public Prosecutions

Part B – Suspended custodial sentence upheld or imposed on appeal

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Transitional Provisions Enacted (31/08/2003)</i>					