

## Courts told to get tough on burglars

The country's most senior judge has ordered courts to hand out tough jail terms for burglars because the home should be our "safest refuge".

By Tom Whitehead, Home Affairs Editor  
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Burglars guilty of aggravating factors such as stealing sentimental items, preying on the elderly or breaking in while the occupiers are at home should be given a prison term, the Lord Chief Justice said.

But Lord Judge still risked criticism after also ruling that first time offenders, especially youths, may be better dealt with by a community sentence to help their rehabilitation.

In new, strongly worded guidance, he demanded courts be more consistent in sentencing and recognise the trauma and impact on the victim, no matter how little is stolen.

He warned some victims, such as the elderly and infirm, have their "last years overshadowed" as "happy memories of bygone years" are destroyed and they become prisoners in their own home.

Last year, just before taking over as the top judge in England and Wales, Lord Judge earned praise when he called for tougher penalties for knife offenders after warning the crimes had reached "epidemic proportions".

He has now turned his ire on burglary as he, with two other senior judges, threw out six appeals against sentence by adult burglars.

In a general ruling, he said: "The principle which must be grasped is that when we speak of dwelling house burglary we are considering not only an offence against



Lord Judge said: "Those who carry knives on the streets, and use them to wound and injure, must expect severe punishment" Photo: PA

property, which it is, but also, and often more alarmingly and distressingly, an offence against the person.

"There is a longstanding, almost intuitive belief that our homes should be our castles.

"The concept suggests impregnability and defiance against intrusion."

He quoted a near 400 year old phrase that the home should be our "safest refuge" and said burglary, by any starting point, is a "serious criminal offence".

Courts have been accused of going soft on burglars and of the 23,549 sentenced in 2007, just 9,237 - or 40 per cent - receive a jail term, while one in six caught receive a caution. During 2007/08, police recorded 280,000 domestic burglaries.

The judgment by Lord Judge, Lord Justice Latham and Lord Justice Hughes centred on individual sentence appeals brought by six adult defendants convicted of burglary of occupied premises - all of which were rejected.

The cases were dealt with together to enable the appeal judges to provide guidelines for courts on sentencing, with the aim of achieving "consistency of approach" in light of misunderstandings of the effect of the existing guidelines.

In one of the appeal cases rejected by the judges, heroin addict Rebecca Saw, and her then boyfriend, broke into a home of a young couple and baby in Boston, Lincolnshire, while they were asleep.

The couple awoke and the pair but not before stealing the family car - and a scan photograph of the baby in the womb.

The mother was so traumatised she suffered panic attacks, fearing for her baby's safety, and had to move in with her own mother before the family eventually had to move out permanently.

Saw was jailed for two years but there was insufficient evidence to charge him, the court ruling said.

The judges published a list of aggravating factors, which if present, the court should always take in to account when sentencing and a custodial term is expected, ranging from nine to 18 months for the least serious to up to four years for those resulting in a more serious impact.

The judges also reminded courts that offenders guilty of their third burglary should be handed a minimum three years.

Emphasis was placed by the judges on the impact on the victims of house burglaries and that some items, such as family photos, may have little monetary value but significant sentimental value and are irreplaceable.

"The loss or destruction of letters written in the early days of courtship may distress the widow or widower who has lost them far more than the disappearance of valuable electrical equipment," said Lord Judge.

He said the last years of the elderly and infirm could be "overshadowed by what sometimes becomes an ever present, pervading fear and constant nervousness".

And added: "Many warm and happy memories of bygone years can be destroyed as a direct consequence of burglary and for some indeed their home becomes something of a prison, as they barricade themselves behind the security arrangements they believe they need."

In conclusion, he said: "Overall, and in the end, the sentence must reflect the offender's criminality in the context of the particular dwelling house burglary or burglaries he has committed, with appropriate allowances made for all the available mitigation."

"In expressing ourselves in this way, what we are seeking in this judgment to achieve is consistency of approach in which the starting point for every court considering dwelling house burglary involves clear recognition of the seriousness of this offence, no more, no less."

The Sentencing Guidelines Council, which issues advice to courts, immediately issued a revised note to include the Lord Chief Justice's ruling.

Here is the list of the aggravating factors, the presence of any one of which should result in the burglar being jailed, the Lord Chief Justice ruled.

He stressed the list is not exhaustive.

- :: Force used on, or threatened against, the victim, and especially if physical injury is caused.
  - :: Trauma to the victim beyond the normal inevitable consequence of intrusion and theft.
  - :: Pre-meditation and professional planning/organisation in the execution; this may be indicated by burglars working in a group or when housebreaking implements are carried.
  - :: Vandalism of the premises.
  - :: Deliberate targeting of any vulnerable victim (including cases of 'deception' or 'distraction' of the elderly).
  - :: Deliberate targeting of any victim, for example out of spite or upon racial grounds.
  - :: The particular vulnerability of the victim, whether targeted as such or not.
  - :: The presence of the occupier at home, whether the burglary is by day or by night.
  - :: Theft of or damage to property of high economic or sentimental value.
  - :: Offence committed on bail or shortly after the imposition of a non-custodial sentence.
  - :: Two or more burglaries of homes rather than for a single offence.
  - :: If the offender has previous convictions for similar dishonesty.
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