

# Burglary

s 401 *Criminal Code*

**From 1 January 2021**

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.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

agg	aggravated
att	attempted
burg	burglary
conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
imp	imprisonment
PG	plead guilty
susp	suspended
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
5.	<p><b><i>Morrison v The State of Western Australia</i></b></p> <p><b>[2025] WASCA 132</b></p> <p>Delivered 21/08/2025</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>No criminal history.</p> <p>Born in SA; raised by grandparents in NT, and later by his aunt in WA; exposed to a culture of violence and alcohol.</p> <p>Received a limited education; functionally illiterate and innumerate; limited employment history.</p> <p>Does not consume alcohol regularly; has previously used cannabis.</p> <p>In a relationship.</p> <p>No physical or mental health issues.</p>	<p>Ct 1: Burg. Ct 2: Unlawful damage. Ct 3: Unlawful damage. Ct 4: Burg. Ct 5: Unlawful damage.</p> <p>In an intoxicated state, the appellant went to a shopping centre. The shopping centre was closed. The appellant forced entry into the shopping centre (ct 1), grabbed a fire extinguisher and used it to damage display windows of a jewellery store (cts 2 &amp;3).</p> <p>The appellant then used the fire extinguisher to force entry into a liquor store. While in the liquor store, he stole some cans of alcohol and some cigarettes (ct 4). He also destroyed 100 bottles of assorted alcohol (ct 5).</p> <p>The total cost of the clean-up and repairs was \$104,492.</p>	<p>Ct 1: 6 mths imp (cum). Ct 2: 1 yr 2 mths imp (conc). Ct 3: 1 yr 2 mths imp (conc). Ct 4: 9 mths imp (conc). Ct 5: 2 yrs imp (cum).</p> <p>TES: 2 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that the offending was not sophisticated in any way, and because of the time of the offending, there was little risk of injury to others.</p> <p>The sentencing judge found that the appellant was genuinely remorseful for his offending. The sentencing judge found that there was no evidence before him that enabled him to find that the appellant posed a low risk of future reoffending.</p>	<p>Appeal allowed.</p> <p>Appeal concerned an allegation that the sentencing judge erred in not finding that the appellant was a low risk of reoffending.</p> <p>Resentenced:</p> <p>Ct 1: 3 mths imp (conc). Ct 2: 1 yr imp (conc). Ct 3: 1 yr imp (conc). Ct 4: 6 mths imp (conc). Ct 5: 1 yr imp (conc).</p> <p>TES: 1 yr imp conditionally suspended for 12 mths.</p> <p>At [43] ‘whether or not defence counsel expressly submitted that the sentencing judge should find that the appellant posed a low risk of reoffending, the fact remains that his Honour addressed the question in his sentencing remarks.’</p> <p>At [44] ‘the fact that the question of the appellant’s risk of reoffending was mentioned indicates that his Honour understood that it was being submitted on the appellant’s behalf that he posed a low risk of reoffending, or, at least, that it was a matter that he should address. It is plain, from the portion of the sentencing remarks quoted above, that his Honour declined to make such a finding because, in his view, there was no reference to risk in the pre-sentence report and no psychological report available which might bear on the issue.’</p> <p>At [45] ‘with respect to the sentencing judge, the fact that there was no risk assessment by the author of the pre-sentence report, or by a psychologist, did not foreclose a finding that the appellant’s risk of reoffending was low. A sentencing judge may, depending upon the facts and circumstances of the particular case, assess for themselves whether or not an offender poses a risk of reoffending ...’</p> <p>At [47] ‘the material before the sentencing judge indicated that the appellant had led an essentially prosocial life up until the night in question, that he was shocked by his offending behaviour, and that he was taking steps to address it. His essentially prosocial character, including his ability to overcome his childhood deprivation, in our opinion, argued well for his rehabilitation. Had ... an assessment [of reoffending] been made, it would have been that the appellant was a low risk of reoffending ... Had his Honour found, as he should have, that the appellant was a low risk of reoffending, this would have at least moderated the need for personal deterrence, a matter clearly material to the question of whether to suspend the term of imprisonment imposed.’</p>

					At [48] ‘ground 2 has been made out. As the error was material to the exercise of the sentencing discretion in this case, this court’s discretion to resentence the appellant was enlivened.’
4.	<p><b><i>Mansfield v The State of Western Australia</i></b></p> <p><b>[2025] WASCA 110</b></p> <p>Delivered 18/07/2025</p>	<p>20 yrs at time offending. 21 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Lengthy criminal history; traffic, minor drug and dishonesty offences; on bail at time of offending.</p> <p>Parents separated at 2 yrs of age; no contact with father; suffered considerable abuse from mother’s subsequent partners.</p> <p>Struggled at school; left at the end of year 9; intermittent history of work.</p> <p>In a long-term relationship; one child; supportive drug-free partner.</p> <p>Diagnosed ADHD; stopped using medication.</p> <p>Used cannabis, alcohol and methylamphetamine as a teenager; daily user of methylamphetamine at time offending.</p>	<p>Ct 1: Burg. Ct 2: Agg stealing.</p> <p><u>Other offending dealt with in Magistrates Court</u></p> <p>BU 1775-76/24: Fraud. BU 5905/23: Burg. BU 5906/23: Stealing. BU 5474/24 Agg poss firearm.</p> <p>On the afternoon of the offending, the appellant parked a ute near the side fence of a rural property. He had borrowed the ute from his partner’s father and had removed the registration plates.</p> <p>The appellant jumped the fence to enter the property; he was wearing gloves, a beanie, and a mask that covered most of his face.</p> <p>The appellant used a metal jemmy bar to force open a rear sliding door of the house and went inside. He stole a set of keys from the kitchen and rummaged through drawers in the spare room and main bedroom (ct 1).</p> <p>In the study, there was a metal safe measuring 100 cm by 40 cm. The safe contained six 1 kg silver ingots and 63-68 g of gold nuggets. The total value of the safe was \$62,371.</p> <p>The appellant loaded the safe into the</p>	<p>Ct 1: 3 yrs imp. Ct 2: 12 mths imp (conc).</p> <p>TES: 3 yrs imp.</p> <p><u>Other offending dealt with in Magistrates Court</u></p> <p>BU 1775-76/24: Fraud. BU 5905/23: Burg. BU 5906/23: Stealing. BU 5474/24 Agg poss firearm.</p> <p>TES: 7 mths imp (conc).</p> <p>The sentencing did not accept that the appellant had stopped taking his ADHD medication because it was more expensive than illicit drugs. This reduced the mitigatory weight that would otherwise be given to the fact that the appellant’s ADHD affected his impulse control.</p> <p>The sentencing judge was unable to make a finding that the appellant was remorseful.</p> <p>Post-sentencing the appellant had made positive steps towards rehabilitation.</p>	<p>Appeal allowed (leave refused ground 3).</p> <p>Appeal concerned the imposition of a sentence for ct 2, where the factual and legal elements of the charge were also part of the elements of ct 1, ground 3 concerned the length of sentence imposed on ct 1.</p> <p>Resentenced:</p> <p>Ct 1: 2 yrs 6 mths imp. Ct 2: No penalty.</p> <p>BU 1775-76/24: 3 mths imp (conc) BU 5905/23: 6 mths imp (cum) BU 5906/23: No penalty (conc) BU 5474/24 6 mths imp (conc)</p> <p>TES: 3 yrs imp.</p> <p>At [25] ‘the sentencing judge ordered that the sentence for the stealing offence be served concurrently with the sentence for the home burglary offence. There was no impact on the total effective sentence... As no distinct additional evidence was required to establish the commission of count 2, her Honour was required to impose no penalty in relation to count 2.’</p> <p>At [49] ‘there was clearly an element of planning involved. The appellant had taken the registration plates off the ute before driving it to the home. He wore gloves to minimise the chance of leaving fingerprints or DNA at the scene. He wore a beanie and a mask covering most of his face in an attempt to hide his identity.’</p> <p>At [51] ‘at the time of committing the offences, the appellant was on bail for the Bunnings burglary [BU 5905/23].’</p> <p>At [83] ‘there are some significant mitigating factors. In particular, the appellant’s youth and his pleas of guilty.’</p>

			<p>tray of the ute and drove away (ct 2). The appellant was also charged with fraud, for selling some of the ingots. \$50,056 worth of property was never recovered.</p>		<p>At [84] ‘in our view, despite the mitigating circumstances, a term of immediate imprisonment is the only option open’</p> <p>At [86] ‘had we been sentencing the appellant on the material available to the sentencing judge, we would have imposed the same sentence as her Honour did. However, the new material has caused us to consider that a lower sentence should be imposed. In particular, the appellant has taken significant steps towards rehabilitating himself. He will also be able to live with his grandparents in Perth, away from his previous associates, on his release from prison. We would assess the need for personal deterrence, and the appellant’s risk of re-offending, as lower than it was at the time he was sentenced in the District Court.’</p> <p>At [98] ‘it is clear that the sentences imposed by the sentencing magistrate were made entirely concurrent with the District Court sentences due to the totality principle. Therefore, we have considered whether we should interfere with the sentences imposed for the Magistrates Court offences in light of the reduced sentence we would impose for the home burglary.’</p> <p>At [99] ‘we have concluded that we should.’</p> <p>At [101] ‘like the home burglary the subject of the appeal, the Bunnings burglary was pre-planned. It could not be attributed to, or explained by, the impulsivity of youth or the appellant’s ADHD.’</p> <p>At [102] ‘similarly, the fraud offences, involving the sale of property stolen in the home burglary, cannot be attributed to impulsivity.’</p> <p>At [103] ‘as to the firearm offence, the sentence of 4 months’ imprisonment was lenient. The offence was the possession of a firearm without a licence or permit to do so, in two circumstances of aggravation. First, the firearm’s serial number had been removed. Secondly, the firearm had been altered – its barrel had been shortened. Shortening the barrel would make it easier to conceal ...’</p> <p>At [104] ‘having imposed a lower sentence than the sentencing judge for the home burglary, we consider that the totality principle does not require that all of the sentences imposed for the Magistrates Court offences be entirely concurrent with the home burglary sentence. Further, the Bunnings burglary and the firearm offence were entirely unrelated to the home burglary.’</p>
3.	<p><b><i>Kiddie v The State of Western Australia</i></b></p> <p><b>[2025] WASCA 107</b></p>	<p>36 yrs at time offending. 38 yrs at time sentencing.</p> <p>Convicted after PG (10% discount).</p> <p>Extensive criminal history: armed</p>	<p>Ct 1: Burg. Ct 2: SMV. Ct 3: Att agg armed robbery. Ct 6: Armed robbery. Ct 8: SMV. Ct 10: Armed robbery.</p>	<p>Ct 1: 3 yrs imp (HS). Ct 2: 18 mths imp (conc). Ct 3: 3 yrs imp (cum). Ct 6: 3 yrs imp (cum). Ct 8: 10 mths imp (conc). Ct 10: 3 yrs imp (cum).</p>	<p>Appeal allowed.</p> <p>Appeal concerned the facts taken into account by the sentencing judge and the first limb of the totality principle.</p> <p>Resentenced:</p>

	<p>Delivered 18/07/2025</p>	<p>robbery and agg robbery; repeat offender for home burglaries.</p> <p>Born in the UK; moved to Australia at 10 years old.</p> <p>Traumatic childhood; subjected to sexual abuse by a family member.</p> <p>Anxiety.</p>	<p>The appellant committed the crimes nine days after his release from custody.</p> <p><u>Cts 1 and 2</u></p> <p>The appellant broke a window to get into an unoccupied house (ct 1). He took various items, including the keys to a Nissan Pulsar parked outside the house. He then used the keys to steal the vehicle (ct 2).</p> <p><u>Ct 3</u></p> <p>On the same day as cts 1 and 2, the appellant approached an 81-year-old woman who had just withdrawn \$300 from an ATM. He told the victim he had a screwdriver and demanded she give him the cash she had withdrawn. The victim's 76-year-old husband then confronted the appellant, and the appellant threatened him as well. The husband stepped back, and the appellant fled.</p> <p><u>Ct 6</u></p> <p>Hours after committing ct 3, the appellant approached the manager of fast-food store and threatened him with a knife. The appellant demanded that the victim drive him to an ATM so that the victim could withdraw all of his money. The victim withdrew \$600 and was told to drive the appellant back to the fast-food store. During the drive, the appellant told the victim to hand over his wallet — which he did.</p> <p><u>Ct 8</u></p> <p>A week after cts 1,2,3 and 6, the appellant — whilst on bail — stole a Volkswagen Polo that was parked outside a community centre.</p> <p><u>Ct 10</u></p>	<p>TES: 12 yrs imp.</p> <p>EFP.</p> <p>When summarising the offending the subject of ct 10, the sentencing judge referred to factual matters which were the subject of a discontinued count.</p> <p>The sentencing judge found that the offending was serious. The robberies were calculated and planned, and the appellant deliberately targeted vulnerable people at night.</p> <p>The sentencing judge found that the appellant remained a significant risk to the community, and was not satisfied that the appellant was remorseful.</p>	<p>Ct 1: 3 yrs imp (conc). Ct 2: 18 mths imp (conc). Ct 3: 3 yrs imp (HS). Ct 6: 3 yrs imp (cum). Ct 8: 10 mths imp (conc). Ct 10: 3 yrs imp (cum).</p> <p>TES: 9 yrs imp.</p> <p>EFP.</p> <p>At [72] ‘... we accept the appellant’s submission that the sentencing judge’s phrasing “You ... used <i>not only the threat of violence, but actual violence</i>, insofar as the swinging of the plate goes” demonstrated that his Honour considered that the use of the number plate made count 10 more serious. In effect, his Honour was placing count 10 into a different and more serious category of offending on the basis that actual violence was used, notwithstanding that that actual violence related to a different armed robbery charge that had been discontinued.’</p> <p>At [75] ‘in our view, the error was capable of affecting the sentencing judge’s assessment of the seriousness of count 10, and was therefore capable of affecting the sentence. Accordingly, we are satisfied that the error was material.’</p> <p>At [81] ‘the sentencing judge rightly found that, other than the stealing offences, the offending was serious.’</p> <p>At [88] ‘the robbery offences and the attempted robbery were particularly serious. The appellant deliberately targeted vulnerable people at night. He threatened one victim with a screwdriver and the others with a knife. The victim of count 3 was 81 years old. The robbery the subject of count 6 was persistent and prolonged. The appellant threatened to kill the victim and his family if the victim reported it to the police before the morning and made it clear to the victim that he knew where the victim lived.’</p> <p>At [116] ‘it is difficult to compare the appellant’s total effective sentence to the total effective sentences imposed in other cases, because of the inevitable differences in the factual circumstances, personal circumstances, and the combination of offences in each case. Nevertheless, the court must try to ensure a broad consistency in sentencing. Having reviewed the cases cited by the parties, we are satisfied that the total effective sentence imposed on the appellant was not broadly consistent with the total effective sentences imposed in other cases.’</p>
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			On the same day as ct 8, the appellant approached a woman who had just withdrawn money from an ATM. The appellant told her to withdraw money from an ATM, under threat of cutting her with a knife.		At [117] ‘the appellant’s offending was undoubtedly serious, for the reasons identified by the sentencing judge. Nevertheless, we are satisfied that the total effective sentence imposed by the sentencing judge was disproportionate to the total criminality, having regard to the circumstances of the offending, the appellant’s personal circumstances and pleas of guilty, and sentencing standards. Therefore, it infringed the first limb of the totality principle.’
2.	<b><i>HVA v The State of Western Australia</i></b>  <b>[2024] WASCA 156</b>  Delivered 12/12/2024	Early 40s at time sentencing.  Convicted after PG (20% discount).  Extensive criminal history; traffic, property, nuisance, weapons poss and drug-related offences; repeat offender (home burglaries).  Youngest of three children; difficult childhood due to father’s violence and alcoholism.  Expelled from school in yr 10.  Worked intermittently; mainly unemployed or in prison.  Two children; intermittent contact with eldest child.  Diagnosed ADHD, depression and anxiety.  Cannabis use since 12 yrs old; methyl use since 13 yrs old; heavy user of methyl.	Ct 1: Burg. Ct 2: Poss methyl wiss 325.4 g at 74–81% purity. Ct 3: Poss unlawfully obtained property \$6,100. Ct 4: Poss methyl wiss 32.5 g.  <u>Ct 1</u>  The appellant drove a co-offender to the victim’s home and parked outside the front gate of the house. A short time later, the co-offender entered the property and stole more than \$10,000 worth of assorted items while inside.  <u>Ct 2 &amp; 3</u>  The co-offender then exited the house and got into the car driven by the appellant, who drove to a unit. The appellant retrieved a black Rip Curl bag from the boot of the car. The appellant then parked the car inside a garage at the unit. A short time later, police conducted a SW at the unit. Police located 325.4 g of methyl and \$6,100 inside the Rip Curl bag.  <u>Ct 4</u>  About six weeks later, police executed a search warrant at the appellant’s unit. Police located a clip-seal bag containing 32.5 g of methyl.	Ct 1: 2 yrs imp (cum). Ct 2: 6 yrs imp (HS). Ct 3: 8 mths imp (conc). Ct 4: 1 yr imp (cum).  TES: 9 yrs.  EFP.  The sentencing judge found that the appellant was a significant drug dealer who did not occupy a minor position in the hierarchy of drug dealing.  The sentencing judge accepted that the appellant was genuinely remorseful, as evidenced by his attendance at counselling.	Appeal dismissed (leave refused).  Appeal concerned length of sentence imposed on ct 2 and first limb of totality principle.  At [33] ‘in the present case the appellant was conducting a commercial drug operation from which he was found to have derived a substantial amount of money. For the purposes of that operation he was in possession of 325.4 g of methylamphetamine – over 11 times the threshold for a trafficable quantity of 28 g of methylamphetamine. The appellant had previously been sentenced to significant terms of immediate imprisonment in 2017 and 2021 for drug related offences. The offending the subject of count 2 was committed only shortly after the appellant’s release from prison ... Even having regard to the appellant’s early pleas of guilty, remorse and other mitigating factors which the record indicated the sentencing judge took into account, the sentence of 6 yrs imprisonment imposed for ct 2 cannot be regarded as unreasonable or plainly unjust ...’  At [34] ‘... although the offences charged in counts 1-3 were committed on the same day, the home burglary offence was separate to the offending charged in counts 2 and 3. The offending charged in count 4 involved a continuation of the appellant’s commercial drug dealing operation even after he had been released on bail for previous offending. At least some degree of accumulation of the appropriate individual sentences for counts 1, 2 and 4 was required to reflect the overall criminality involved in all of the appellant’s offending.’  At [35] ‘... having regard to ... [all relevant factors] a total effective sentence of 9 years’ imprisonment was not unreasonable or plainly unjust.’
1.	<b><i>Brooks v The State of Western Australia</i></b>  <b>[2021] WASCA 156</b>	39 yrs at time sentencing.  <u>Indictment -Supreme</u> Convicted after trial.  <u>Magistrates Court</u>	<u>Indictment -Supreme</u> Ct 1: Agg armed robbery. Ct 2: Armed so as to cause terror.  <u>Magistrate Court</u> Offending comprised 19 offences on	<u>Indictment - Supreme</u> Ct 1: 4 yrs 4 mths imp (cum). Ct 2: 9 mths imp (cum).  TES 5 yrs 1 mth imp (cum on sentence imposed by Supreme Court).	Dismissed (leave refused) – on papers.  <u>Indictment - Supreme</u> Appeal concerned length of sentence and totality principle.  <u>Magistrate Court</u>

	<p>Delivered 03/09/2021</p>	<p>Convicted after PG (20% discount).</p> <p><u>Indictment - District</u> Convicted after late PG (15% discount).</p> <p>Lengthy criminal history; including interstate offending.</p> <p>Traumatic childhood; experienced death of older sister when he was aged 6 yrs; mother a yr later.</p> <p>Lived with physically violent grandmother; subsequently lived with his father who was physically and emotionally abusive.</p> <p>Left school aged 13 yrs; commenced using drugs.</p> <p>Left home aged 15 yrs; reconciled with his family aged 28 yrs.</p> <p>Inconsistent early employment history; trade work late twenties; self-employed roof plumber early thirties.</p> <p>2 yr relationship at time offending; young son together; partner history of substance abuse and offending behaviour, reported to have made significant positive changes in her lifestyle; partner and her parents supportive.</p> <p>Severe symptoms of anxiety, depression and stress; diagnosed with PTSD.</p> <p>Entrenched drug use.</p>	<p>various dates, including breaches of bail, unlicensed possession of a firearm, no authority to drive, trespass, burglary and stealing.</p> <p>Magistrate Court appeal commenced in Supreme Court referred to Court of Appeal.</p> <p><u>Indictment – District</u> Cts 1 &amp; 3: Criminal damage. Cts 2 &amp; 4: Stealing. Cts 5-6: Poss stolen or unlawfully obtained property. Ct 7: Escaping lawful custody. Cts 8 &amp; 12: Robbery. Ct 9: Aiding a person to escape lawful custody. Ct 10: Assault public officer. Ct 11: Assault with intent to rob. Ct 13: Burglary. Ct 14: Agg Burglary. Ct 15: Steal motor vehicle.</p> <p><u>Indictment – Supreme Court</u> Brooks and a co-offender decided to rob a newsagency. With their faces covered and each carrying a knife they rushed into the newsagency.</p> <p>The co-offender shouted at the woman working behind the counter to give him money. When the co-offender went behind the counter the woman picked up a cricket bat, so he pushed the woman with force, causing her to fall on the floor. He put the knife near her neck and repeated his demand for money.</p> <p>The woman's daughter heard her mother's screams and began to telephone the police. Brooks screamed at her to put the phone away and pointed his knife at her, telling her that he would stab her.</p> <p>The co-offender grabbed the till drawer and took about \$450 in cash before</p>	<p>EFP.</p> <p><u>Magistrate Court</u> TES 1 yr 3 mths imp. EFP.</p> <p><u>Indictment - District</u> Ct 1: 6 mths imp (conc). Ct 2: 12 mths imp (conc). Ct 3: 15 mths imp (conc). Ct 4: 15 mths imp (conc). Ct 5: 6 mths imp (conc). Ct 6: 12 mths imp (conc). Ct 7: 12 mths imp (conc) (no EFP). Ct 8: 14 mths imp (cum on Supreme Court and Magistrates Court sentences). Ct 9: 6 mths imp (conc). Ct 10: 3 mths imp (conc). Ct 11: 3 mths imp (cum). Ct 12: 21 mths imp (cum). Ct 13: 15 mths imp (conc). Ct 14: 2 yrs imp (conc). Ct 15: 9 mths imp (conc).</p> <p>Sentenced in the Supreme Court, District Court and the Magistrates Court for a total of 36 offences. The most serious offences, were committed in a period of about three wks. The result of the three sentencing exercises:</p> <p>TES 9 yrs 6 mths imp. EFP.</p> <p><u>Indictment - Supreme</u> The trial judge found the armed robbery objectively very serious; the offence was planned; both offenders were armed and disguised; they chose a vulnerable target and threatened two vulnerable women, both shouting and screaming.</p> <p>The trial judge took into account time spent by the appellant on remand for the murder charge and time already spent in protective custody, and would in the future serve, for the current offending.</p> <p>Letter of apology tendered; otherwise no demonstrated genuine remorse; not at a low risk of reoffending; reasonable prospects of</p>	<p>Appeal concerned totality principles and error (allowing summary charges to not be dealt with by superior court).</p> <p><u>Indictment - District</u> Appeal concern error in cum sentences; totality principle (crushing effect of accumulated sentences from different jurisdictions) and error (plea discount).</p> <p>At [54] The Supreme Court judge was called upon to sentence the appellant only for two offences: ... It was well open to her Honour to order a degree of accumulation between [the] two offences, bearing in mind that they involved distinct criminality and had different victims.</p> <p>At [56] What occurred in the District Court, mths after the Supreme Court judge imposed sentence, does not (and cannot) provide any basis to allege an infringement of either limb of the totality principle by the Supreme Court judge's sentence. ...</p> <p>At [83] ... we are satisfied that there is no reason to suppose that, had the summary offences, and the indictable offences all been dealt with together, the overall disposition would have been any more favourable from the appellant's perspective. ... the sentencing judge in the District Court was acutely aware of, and carefully weighed, the sentences that had already been imposed ... in determining what sentences should be imposed for the offences dealt with in the District Court.</p> <p>At [87]-[88] In our view, the appellant's offending conduct that was the subject of his sentence in the Magistrates Court was of a nature and extent that demanded a sentence that was cum on the sentence in the Supreme Court to a not insubstantial extent. ... Not is it reasonably arguable that the sentences imposed by the Chief Magistrate produced a result that was, in the relevant sense, crushing, so as to infringe the second limb of the totality principle. ...</p> <p>At [117]-[119] The appellant was sentenced in the District Court for 15 offences. Several of them involved appalling offending that would have terrified or endangered members of the public. Further, [he] used violence to escape from legal custody. ... the appellant's offending the subject of cts 7 – 12 of itself would ordinarily have justified and required a TES substantially higher than the TES ... imposed ... in the District Court. As the judge observed, cts 11 and 12 were each very serious offences in which the appellant used violence towards entirely innocent members of the public in an att to steal their cars, the second att of which was successful. ... Other elements of the appellant's offending were also serious. ... the two home burglaries, ... were both serious offences warranting substantial terms of imp.</p> <p>At [126] ... the [District Court] judge did not err in failing to award a 25% discount for the appellant's PG. Indeed, it was not open to the</p>
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			<p>running. Brooks pushed the daughter off balance and followed.</p> <p>When Brooks was chased by two men, he stopped and threatened one of them with his knife.</p> <p>Brooks hid some items of clothing in an att to avoid being caught. He was arrested some wks later. He denied any involvement in the offence.</p> <p><u>Indictment – District Court</u>  Brooks drove a stolen truck up to the double gates of a business. After trying to break the padlock to the gates with bolt cutters, he att to smash through them with the truck. The gates and the linked chain fence were extensively damaged (ct 1).</p> <p>Brooks drove a stolen truck to the entry of a business. After cutting the lock to a gate he drove to a parked caravan valued at \$45,000 and hitched the caravan to the back of his vehicle. As he drove away the chain snapped, so he left, leaving the caravan behind (ct 2).</p> <p>At a car wash Brooks, driving the same stolen truck, reversed at speed into two industrial vacuum units causing \$29,358.20 in damage. He and his male passenger then att unsuccessfully to take one of the units. They left and returned a short time later with a chisel and hammer, which they used to separate one of the units from its base. They then carried it to the truck and left (cts 3 and 4).</p> <p>During a burglary, a dinghy, boat trailer, boat engine and a fuel jerry can were stolen.</p> <p>Brooks arranged to store a boat at a rural property. The owner agreed and a short time later he attended the property with a boat, a boat motor and fuel jerry</p>	<p>rehabilitation; steps taken to become a better father while on remand.</p> <p><u>Indictment – District</u>  The sentencing judge found the appellant’s offending the subject of cts 1-4 serious and premeditated acts of dishonesty; it would have been a terrifying experience for the victims of cts 11 and 12, were ordinary members of the community going about their daily business; the offending necessitated a sentence that sufficiently denounced the appellant’s conduct and provided appropriate personal and general deterrence.</p>	<p>judge to have done so.</p>
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			<p>can.</p> <p>Some wks later a stealing offence occurred. The stolen items included a bobcat and trailer. The bobcat was fitted with a GPS tracking device. The same day Brooks attended the same rural property with the stolen bobcat to store it at the property. The bobcat was tracked to its location and police were alerted. A search of the property located the stolen bobcat (cts 5 and 6).</p> <p>Brooks was apprehended in connection with an armed robbery (the Supreme Court offence). He was conveyed to a police station and detained. His partner was also held in the same detention area. The two shouted at each other and became increasingly agitated. When an officer opened his cell door he grabbed the officer and during a struggle took the officer's swipe card. After freeing his partner he ran away (cts 7-10).</p> <p>After fleeing custody Brooks ran in front of a vehicle, opened the driver's door, grabbed hold of the driver and tried to forcibly remove her from the car. Fearing for herself and her passenger she accelerated away (ct 11).</p> <p>Brooks then got in the passenger seat of a stationary vehicle. He shouted at the driver to go and, fearing for his safety, he complied. He ignored the driver's request to get out and became more agitated. At a red light he told the driver to get out, which he did. Brooks threatened the driver if he called the police. The vehicle was later found extensively damaged (ct 12).</p> <p>Brooks gained entry to a home by smashing a sliding door. He cut the phone line and searched a bedroom. He left the premises by forcing open a rear window. No items were stolen (ct 13).</p>		
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			On the same day Brooks broke into a different residence. The occupants were home at the time. Manipulating a locked door he entered the premises and stole an iPhone, a laptop and the keys to a vehicle. Using the car keys he stole the occupants vehicle. He was later seen by police driving the vehicle and failed to stop when requested to do so, leading to a police pursuit (cts 14-15).		
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