

# **Possess methylamphetamine/amphetamine with intent to sell or supply**

s 6(1)(a) *Misuse of Drugs Act*

**Prior to 1 January 2014**

**Transitional Sentencing Provisions:** Each of the two tables is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period (after 14/01/09)
- Transitional provisions period (31/08/03 to 14/01/09)
- Pre-transitional provisions period (before 31/08/03)

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

conc	concurrent
cum	cumulative
EFP	eligible for parole
imp	imprisonment
methyl	methylamphetamine
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
PG	plead guilty
susp	suspended
TES	total effective sentence
UCO	undercover officer
wiss	with intent to sell or supply
SIO	suspended imprisonment order
att	attempt
TOI	trial of issues
VRO	violence restraining order
CBO	community based order

## Weight of methyl/amphetamine: above 65 grams

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
95.	<i>Formica v The State of Western Australia</i>  [2013] WASCA 237  Delivered 15/10/2013	26 yrs at time sentencing.  Convicted after PG – 25% discount.  Criminal record.  Completed year 12; worked in various security positions; unemployed since 2009.  Began using methyl at 18 yrs; ceased using after 12 mths but relapsed.  In relationship with supportive partner.	<u>Indictment</u> Ct 1: Sold methyl 55g between 52%-64 purity. Ct 2: Poss methyl wiss 28g at 60%.  <u>Section 32</u> Ch 1: Possess or using a prohibited drug. Ch 2: Possess or using a prohibited drug. Ch 3: Poss smoking utensil. Ch 4: Poss ammunition w/o licence or permit.  <u>Ct 1:</u> The appellant met an associate at a carpark in Nornada. The appellant got into the associate's vehicle where he sold him 55 grams of methyl for \$25,000. The methyl was in 2 packages.  <u>Ct 2:</u> Police executed a search warrant at the appellant's home where they found a clip seal bag containing methyl concealed in the backyard of the house.  <u>Section 32</u> In the course of the search of the appellant's house police found 4 clipseal bags containing methyl totalling 0.2g. Police also found 1g of cannabis. Two glass smoking implements containing traces of methyl were found as was a single round of .22 calibre ammunition.	<u>Indictment</u> Ct 1: 3 yrs imp. Ct 2: 2 yrs imp (cum).  Section 32 Ch 1: 2 mths imp (conc). Ch 2: 1 mth imp (conc). Ch 3: 1 mth imp (conc). Ch 4: \$500 fine.  TES 5 yrs imp.  EFP.  Sentencing judge commented that appellant was more than a street level dealer and was higher up in the chain of distribution in what was effectively a commercial operation.  Involvement was, at least in part, for the purpose of paying drug debts.	Dismissed – on papers.  At [26] The fact that his involvement was apparently, at least in part, for the purpose of paying drug debts does not alter the fact that he was involved in commercial drug trafficking.
94.	<i>Ruginovski v The State of Western Australia</i>  [2013] WASCA 204	28 yrs at time sentencing.  Convicted after trial.  Criminal record including minor drug possession.	1 x Conspiracy to sell/ supply prohibited drug (Methyl) 1.252 kg at 68-70 % purity.  The appellant and his co-offender are father (Vlado) and son (Ivan).  Vlado was involved in planning 4 shipments of	8 yrs imp.  EFP.  Sentencing judge noted that offending involved a very substantial quantity	Dismissed – on papers.  At [42] This is not an isolated act by men of otherwise good character, rather it was the most recent transaction in an established

	<p>Delivered 30/08/2013</p> <p><b>I Ruvinovski</b></p> <p>(Co-offender V Ruvinovski – below)</p> <p>Co-offender of <i>Goddard v The State of Western Australia</i> [2014] WASCA 59</p>	<p>Father imprisoned when 13 yrs (co-offender); maintained regular contact.</p> <p>Completed schooling; employed.</p> <p>Drug user.</p>	<p>methyl from NSW to WA. He collected cash from the buyers, delivered it to the courier and monitored the delivery of methyl. Ivan travelled to and from Sydney in order to aid the shipment of methyl by courier.</p> <p>The conspiracy relates to the fourth shipment. Evidence of their earlier shipments was accepted as being relevant in sentencing to show that the fourth shipment was not an isolated event. The methodology employed for each of the 4 shipments was similar. Each shipment would be sold to buyers in WA.</p> <p>On the fourth shipment officers from the Organised Crime Squad executed a search warrant at a motel where the courier was staying where 1.252 kg of methyl was located. Total value of drugs estimated at \$536,000 if sold in ounce quantities. Police later executed a search warrant of Vlado's car and found \$47,100 in cash. A search warrant of Ivan's house found equipment associated with drug dealing.</p>	<p>of methyl of very high purity; consistent with the methyl being close to the source of manufacture.</p> <p>Ivan's involvement in the mechanics of the conspiracy was greater than that of the courier.</p> <p>Clear the offence was not an isolated transaction but part of a commercial drug enterprise; part of a very well organised syndicate.</p> <p>Ivan's role was less than his fathers.</p>	<p>criminal business to which both appellants had a demonstrated commitment.</p>
93.	<p><b>Ruvinovski v The State of Western Australia</b></p> <p>[2013] WASCA 204</p> <p>Delivered 30/08/2013</p> <p><b>V Ruvinovski</b></p> <p>(Co-offender I Ruvinovski below)</p>	<p>63 yrs at time sentencing.</p> <p>Convicted after late PG – following a ruling regarding the admissibility of evidence, including evidence of the 3 earlier shipments.</p> <p>Criminal record including conviction for serious drug offence.</p> <p>Migrated from Macedonia in 1970; married with 2 adult children.</p>	<p>1 x Conspiracy to sell/ supply prohibited drug (Methyl) 1.252 kg at 68-70 % purity.</p> <p>The appellant and his co-offender are father (Vlado) and son (Ivan).</p> <p>Vlado was involved in planning 4 shipments of methyl from NSW to WA. He collected cash from the buyers, delivered it to the courier and monitored the delivery of methyl. Ivan travelled to and from Sydney in order to aid the shipment of methyl by courier.</p> <p>The conspiracy relates to the fourth shipment. Evidence of their earlier shipments was accepted as being relevant in sentencing to</p>	<p>10 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge noted that offending involved a very substantial quantity of methyl of very high purity; consistent with the methyl being close to the source of manufacture.</p> <p>Clear the offence was not an isolated transaction but part of a commercial drug enterprise; part of a very</p>	<p>Dismissed – on papers.</p> <p>At [42] This is not an isolated act by men of otherwise good character, rather it was the most recent transaction in an established criminal business to which both appellants had a demonstrated commitment.</p>

	Co-offender of <i>Goddard v The State of Western Australia</i> [2014] WASCA 59	Long history of depression, chronic dysthymia, anxiety & crohns colitis; receipt of disability pension.	show that the fourth shipment was not an isolated event. The methodology employed for each of the 4 shipments was similar. Each shipment would be sold to buyers in WA.  On the fourth shipment officers from the Organised Crime Squad executed a search warrant at a motel where the courier was staying where 1.252 kg of methyl was located. Total value of drugs estimated at \$536,000 if sold in ounce quantities. Police later executed a search warrant of Vlado's car and found \$47,100 in cash. A search warrant of Ivan's house found equipment associated with drug dealing.	well organised syndicate.  Vlado had a more senior position than that of his son.  No suggestion he was a drug user.	
92.	<i>The State of WA v Littlefair</i>  [2013] WASCA 177  Delivered 07/08/2013	47 yrs at time offending. 48 yrs at time sentencing.  Convicted after early PG.  Minor criminal record; old conviction for poss cannabis; not previously been incarcerated.  Commenced using cannabis as a teenager and methyl at 2008.  Left school at Year 10; Stay-at-home mother.  'Good caring mother'  Son has ADHD; lives with respondent in her home; dependent on her; husband serving prison sentence.  Some steps taken towards rehabilitation after arrest.	<u>Indictment</u> Poss methyl wiss 96.9g at average 40%.  <u>s32 notice</u> Poss cannabis Poss unlawfully obtained property Poss smoking implement Poss smoking implement  Police executed a search warrant at the respondent's home address. She admitted that she was in possession of methyl. She directed police to a safe in her bedroom. Police searched the safe and found two clip seal bags. One contained 81.7g of methyl (44% purity). The other 15.2g of methyl (36% purity).  During the search, the respondent admitted the methyl belonged to her and she intended to sell it.  When police searched the respondent's bedroom they found drug dealing paraphernalia including electronic scales, empty clip seal bags, spoons with visible drug	<u>Indictment</u> 2 yrs 6 mths imp  <u>s32 notice</u> 3 mths imp (conc). 9 mths imp (conc). \$1000 fine \$1000 fine  TES 2 yrs 6 mths imp.  EFP.  Dealt in drugs in order to fund her own addiction and to repay a substantial drug debt.  Sentencing judge found she was involved in 'street level dealing' but the quantities and amounts shown in the 'tick book' indicated that she was also selling larger	Allowed.  Sentence of 2 yrs 6 mths imp set aside. Re-sentenced to 4 yrs imp.  At [32] ... The offence was not an uncharacteristic aberration. It was part of active and ongoing drug dealing which his Honour found involved some degree of commercial sophistication. The size of the respondent's drug debt (about \$65,000) shows that the drug dealing business was not of recent origin...  At [34] The respondent's drug dealing was of a commercial nature in that she sold methylamphetamine for the purpose of financing her own drug use, paying for

			<p>residue and a quantity of MSM. Police also found \$2950 in cash in her handbag and in other locations in her bedroom.</p> <p>A search of the respondent's home also revealed 3 mobile phones and a notebook with names, dollar values and other notations written by the respondent.</p> <p>Made admissions to police during the search that included:</p> <ul style="list-style-type: none"> <li>• She used the scales to weigh drugs for sale and MSM to dilute the drugs.</li> <li>• The cash was the proceeds of drug sales.</li> <li>• She declined to comment on the notebook, but at sentencing her counsel accepted that it was a 'tick book', which contained a record of drug sales she had made and money owed to her by people who had purchased drugs on credit.</li> </ul>	<p>amounts.</p> <p>Also found that methyl was part of ongoing drug dealing which involved 'some degree of commercial sophistication'.</p> <p>Casual connection between respondent's substance abuse and her drug dealing.</p>	<p>basic living expenses and repaying her drug debt. These motives are not unusual in cases of this kind. Selling prohibited drugs in order to discharge a drug debt is of no mitigatory significance.</p> <p>At [35] The fact that the respondent's client base comprised friends and acquaintances who were already habitual users of methylamphetamine is not mitigatory. The ongoing abuse of prohibited drugs of addiction causes serious harm, directly and indirectly, to people who are addicted to the drugs, their families and community generally. In any event, a perusal of the 'tick book' indicates that at least 14 different people had been purchasing drugs from the respondent.</p> <p>At [37] The respondent's personal circumstances and antecedents were, in general, reasonably good. She had only a minor criminal record and had taken some steps towards rehabilitation. However, as I have mentioned, it is well-established that matters personal to an offender who has dealt in prohibited drugs</p>
--	--	--	---	---	--

					are almost always subsidiary considerations in the sentencing process. The principal sentencing considerations in the present case were appropriate punishment and general deterrence. Personal deterrence was also a relevant factor because the respondent committed the offence in question in the course of carrying on a drug dealing business of some duration.
91.	<p><b><i>Stagno v The State of Western Australia</i></b></p> <p>[2013] WASCA 166</p> <p>Date delivered 24/07/2013</p> <p>Related:</p> <p><b><i>Stagno v The State of Western Australia</i></b></p> <p>[2015] WASCA 115</p>	<p>29 yrs at sentencing.</p> <p>Convicted after PG to Ct 3; Convicted after trial of other counts. (Although indicated PG to possession in Ct 2, just not circ of aggravation).</p> <p>Criminal record including substantial traffic convictions; possess cannabis wiss.</p> <p>User of illicit drugs prior to 2008.</p> <p>Excellent family background; highly skilled mechanic.</p> <p>On bail for Cts 1-3 when Ct 4 was committed.</p>	<p>Ct 1: Poss methyl wiss 130.06g at 7-8%. Ct 2: Agg poss unlicensed firearm.</p> <p>Ct 3: Poss ammunition without licence. Ct 4: Poss methyl wiss 15.07g at 1% and 78%.</p> <p><u>Ct 1:</u> The appellant was stopped by police driving on Manning Road, Wilson. Police found 130g of methyl distributed between a number of plastic bags hidden in the car. His Honour described the drugs as being carefully sorted and packaged in various quantity, ready for sale on a wholesale basis to street level dealers.</p> <p><u>Ct 2:</u> Police also found, hidden under the driver's seat, a Glock handgun with its serial number erased. The weapon was located with 13 rounds of ammunition in the magazine. The appellant was found to be carrying \$2,380 in cash in his wallet.</p> <p><u>Ct 3:</u> The appellant's home was subsequently searched. There, police found tick lists which showed prior dealing on credit in very large</p>	<p>Ct 1: 4 yrs imp. Ct 2: 1 yr 6 mths imp (cum). Ct 3: 6 mths imp (conc). Ct 4: 2 yrs 6 mths imp (cum).</p> <p>TES 8 yrs imp.</p> <p>EFP.</p> <p>No remorse; lacked insight into offending.</p> <p>High risk of re-offending.</p> <p>Although sentencing judge accused the appellant was a drug user, found that the quantities and extend of dealing far exceeded anything he could possibly need for personal use.</p>	<p>Dismissed.</p> <p>At [32] It is generally accepted that drug dealing is a hierarchical business. Those engaged in the business of selling drugs as a principal are ordinarily regarded as more culpable than those who act as a courier ... This is because it is the principal who stands to profit to a greater extent than the courier.</p> <p>At [36] The high purity showed that the appellant was very close to the source of manufacture and the drug would almost inevitably have been diluted ... It is undoubtedly an aggravating factor that the offence was committed while the appellant was on bail for</p>

			<p>sums of money. Police also discovered ammunition. The appellant's mobile phone was seized. Many of these messages plainly related to drug dealing. His Honour said that they showed that the appellant had 'close business links with known drug dealers'.</p> <p><u>Ct 4</u> Was committed more than 2 years after Cts 1-3. Police stopped and searched the appellant's work vehicle and found 2 bags containing methyl in the vehicle's freezer compartment. One bag contained 1.67g of methyl. His Honour said that he was minded to think that this was a contaminated cutting agent. The other bag contained 13.4g of methyl. His Honour said this quantity had 'more or less come uncut from manufacture' and described it as being 'carefully wrapped and tied'.</p>	<p>Described as 'wholly commercial'.</p> <p>Ct 1: Principal in mid-level wholesale drug distribution network; Ct 4: A courier and bagman for others.</p>	<p>similar offending.</p> <p>At [46] There can be no doubt that the appellant's overall offending in this case was very serious ...</p>
<p><b>90.</b></p>	<p><b><i>Sumption v Gaunt</i></b></p> <p><b>[2013] WASC 258</b></p> <p>Date delivered 10/07/2013</p>	<p>Convicted after PG.</p> <p>Limited prior criminal record; included 4 previous convictions of possess prohibited drug, one of which was intent to sell or supply.</p> <p>Single mother of 3 children however at date of hearing of the appeal children were in custody of family; pregnant at hearing.</p> <p>Had intermittently used amphetamines.</p> <p>Shortly before arrest her relationship with the father of her two younger children had broken down; The stress associated with this had caused her to again resort to drug use.</p>	<p>1 x Possess methyl wiss 3.51g at 30%.</p> <p>1 x Fail to obey data access order.</p> <p>The appellant was stopped by police whilst driving between Bunbury and Collie. A small bag of 3.5 grams of methyl was found inside the appellant's bra. Also found on the appellant were a small number of cipseal bags, one of which contained 0.1 grams of methyl. A set of electronic scales were found on another woman in the car. The scales were later tested and no detectable traces of drugs were found on them.</p> <p>A mobile phone belonging to the appellant was also seized. The phone had a pin lock which prevented the police from accessing it. The appellant refused to reveal the pin, stating that she did not want to 'get anyone into trouble'.</p> <p>A month later police obtained and served a data access order in respect of the appellant's</p>	<p>30 mths imp.</p> <p>4 mths imp (conc).</p> <p>TES 30 mths imp.</p> <p>EFP.</p> <p>Sentenced on the basis that her possession was for the purpose of personal use and sharing with friends.</p> <p>Denied any intention to sell the drugs.</p> <p>The drugs that were found in her possession were said to have been purchased relatively recently and she had not expected to receive the</p>	<p>Appeal allowed in part. Sentence on possession charge set aside. Appellant re-sentenced to 9 mths imp. The sentence for breach of data access order was unaffected.</p> <p>TES 9 mths imp.</p> <p>At [18] Whilst the admission that the appellant intended to supply some of the drugs to her friends meant that she could not rebut the presumption of an intent to sell or supply and remained liable to the higher penalty applicable to an offence in such circumstances, whether she was dealing in drugs by</p>

		<p>Support of parents.</p> <p>A number of favourable character references were tendered to the Magistrate.</p>	<p>mobile phone. The order required the appellant to provide her pin. She again refused to comply, stating that she did not want to get anyone into trouble. She refused a further request 6 days later. About 2 months later she was charged; only then providing the pin. An attempt to access the phone using that pin was unsuccessful.</p>	<p>quantity that she did.</p>	<p>selling them or was merely sharing them with her friends was a relevant factor in sentencing.</p> <p>At [20] ... Having accepted that there was no intention to sell any of the drugs, it was not appropriate to deal with the appellant as if she was a mid-level dealer.</p> <p>At [29]... Whilst an intention to provide drugs to friends should not be viewed as being benign, it is clearly less serious than the conduct of a person engaged in dealing on a commercial basis.</p>
<p>89.</p>	<p><i>Tanner v The State of Western Australia</i></p> <p>[2013] WASCA 142</p> <p>Date delivered 07/06/2013</p>	<p>50 yrs at time offending. 51 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal record, however old and relatively minor.</p> <p>Worked initially as fibreglass laminator but changed to IT in 1994. Started own business in 2010. Started taking illicit drugs to deal with long working hours.</p> <p>Co-offender Paul Truslove convicted after early PG. Sentenced to 5 yrs imp. EFP. Had a more serious and extensive prior criminal record. This is comparable to appellant's sentence as appellant higher in</p>	<p>1 x Supply prohibited drug (methyl) 428g at 42%.</p> <p>Investigation into suspected drug dealer Mr Truslove. As part of that investigation, between 7 July and 2 August 2011 police lawfully intercepted Mr Truslove's telephone calls and text messages he sent and received.</p> <p>On 18 July 2011, Mr Truslove received a text message from a mobile phone which belonged to the appellant, but was registered in a false name.</p> <p>On 1 August 2011, the appellant was seen to attend Mr Truslove's home and depart 3 minutes later in a vehicle. It was alleged the appellant delivered a sample of methyl.</p> <p>On 2 August 2011, the vehicle in which the appellant travelled to Mr Truslove's home the</p>	<p>9 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Trial judge made unprofessional comments during hearing, but CoA determined he had brought an impartial mind to sentencing and had taken into account all relevant considerations. Sentence not manifestly excessive.</p> <p>At [212] It has frequently been stated that it is highly desirable for co-offenders to be sentenced by the same sentencing judge. Alternatively, if that is not practicable, the second sentencing judge should be fully informed about the</p>



		<p>drug network hierarchy. (see [227] – [232]).</p>	<p>day prior was seen again at Mr Truslove’s home. The appellant was seen to deliver an item (methyl) into Mr Truslove’s home and then leave about 18 minutes later without the item. Numerous text messages were then exchanged between the two.</p> <p>Later that day a search warrant was executed at Mr Truslove’s house where 428g of methyl and other items were located.</p> <p>A search of the appellant’s house on the same date located a diary containing a tick list, a mobile phone which had the sent and received text messages to and from Mr Truslove, small amounts of methyl, smoking implements, MSM powder, electronic scales, \$27,000 cash, and computer routers. A CCTV camera was monitoring the shed.</p> <p>Defence said appellant and Truslove had been corresponding about IT matters as appellant was selling Truslove computer routers.</p> <p>Trial judge made following findings of fact:</p> <ul style="list-style-type: none"> <li>• That the appellant was ‘drug dealing’ in commercial quantities of methyl for some time prior to committing this offence.</li> <li>• That the appellant must have been working for someone else.</li> <li>• The appellant must be the ‘right-hand man to the syndicate network...owner or boss’ and he was ‘a high level operative in that syndicate’.</li> <li>• The transaction, the subject of the offence in question, was not ‘[the appellant’s] first by a long chalk’.</li> <li>• The appellant consciously and deliberately participated in ‘the methyl trade at a very high level for monetary</li> </ul>		<p>sentence imposed by the first sentencing judge... These observations apply also where offenders who have been participants in a common criminal enterprise are to be sentenced.</p> <p>At [222] The parity principle did apply as between the appellant and Mr Truslove in that they were participants in a common criminal enterprise, even though they were not charged with or found guilty of committing precisely the same offences.</p> <p>At [232] Evident Truslove treated more leniently but disparity not marked or clearly unjustifiable.</p>
--	--	---	---	--	---

			gain', the 'monetary gain being a ready supply of high-quality drugs'.		
88.	<p><i>RIF v The State of Western Australia</i></p> <p>[2013] WASCA 88</p> <p>Delivered 05/04/2013</p> <p><b>NB: Facts, circumstances of the offending, personal circumstances, antecedents and other relevant matters, set out in confidential annexure to reasons of BUSS JA and subject to confidentiality</b></p>	<p>Convicted after PG.</p> <p>Provided substantial assistance to police before sentenced.</p>	<p>5 x poss prohibited drug wiss/ att poss prohibited drug wiss (MDMA and <b>methylamphetamine</b>).</p> <p>The appellant sourced and supplied or intended to supply a very significant quantity of tablets, believing them to contain MDMA, but in fact containing methylamphetamine.</p> <p>The purity of the drugs, the subject of Cts 2-3 and 5, was very low and the purity of the drugs the subject of the other counts was unknown.</p>	Not specified.	<p>Allowed.</p> <p>Re-sentenced</p> <p>Ct 1: 2 yrs imp. Ct 2: 2 yrs imp. Ct 3: 2 yrs imp. Ct 4: 4 yrs imp. Ct 5: 2 yrs imp.</p> <p>Cts 1-4 and 5 conc and cum on Ct 4.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>At [21] The degree of purity is often regarded as significant.</p> <p>At [24] Where the purity of a prohibited drug is very low the substance is unlikely to produce the deleterious effects usually associated with prohibited drugs having a high level of purity. However, the essence of the appellant's criminality was reflected in his belief that the tablets were prohibited drugs and his willingness to deal in them, for profit with that knowledge. He was running a drug dealing business. The scope of the business was beyond what was necessary</p>

					<p>to repay a drug debt he had incurred as a result of his own usage.</p> <p>At [25] Although the appellant had access to the supply of significant quantities at short notice, it is not possible to assess the position he occupied in the 'dealing chain' because ..., the purity of the drugs, was very low ...</p> <p>At [26] the principal mitigating factors were the appellant's cooperation with the police and his pleas of guilty. All of his cooperation was past cooperation as at the date on which his Honour imposed sentence.</p>
87.	<p><i>Neuman v The State of Western Australia</i></p> <p>[2013] WASCA 70</p> <p>Delivered 15/03/2013</p>	<p>55-56 yrs at time offending. 57 yrs at time sentencing.</p> <p>Convicted after late PG.</p> <p>Prior WA criminal record – including poss MDMA wiss.</p> <p>Prior Qld criminal record – cultivation cannabis.</p> <p>Marriage breakdown.</p> <p>Suffered major depression.</p>	<p>Ct 1: Conspire to poss methyl wiss</p> <p>Ct 2: Poss methyl wiss 394.6g at 22-24%</p> <p>Ct 3: Poss methyl wiss 860.9g at 46-75%</p> <p>Ct 4: Poss methyl wiss 18.2g at 22%</p> <p><u>Ct 1:</u> Between 30 August 2010 and 11 September 2010, the appellant conspired with Cookson (now deceased) to import an unknown quantity of methyl from Sydney into WA. The appellant's associates Cameron, Cookson and Crews, collected amounts owing by third parties, for the sale or supply of prohibited drugs, to fund the purchase of methyl. Cameron transferred the funds to Sydney, where the purchase was facilitated by another</p>	<p>Ct 1: 3 yrs imp (conc ct 3).</p> <p>Ct 2: 2 yrs imp (cum ct 3).</p> <p>Ct 3: 10 yrs imp.</p> <p>Ct 4: 3 yrs imp (cum ct 3).</p> <p>TES 15 yrs imp.</p> <p>Sentencing judge noted that the high degree of purity of the 860.9 of methyl indicated the appellant was close to the source of manufacture.</p> <p>The appellant was the leader of the group and the TI demonstrated he</p>	<p>Dismissed.</p> <p>At [37] The appellant's offending in relation to count 3 was very serious:</p> <ul style="list-style-type: none"> <li>• The quantity was very large (860.9 g).</li> <li>• The diluted material would have weighed about 3.8kg.</li> <li>• The appellant was at a high level in the chain of drug distribution. He made the executive decisions and although a drug user, carried on a drug dealing business and derived substantial</li> </ul>

			<p>of the appellant's associates, Tresnjo. Cameron delivered the methyl to Perth.</p> <p><u>Ct 3:</u> At a later date in September, police executed a search warrant at a home unit in Perth. The appellant and Cameron were found removing methyl from 4 unwrapped packages containing a total of 860.9 g of the drug ranging from 46-75%. The methyl in the 4 wrapped packages had been divided in 16 bags weighing about 28.3g each (averaging 59.4% purity) and 4 bags weighing about 100g each (averaging 70.75 purity).</p> <p><u>Ct 2:</u> On the same date at the unit, police located a set of digital scales and 394.6g of methyl in a plastic container which has been hidden behind a fire hose reel in the foyer outside the unit. Most of the drug had a purity of between 22-24%. Police also located \$7100 cash in the appellant's bag. Police then carried out a search at the appellant's home in Burswood. They found a black 'man bag' on the rear seat of his Porche Cayenne motor vehicle. The bag contained a loaded Glock handgun. The manufacturer's serial number had been removed.</p> <p><u>Ct 4:</u> The appellant whilst on bail for Cts 1-3, was apprehended by police at the Burswood resort complex. He was in possession of 18.2g of meth with a purity of 22%, a set of electronic scales, \$5000 cash in a black bag, \$1545 cash in his wallet and a 'tick list'. Police also seized a further \$70,050 cash from the appellant's hotel room.</p>	<p>made executive decisions within the group.</p> <p>At a high level in the chain of distribution.</p> <p>Drug user, but not dealing merely to fund his own habit.</p> <p>There was a 'high level of commerciality' involved in the offending.</p>	<p>commercial profits from it.</p> <ul style="list-style-type: none"> <li>• The methylamphetamine was close to the source of manufacture.</li> </ul> <p>At [40] Sentence imposed before s 9AA <i>Sentencing Act</i>.</p> <p>At [42] Although the appellant pleaded guilty and was entitled to some credit for the pleas, they were late and made in the face of a strong prosecution case.... Any remorse he experience appears to have arisen only when he reflected upon the inevitability of the outcome of the proceedings.</p> <p>At [50] The possession of the loaded handgun and the facts and circumstances of the offending as a whole indicate that these offences were committed by a group of people in organised crime. The appellant was the principal offender in a drug dealing syndicate.</p> <p>At [53] There was very little by way of mitigation. It comprised mainly the appellant's late pleas of guilty. As to his age, the appellant will be 69 when he becomes eligible for parole and he will be 71 when he</p>
--	--	--	---	--	---

					completes the sentences.
86.	<p><b><i>Ozan v The State of Western Australia</i></b></p> <p><b>[2013] WASCA 27</b></p> <p>Delivered 11/02/2013</p> <p>Co-offender of <i>Kitis v The State of Western Australia</i> [2013] WASCA 34</p> <p>Co-offender of <i>Milenkovski v The State of Western Australia</i> [2014] WASCA 48</p>	<p>25 yrs at time offending. 27 yrs at time sentencing.</p> <p>Convicted after late PG.</p> <p>No relevant prior criminal record.</p> <p>Positive childhood with caring &amp; loving parents.</p> <p>Strong relationship with his wife.</p> <p>Completed Year 12 and part completion of Diploma in Network Engineering.</p> <p>Good employment history.</p> <p>Good health.</p>	<p><b>Ct 1:Supplied methyl wiss 2.675kg at 17-19%</b></p> <p><b>Ct 3:Att supply methyl wiss 4.983kg at 53-69%</b></p> <p><u>Ct 1:</u> An arrangement was made by others for methyl to be concealed in a motor vehicle and transported from Sydney to Perth by truck. The appellant, who resided in Sydney, purchased a motor vehicle in which the methyl was to be concealed and delivered and arranged for it to be transported in a truck from Sydney to Perth. The appellant subsequently travelled from Sydney to Perth on a commercial flight. On arrival, the appellant collected the vehicle from the transport company and drove it to a hotel car park and removed the methyl. The appellant met with a co-offender and delivered the drugs to him. Police searched the co-offender's residence and discovered 2.675kg of methyl with purity ranging between 17-19%. The drugs had a value of \$1,300,000.</p> <p><u>Ct 3:</u> A further arrangement was made by others for methyl to be concealed in a motor vehicle and transported from Sydney to Perth by truck. The appellant was again responsible for the purchase of a motor vehicle in which the methyl was concealed and delivered to a transport company. The vehicle was intercepted by Police in Adelaide. Police located 4.983 kg of meth ranging between 53-69% &amp; valued at about \$2,489,000. Police replaced the drugs with an</p>	<p>Ct 1: 2yrs imp. (reduced from 9 yrs in the application of the totality principle).</p> <p>Ct 3: 12 yrs imp.</p> <p>Served cumulatively.</p> <p>TES 14 yrs imp.</p> <p>EFP.</p> <p>The appellant's role was more than a mere courier.</p> <p>The sentencing judge was not satisfied on the balance of probabilities that the appellant had committed either offence under duress or threat.</p>	<p>Dismissed.</p> <p>At [76] Ordinarily there will be no material difference in culpability between an attempt and a completed offence involving drug dealing where the intervention of law enforcement agencies to replace a prohibited drug with an inert substance prevents the commission of the completed offence.</p> <p>At [88] It was proper for the sentencing judge to order some accumulation of the appropriate sentence for count 1 and the appropriate sentence for count 3. They were separate and distinct offences.</p>

			<p>inert substance. The vehicle continued its journey to Perth.</p> <p>The appellant subsequently travelled from Sydney to Perth on a commercial flight.</p> <p>The appellant collected the vehicle from the transport company and drove it to a carpark and passed on the keys to a co-offender.</p> <p>The vehicle was then driven in convoy to a co-offender's house where the inert substance (which they believed to be methyl) was removed and stored.</p>		
85.	<p><i>Kitis v The State of Western Australia</i></p> <p>[2013] WASCA 34</p> <p>Delivered 11/02/2013</p> <p>Co-offender of <i>Ozan v The State of Western Australia</i> [2013] WASCA 27</p> <p>Co-offender of <i>Milenskovi v The State of Western Australia</i> [2014] WASCA 48</p>	<p>29 yrs at time of sentencing.</p> <p>Convicted after late PG.</p> <p>Minor prior criminal record – three prior convictions for drug-related offences – simple possession only.</p> <p>Partner &amp; young children.</p> <p>Full time employment.</p> <p>Regular user of illicit drugs.</p>	<p><b>Ct 5:Att poss methyl wiss 4.983kg at 53-69%</b></p> <p><b>Ct 6:Poss methyl wiss 207.6g at 22%</b></p> <p><u>Ct 5:</u> An arrangement was made by others for a large quantity of methyl to be concealed in a motor vehicle and transported from Sydney to Perth by truck.</p> <p>The vehicle left Sydney in the custody of a transport company and intercepted by Police in Adelaide.</p> <p>Police located 4.983 kg of meth valued at about \$2,489,000. Police replaced the drugs with an inert substance. The vehicle continued its journey to Perth.</p> <p>On its arrival in Perth, the motor vehicle was collected and driven to a car park in Bayswater. Later the appellant collected the keys of the motor vehicle and drove the vehicle to his brother's house. He was followed by a co-accused in another vehicle.</p> <p>On arrival, the appellant and co-offender removed the spare tyre containing the inert substance (which they believed to be meth). The appellant placed the spare tyre in a shed in the backyard. The appellant and co-offender then left.</p> <p>A little later, police attended and located the</p>	<p>Ct 5: 9 yrs imp.</p> <p>Ct 6: 3 yrs imp. (reduced from 5 yrs in the application of the totality principle).</p> <p>Served cumulatively.</p> <p>TES 12 yrs imp.</p> <p>EFP.</p> <p>The appellant knew, in the context of Ct 5, that he was involving himself in a 'significant dealing' involving a 'significant quantity of drugs'.</p>	<p>Dismissed.</p> <p>At [41] It was appropriate for his Honour to order some accumulation of the appropriate sentence for count 5 and the appropriate sentence for count 6. They were separate and distinct offences.</p>

			<p>spare tyre.  <u>Ct 6:</u>  Later that evening, police executed a search warrant at the appellant's house. When police arrived, the appellant ran from them and threw items over the fence between his backyard and his neighbours. Police searched both properties and located 207.6g of methyl. The value of the meth was about \$103,000. Police also found two sets of scales, \$17,000 cash, a 12-gauge shotgun and various small quantities of MDMA and cocaine which were the subject of summary charges.</p>		
84.	<p><i>Lai v The State of Western Australia</i></p> <p>[2012] WASCA 181</p> <p>Delivered 19/09/12</p> <p>Co-offender of <i>Pham v The State of Western Australia</i> [2011] WASCA 244</p>	<p>55 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Minor prior criminal record – no drug offences.</p> <p>Gambling addiction – sentencing judge unable to determine whether drug dealing was to alleviate gambling debts or whether gambling funded drugs that appellant sold.</p>	<p><b>Ct 1: Poss methyl wiss 498.7g at 47-52%.</b>  Ct 2: Poss heroin wiss 167g at 64-66%.  Ct 3: Conspire poss prohibited drug wiss.  Ct 10: Offer sell/supply heroin/methyl 1ounce.  Ct 11: Offer sell/supply heroin/methyl 7g.  Ct 12: Offer sell/supply heroin 1 ounce.</p> <p>Ct 13: Offer sell/supply heroin 1g and methyl 7g.</p> <p>Appellant classed as high level drug dealer for commercial purposes in the mid-upper chain of distribution and close to the source of the drugs.</p> <p>Appellant procured co-offender to travel to Sydney and purchase methyl and heroin for her to sell in Perth. Co-offender was arrested at Perth airport carrying methyl and heroin in cts 1 and 2.  Ct 3 was based on an arrangement between the appellant and a Sydney drug dealer whereby the appellant would purchase either heroin and/or methyl to sell in Perth.  Cts 10-13 arose from telephone and text intercepts on four separate dates.</p>	<p>Ct 1: 9 yrs imp.  Ct 2: 4 yrs imp.  Ct 3: 4 yrs imp.  Ct 10: 3 yrs imp.  Ct 11: 4 yrs imp.  Ct 12: 4 yrs 6 mths imp.  Ct 13: 4 yrs imp.</p> <p>TES 13 yrs imp.</p> <p>EFP.</p> <p>No remorse.</p>	<p>Dismissed.</p> <p>At [47] Sentence of 9 yrs imp on ct 1 justified and a sound exercise of sentencing discretion.</p> <p>At [52] TES 13 yrs imp long sentence but a proper reflection of the overall criminality.</p>

<p><b>83.</b></p>	<p><i>Jordan v The State of Western Australia</i></p> <p><b>[2012] WASCA 163</b></p> <p>Delivered 22/08/2012</p>	<p>29 yrs at time offending. 30 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No relevant prior criminal record.</p> <p>Educated to yr 9; completed apprenticeship as diesel fitter; good employment record.</p> <p>Involved in motor vehicle accident in 2007 – injuries required pain medication and the appellant contemporaneously began using illicit drugs; described in PSR as ‘functioning addict’.</p> <p>Heavy alcohol consumption on regular basis since 20 yrs old.</p> <p>Supportive family and partner.</p>	<p>Ct 1: Poss methyl wiss 5.13g. Ct 2: Poss LSD wiss .07g. Ct 3: Poss cocaine wiss 2.29g at 40%. Ct 4: Poss dimethyltryptamine 4.32g. <b>Ct 7: Poss methyl wiss 102.24g at 43-74%.</b> Ct 8: Poss LSD wiss 1.72g. Ct 9: Poss dimethyltryptamine 0.11g.</p> <p>s 32 matters: 1 x Receiving. 1 x Poss drug. 1 x Poss smoking implement. 1 x Poss unlicensed ammunition. 1 x Poss controlled weapon.</p> <p>Weapons and drugs were found as a result of a police search at the appellant’s home and from a search of the appellant and his luggage at Karratha airport.</p> <p>Found in sentencing to be an active agent for organised criminals.</p>	<p>Ct 1: 6 mths imp. Ct 2: 6 mths imp. Ct 3: 12 mths imp. Ct 4: 6 mths imp. Ct 7: 4 yrs imp. Ct 8: 2 yrs imp. Ct 9: 12 mths.</p> <p>Sentence range 2-8 mths imp to be served concurrent with indictable offences.</p> <p>TES 8 yrs 6 mths imp.</p> <p>EFP.</p>	<p>Dismissed – leave refused on papers.</p> <p>AT [56] Condign punishment and general deterrence are the dominant sentencing factors.</p>
<p><b>82.</b></p>	<p><i>Chu v The State of Western Australia</i></p> <p><b>[2012] WASCA 135</b></p> <p>Delivered 6/07/2012</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Prior criminal record – poss methyl; poss smoking implement.</p> <p>Born in Vietnam; arrived in Australia in 1996.</p> <p>Suffers advanced osteoarthritis in hips and ankle as a result of injuries sustained in a car accident.</p>	<p>Ct 1: Sold methyl 14g at 52%. Ct 2: Sold methyl 28g t 79%. Ct 3: Sold methyl 28.3g at 65%. Ct 4: Supplied MDMA one tablet. Ct 5: Sold methyl 27.8g at 78% and 27.8g at 70%. <b>Ct 6: Poss methyl wiss 11.99g at 17%, 40.3g at 23% and 49.4g at 81%.</b></p> <p>Appellant conceded he was close to or at the top of the drug hierarchy with a critical role in the distribution of the drug.</p> <p>Appellant was selling drugs sourced from</p>	<p>Ct 1: 2 yrs imp. Ct 2: 4 yrs imp. Ct 3: 4 yrs imp. Ct 4: 6 mths imp. Ct 5: 5 yrs imp. Ct 6: 5 yrs imp.</p> <p>TES 7 yrs imp.</p> <p>EFP.</p> <p>Minimised offending; attempted to portray</p>	<p>Dismissed – leave refused on papers.</p> <p>At [27] To allege sentencing judge did not take proper account of mitigating factor is to allege a weighting error. A weighting error only gives rise to an appealable error if it amounts to a failure to exercise the discretion entrusted in the court. Absent a failure to exercise that discretion, a weighting error</p>



			Sydney and a search of his home found clip-seal bags, electronic scales, cutting agent and \$159, 260 cash.	himself as the victim.	is not an independent ground of appeal which justifies appellate intervention.  At [33] Whether appellant selling drugs to generate wealth or pay off debt is of no mitigatory significance – it remains selling drugs for a commercial purpose and, at its highest point, is no more than an explanation of the offending rather than a mitigating factor.
81.	<i>Ricciardi v The State of Western Australia</i>  [2012] WASCA 106  Delivered 11/05/2012	42 yrs at time sentencing.  Convicted after late PG (4 days before trial listed to begin).  Lengthy prior criminal record – drugs use; weapons; traffic offences; offences against public order.  Long history cannabis use and recent history of methylamphetamine use.	Ct 1: Poss unlicensed firearm. <b>Ct 2: Poss methyl wiss 104.23g at 23-24%.</b>  Offending was serious even if not sentenced on basis of being engaged in ongoing drug dealing.  Police attended appellant's home following a call from his de facto partner. On entering the home, police found 9mm handgun and 181 rounds of live ammunition on the kitchen bench. The identifying details of the gun had been removed and it had been modified so that it fired automatically. Police executed a warrant under the <i>Misuse Use of Drugs Act</i> a few hours later. During that search police found a secret cavity in a wall unit inside which were the drugs the subject of ct 2. Police also found cutting agent, tick lists involving substantial amounts of money and more ammunition. Also found during the search in the garage were a metal baton, mobile phone jammer, firearm cleaning kit, bulletproof vest, vacuum heat sealing machine, two boxes clip-seal bags	12 mths imp. 5 yrs imp.  TES 6 yrs imp.  EFP.	Dismissed – leave refused on papers.

			<p>and a money counting machine. Garage had a closed-circuit television surveillance system installed in it.</p> <p>Police also found a cavity above the study door which contained more ammunition, a USB thumb drive (containing photos of approx \$480,000). Also found a tin of baked beans with a false bottom containing cutting agent.</p>		
80.	<p><i>Luong v The State of western Australia</i></p> <p>[2012] WASCA 82</p> <p>Delivered 12/04/2012</p>	<p>Convicted after late PG.</p>	<p><b>1 x Poss methyl wiss 75.77g at 63%.</b>  1 x Sold methyl 27.5g at 63%.  1 x Sold methyl 55.9g at 53%.  1 x Sold methyl 194g 12%.  1 x Sold methyl 166g at 57%.  1 x Sold cocaine 3.4g at 77%.  1 x sold cocaine 27.9g at 76%.</p> <p>Appellant sold cocaine and methyl to an UCO. Methyl subject of poss wiss charge was found when police searched his home along with scales, significant quantities of cash and other indicia of drug dealing.</p>	<p>3 yrs imp.  2 yrs 6 mths imp.  3 yrs imp.  4 yrs imp.  5 yrs imp.  2 yrs imp.  2 yrs 6 mths imp.</p> <p>TES 8 yrs imp.  EFP.</p>	<p>Dismissed – leave refused on papers.</p> <p>At [12] Mitigating effect of PG is not increased because an offender, with first-hand knowledge of matters going to their guilt, would or may have PG earlier if he had understood there was no reasonable prospect of success in defending the charges.</p>
79.	<p><i>Karakuyu v The State of Western Australia</i></p> <p>[2012] WASCA 75</p> <p>Delivered 30/03/2012</p>	<p>29 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal record – no drug offences.</p> <p>Offending on ct 2 breached bail ct 1 and seven s 32 matters.  Offending on ct 3 breached bail for ct 2.</p> <p>Born in Kurdistan; came to Australia at 14-15 yrs old with family; family supportive.</p> <p>Left school at 15 yrs; employed in family business.</p>	<p><b>Ct 1: Poss methyl wiss 21.2g at 56%.</b>  <b>Ct 2: Poss methyl wiss 27.6g at 48%.</b>  Ct 3: Poss dexamphetamine 62 tablets.</p> <p>s 32 matters:  1 x Poss firearm (circ of agg).  1 x Poss cannabis.  3 x Poss smoking utensil.  1 x Poss methamphetamine.  1 x Possess unlicensed firearm.  1 x Permits use of premises for drug use.</p> <p>Appellant sentenced on basis he was mid-level commercial trafficker for profit.</p> <p>s 32 matters result of police search on appellant’s home. Appellant subsequently placed under electronic and physical</p>	<p>Ct 1: 2 yrs 6 mths imp.  Ct 2: 3 yrs 6 mths imp.  Ct 3: 3 mths imp.</p> <p>TES 6 yrs 3 mths imp.</p> <p>3 mths imp.  \$50 fine.  \$200 fine each matter.  \$100 fine.  1 mth imp.  2 mths imp.</p> <p>No remorse.</p>	<p>Dismissed – leave refused on papers.</p> <p>At [26]-[29] Some discussion of comparative cases.</p> <p>At [40] Overall criminality was high.</p> <p>At [42] Cts 1 and 2 were separate offences and warranted accumulation.</p>

		Occasional methylamphetamine user – no significant addiction.	surveillance. Police stopped and searched car appellant travelling in and found drugs subject of ct 1. While on bail for ct 1 and seven s 32 matters, police executed search warrant on appellant's home and found drugs subject of ct 2 and indicia of drug dealing, including a tick list. While on bail after being charged with ct 2, police again searched the appellant's house and found drugs subject of ct 3 and smoking utensil.		
78.	<i>Sabri v The State of Western Australia</i>  <b>2012 [WASCA] 71</b>  Delivered 28/03/2012	24 yrs at time sentencing.  Convicted after late PG (first day of trial).  Offending breached bail for charge of poss methyl wiss (16.6g at 53% and 4.96g).  Lengthy prior criminal record – poss methyl wiss; assault public officer; fraud; assault; disorderly conduct; many traffic offences.  Came to Australia with family after fleeing Iraq.  Good employment history.	<b>1 x Poss methyl wiss 139.81g at 17-45%.</b>  Police followed appellant as he was driving a hire car. Appellant threw a bag out of the window which was later found to contain 139.81g methyl at 17-45% purity.  Acting as a courier – at [17] appellant performed “ <i>the important function of transporting [a] substantial quantity of drugs as part of a commercial chain of distribution</i> ”.	4 yrs imp.  TES 6 yrs imp.  Serving sentence of 2 yrs imp for prior drug offence at time sentencing – sentences ordered cumulative.	Dismissed – leave refused on papers.  At [21] Little mitigation in appellant's claims (rejected in sentencing) that he was acting as a result of threats made – threats are an occupational hazard for those willing involved in the distribution of drugs as the appellant is.
77.	<i>Roncevic v The State of Western Australia</i>  <b>[2012] WASCA 43</b>	37 yrs at time offending.  Convicted after late PG.  Significant and serious prior criminal record.  Offending breached parole.	<b>1 x Poss methyl wiss 114.1g at 9%.</b> <b>1 x Poss methyl wiss 5.27g at 64%.</b> 1 x Unlawful wounding s 301 <i>Criminal Code</i> . 2 x Assault police officer.  10 x s 32 offences.	4 yrs 6 mths imp. 18 mths imp. 2 yrs 6 mths imp. 2 yrs 4 mths imp each ct.  Sentence range \$200 fine – 12 mths imp.	Dismissed – leave to appeal refused on papers.

	<p>Delivered 17/02/2012</p>	<p>Drug addiction – offending due to self-induced drug psychosis.</p>	<p>Appellant passenger in a car which was stopped by police. 114.1g methyl found hidden in appellant’s underwear. Appellant’s house was subsequently searched and police found cannabis, smoking utensil, metal baton and stolen jeans (all s 32 offences).</p> <p>Appellant involved in an incident in which he shot someone (unlawful wounding). Following that incident, appellant’s home was again searched by police and a handgun found (s 32 offences).</p> <p>Appellant driving a vehicle when stopped by police (victims 1 &amp; 2) for a traffic matter. Victim 1 told appellant conducting a license check and appellant drove off at high speed. Victims 1 &amp; 2 pursued appellant and appellant refused to stop, colliding with another car in his attempt to evade capture (further s 32 offences). Victims 1 &amp; 2 found appellant’s car stationary a short time after and approached the vehicle. Appellant again tried to escape and pointed a stolen handgun at victim 1 as he was reaching for her handcuffs. Victim 2 reached for her taser and the appellant pointed the gun at her. Appellant ran off, stopped after a short distance, turned, readied the gun for firing and pointed the handgun at each victim in turn. Victim 1 fired his police issue weapon. Appellant ran off and was later found hiding in a nearby yard. Police later found bag containing 5.27g methyl dropped by appellant. Appellant’s car also searched and another handgun was found along with ammunition, \$39,990 cash, scales with traces of methyl, cutting agent and 2 mobile phones.</p>	<p>Owed 2 yrs 10mths parole time at sentencing – ordered wholly concurrent with TES.</p> <p>TES 9 yrs 2 mths imp.</p> <p>EFP.</p> <p>No genuine remorse; late acceptance of responsibility.</p>	
--	---------------------------------	---	--	---	--

<p>76.</p>	<p><i>Pham v The State of Western Australia</i></p> <p>[2011] WASCA 244</p> <p>Delivered 4/11/2011</p>	<p>52 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>No prior criminal record.</p> <p>Born and educated in Vietnam; served in Vietnamese Army.</p> <p>Fled Vietnam with wife and children in 1988 to Hong Kong; came to Australia in 1990.</p> <p>Stable employment until July 2010.</p> <p>Wife incurred significant gambling debts which they could not repay.</p>	<p><b>1 x Poss methyl wiss 498.7g at 47-52%.</b>  1 x Poss heroin wiss 167g at 64-66%.  1 x Poss \$3,230 cash unlawfully obtained.</p> <p>Sentenced on basis involved in drug trade for solely commercial reasons.</p> <p>Appellant flew from Sydney to Perth. Heroin and methyl were found in vacuum seal packs wrapped in socks in appellant's suitcase. Cash found partly in wallet and partly in a sock and was part of \$10,000 appellant was to be paid for acting as drug courier.</p>	<p>7 yrs imp.  2 yrs imp.  8 mths imp.</p> <p>TES 9 yrs imp.</p> <p>Deep remorse and shame.</p>	<p>Dismissed – leave to appeal refused on papers.</p> <p>Only sentence on poss methyl wiss challenged.</p> <p>At [10] Even though appellant unaware of weight or purity of drugs, they remain central to sentencing – relevant to the assessment of the potential harm and impact on community of the drugs and form part of the factual basis the sentencing judge relied on when finding the appellant was close to the top of distribution hierarchy and an integral link in the distribution chain.</p>
<p>75.</p>	<p><i>Mikulic v The State of Western Australia</i></p> <p>[2011] WASCA 127</p> <p>Delivered 8/06/2011</p>	<p>48 yrs at time sentencing.</p> <p>Convicted after PG after 5 days trial (12 prosecution witnesses testified). PG to Cts 2, 4, -10 accepted in full satisfaction of indictment.</p> <p>No prior criminal record</p>	<p>Ct 2: Att to poss MDMA wiss 8.832kg.  <b>Ct 4: Att to poss methyl wiss 3.108kg at 23-26%.</b>  Ct 5: Poss MDMA wiss 1.23kg.  Ct 6: Poss MDMA wiss 1.921 kg.  Ct 7: Poss cocaine wiss 19.15g at 76-80%.  <b>Ct 8: Poss methyl wiss 2.07g at 26-27%.</b>  Ct 9: Poss MDMA wiss 8.59g.  <b>Ct 10: Poss methyl wiss 2.98g at 25%.</b>  Involved in drug dealing at high level – planned, financed and facilitated inter-State importation drugs subject cts 2 &amp; 4. Financial motivation. Close to the source manufacture.  <u>Cts 2 &amp; 4:</u>  Drugs in possession 2 co-offenders (one of whom is the appellant's brother) and were found when police searched a car at Eucla. Drugs were hidden in a steel tube. Co-offenders has driven car from Perth to Sydney to purchase drugs and were returning</p>	<p>TES 12 yrs imp.</p>	<p>Dismissed.</p>

			<p>to Perth. Sydney.</p> <p><u>Ct 5:</u> Appellant's home searched as result of the above and drugs subject ct 5 found. Also found note books with details of drug names, measurements and prices and over \$30,000 cash.</p> <p><u>Ct 6, 7 &amp; 8:</u> Police found handbag containing drugs subject cts 6, 7 &amp; 8 in bushland on golf course 7-8m from rear of appellant's home.</p> <p><u>Cts 9 &amp; 10:</u> Police searched property in Lancelin owned by appellant. Found drugs subject cts 9 &amp; 10, as well as heat sealing machine, digital scales, note books and pares detailing drug weights and transactions.</p> <p>Wife also charged.</p>		
74.	<p><i>Bond v The State of Western Australia</i></p> <p>[2011] WASCA 123</p> <p>Delivered 1/06/2011</p>	<p>23 yrs at time offending. 22 yrs at time offence planned.</p> <p>Convicted after PG – TOI as to whether appellant courier or drug dealer.</p> <p>De facto partner pregnant with first child; hard working.</p>	<p><b>1 x Poss methyl wiss 3.061kg at 3-7%.</b></p> <p>Planned act done for personal financial gain.</p> <p>Characterised in sentencing as higher end courier.</p> <p>Appellant driving from NSW to WA. Car stopped and searched at Eucla. 4 bags containing 881g at 7%, 878g at 7%, 882g at 6% and 420g 3% methyl found concealed in car.</p>	<p>9 yrs imp.</p> <p>TES 9 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>TES reduced to 7 yrs imp.</p> <p>EFP.</p> <p>Sentencing Judge made an error as to the time at which appellant PG – not known if appellant received full benefit of plea.</p>
73.	<p><i>Penney v The State of Western Australia</i></p> <p>[2011] WASCA 71</p>	<p>37 yrs at time offending, 38 yrs at sentencing.</p> <p>Convicted after PG.</p> <p>No relevant prior criminal record.</p>	<p>1 x Poss cocaine wiss 3.09kg at 64%.</p> <p><b>1 x Poss methyl wiss 5.76 kg at 10 – 12%.</b></p> <p>3 x s32 offences.</p> <p>More than a courier but not the 'principal' in the distribution network. Primary motivation to pay off debts – commercial gain.</p>	<p>9 yrs imp.</p> <p>4 yrs imp.</p> <p>18 mths; 1 mth; 1 mth imp.</p> <p>TES 13 yrs imp.</p>	<p>Dismissed.</p> <p>Sentence high but within sound range.</p>

	Delivered 23/03/2011	Mental disorder – relevant to risk re-offending not culpability.  Excellent work record.  Used 3.5 g methyl and 5 g cocaine each day.	Vehicle (hire car from Sydney) stopped by police driven by associate of the appellant, appellant asleep in the vehicle. Searched vehicle finding drugs in scuba diving equipment and keys that opened a factory and a caravan. Heat sealing machines, heat seal bags, digital scales, boxes of rubber gloves, face mask, elastic bands, envelope, Alinta gas account addressed to appellant, filter components from an air extractor unit, 2 hard covered books containing figures, money counting machine and \$854,550 cash.	EFP.  Low risk of re-offending; evidence of remorse and acceptance of personal responsibility	
72.	<i>Galbraith v The State of Western Australia</i>  [2011] WASCA 70  Delivered 23/03/2011	27 yrs at time offending.  Convicted after fast track PG – however judge took view that this was a willingness to facilitate process but not that the plea demonstrated remorse, as he had no alternative with the evidence against him (caught ‘red-handed’).  Offending breached SIO.  Extensive prior criminal record - illicit drugs; weapons; traffic. Went to uni; dropped out in 3 <sup>rd</sup> year after succumbing to drug use; addicted to illicit substance since 20 yrs old. Had worked in a spa hire business then worked sporadically as a roof carpenter.	<b>1 x Poss methyl wiss 485g at 74% and 485.6g at 78%.</b> 7 x s 32 offences.  Appellant was a passenger in front passenger seat of a taxi. Police stopped the taxi and located a black satchel belonging to the appellant. Satchel contained two clip-seal bags wrapped in plastic wrap, bubble wrap and brown tape. Police searched his house and found clip-seal bags, \$4850 cash, cutting agent and tick list. Argued that he was a courier, and owed someone \$23,000. Value ‘in millions once they hit the streets’. Purity indicated close to source of supply.	9 yrs imp.  s 32 sentences made conc, except for poss stolen property - 6mths imp imposed cum.  Breached SIO cum on sentence.  TES 10 yrs imp. EFP.	Dismissed.  Sentence high but no error and within range.

<p>71.</p>	<p><b><i>Than-Htay v The State of Western Australia</i></b>  [2011] WASCA 68  Delivered 23/03/2011</p>	<p>Convicted after trial.  Significant prior crim record - conspiracy to sell/supply; poss amphetamines wiss.  Offending breached parole (poss amphetamines wiss).</p>	<p><b>Ct 1: Poss methyl wiss 5.97g at 77%. Ct 2: Poss methyl wiss 19.55g at 73- 81%. Ct 3: Poss methyl wiss 112.16g at 30 – 77%.</b>  Drugs of very high purity, motivation was for commercial gain but also to service his own drug habit.  Search warrant executed at appellant’s home. Methyl found in pocket, backpack, bumbag &amp; motor vehicle. If substances subject of cts 1 – 3 were diluted, would create over 680g of methyl at street level purity worth some hundreds of thousands of dollars.</p>	<p>Ct 1: 18 mths imp. Ct 2: 3 yrs imp. Ct 3: 8 yrs imp.  TES 8 yrs imp.  EFP.  Limited insight into offending; blamed others for his actions; high risk re-offending.  Personal deterrence needed.</p>	<p>Dismissed.  At [21] ‘<i>However, the effect of differing personal circumstances and antecedents will be reduced in those matters where deterrence is the dominant sentencing consideration: Tulloh v The Queen</i> [2004] WASCA 169; (2004) 147 A Crim R 107 [46] McClure JA.’</p>
<p>70.</p>	<p><b><i>Fragomeni v The State of Western Australia</i></b>  [2011] WASCA 67  Delivered 23/03/2011</p>	<p>Convicted after trial – acquitted Ct 1 (poss methyl wiss 22.7g).  Prior criminal record - incl murder (life imprisonment).  Offences committed while on parole.</p>	<p><b>Ct 2: Poss methyl wiss 14g at 14 – 18% Ct 3: Poss methyl wiss 845g at 17 – 18%</b>  Various s 32 offences.  Search warrant – located 3 quantities of methyl at premises occupied by appellant, in bumbag, shorts (ct 2) and safe (ct 3). Also located scales, replica pistol, \$6000 cash, clip seal bags.</p>	<p>Ct 2: 2 yrs imp. Ct 3: 10 yrs imp.  s 32 sentences conc on sentences above.  TES 10 yrs imp.</p>	<p>Dismissed.  Sentence for ct 3 not outside the discretionary range and TES appropriate for the totality of the conduct.</p>
<p>69.</p>	<p><b><i>Tema v The State of western Australia</i></b>  [2011] WASCA 41  Delivered 14/03/2011</p>	<p>43 yrs at time offending. 56 yrs at time sentencing.  Prior criminal record – gaming and firearms offences.  Born in Macedonia; emigrated to Australia as young adult; married; 4 adult children and 5 grandchildren at time sentencing.</p>	<p><b>1 x Poss methyl wiss 449.72g at 14%.</b>  Purely financial motive – not drug user.  Appellant flew from Melbourne to Perth under false name and booked into motel using correct name. From arrival, appellant under police surveillance as result information provided by Victorian police. UCO took separate flight from Melbourne to Perth and booked into motel room adjoining the appellant’s. Search warrant executed on appellant’s room.</p>	<p>7 yrs 6 mths imp.  TES 7 yrs 6mths imp.  EFP after 5 yrs 6 mths.</p>	<p>Dismissed.</p>



			<p>Methyl found in two plastic bags (448.6g &amp; 1.12g) wrapped in Victorian newspaper pages hidden behind an exhaust fan in the bathroom wall.</p> <p>Appellant's home in Victoria searched approx 1 week later – newspaper missing the same pages the drugs had been wrapped in found, along with set electronic scale (traces methyl &amp; heroin).</p> <p>Offending occurred in 1997 and, at commencement of trial in 2000 (delay attributable to delays in disclosure and applications from defence as to admissibility of evidence), appellant failed to appear and an bench warrant was issued. Appellant avoided detection for 8 yrs and legally changed his name. Eventually arrested in 2009 when arrived in Australia on a flight from Macedonia. Appellant then extradited to Perth and trial listed for August 2009. Appellant unrepresented and trial adjourned to Oct 2009.</p>		
68.	<p><i>Direen v The State of Western Australia</i></p> <p>[2010] WASCA 211</p> <p>Delivered 29/10/2010</p>	<p>27 yrs at time offending.</p> <p>Convicted after very late PG (on morning of trial).</p> <p>Limited prior criminal record.</p> <p>Supportive family.</p>	<p><b>1 x Poss methyl wiss 13.7g at 13%.</b></p> <p><b>1 x Poss methyl wiss 52.8g at 26%</b></p> <p>Search of premises located \$17,250 cash, drug paraphernalia and tick list.</p>	<p>TES 3 yrs 6 mths imp.</p> <p>Co-offender received 2 yrs 6 mths imp.</p>	<p>Dismissed.</p> <p>Appeal run on grounds of parity only.</p>
67.	<p><i>The State of Western Australia v Fleming</i></p> <p>[2010] WASCA</p>	<p>50 yrs at time offending.</p> <p>51 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Prior criminal record - traffic</p>	<p>1 x Assault police officer.</p> <p><b>1 x Poss methyl wiss (100.6g at 4%).</b></p> <p>Respondent was seen walking towards a known 'drug house'. Police asked him to stop and respondent ran towards the house. Police</p>	<p>2 yrs imp.</p> <p>1 yr imp.</p> <p>TES 2 yrs imp.</p>	<p>Allowed.</p> <p><u>Sentences on appeal:</u> Assault: 6 mths imp. Poss wiss: 3 yrs imp.</p>

	<p><b>162</b></p> <p>Delivered 5/08/2010</p>	<p>offences; drug offences (heroin, amphetamine and cannabis).</p>	<p>attempted to detain the respondent and a violent struggle ensued. The respondent struck one of the officers in the head and kicked him in the stomach – officer received cuts and bruises.</p> <p>Respondent subdued and found to have methyl in his possession as well as two bags containing a cutting agent.</p>	<p>EFP.</p>	<p>TES increased to 3 yrs 6 mths imp.</p> <p>EFP.</p> <p>At [26] Although purity low, given quantity 2 yrs imp for poss methyl wiss manifestly inadequate.</p>
66.	<p><i>Dillon v The State of Western Australia</i></p> <p>[2010] WASCA 135</p> <p>Delivered 4/08/2010</p>	<p>36 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Served 12 months imp previously for possess wiss methyl.</p> <p>Good work record; positive character references.</p>	<p><b>1 x Poss wiss methyl 75.7g 11-13%.</b></p> <p><b>1 x Poss wiss methyl 59.44g 12%.</b></p> <p>1 x Poss wiss MDMA 5.54g 21%.</p> <p>1 x Pervert the course of justice (PCJ).</p> <p>5 x s 32 charges (not drug related).</p> <p>Drugs found after appellant's car stopped and searched.</p> <p>PCJ result of telephone intercepts recording appellant arranging for another person to say the drugs belonged to them in exchange for \$10,000.</p>	<p>4 yrs 6 months imp</p> <p>4 yrs 6 mnth imp conc</p> <p>1 yr imp conc</p> <p>2 yrs imp cum</p> <p>s 32 sentences concurrent.</p> <p>TES 6 yrs mths imp.</p>	<p>Dismissed – only sentence PCJ challenged.</p>
65.	<p><i>Wilson v The State of Western Australia</i></p> <p>[2010] WASCA 82</p> <p>Delivered 4/05/2010</p>	<p>34 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Offence on indictment 2 breached bail for indictment 1.</p> <p>Prior criminal record - incl drug related convictions for which fines were imposed.</p> <p>Undertaken programmes in custody.</p> <p>Good work history.</p>	<p><u>Indictment 1:</u></p> <p>Ct 1: Conspire to purchase MDMA wiss 500 tablets</p> <p><b>Ct 2 : Poss methyl wiss 32.5g at 32%.</b></p> <p><u>Indictment 2:</u></p> <p><b>Ct 1: Poss methyl wiss 116g at 9-39%.</b></p> <p>Involved at a significant level in the hierarchy of drug industry – not street dealing but dealing at whole sale level in significant quantities.</p> <p><u>Indictment 1:</u></p> <p>Agreed with third party to purchase and then sell 500 MDMA tablets at \$20 with intent on-sell them and split the profits (ct 1). Police</p>	<p>15 mths imp.</p> <p>2 yrs 8 mths imp.</p> <p>5 yrs imp.</p> <p>TES 6 yrs 3 mths imp.</p>	<p>Dismissed.</p>

			<p>observed appellant in car park of business and conducted a search of his car. Methyl (ct 2), \$2,000 cash found in car. \$4,100 cash found on appellant's person.</p> <p><u>Indictment 2:</u> Police stopped and searched appellant's car - \$2,140 cash found on appellant's person. Appellant's home subsequently searched and methyl, cutting agent, clip-seal bags, syringes and vials water found in hard case kit.</p>		
64.	<p><i>Lam v The State of Western Australia</i></p> <p>[2010] WASCA 61</p> <p>Delivered 7/04/2010</p>	<p>22 yrs at time offending.</p> <p>Convicted after fast-track PG. Cooperated with police. Remorse.</p> <p>Prior minor criminal record.</p> <p>Migrated from Vietnam; poor English; commenced using methyl at 20 yrs.</p> <p>8 mth old child and ceased drug use at time sentencing.</p>	<p><b>1 x Poss methyl wiss 172.36g at 5 – 37%.</b></p> <p>Engaged in a commercial activity of selling drugs.</p> <p>Search warrant executed at appellant's parent's home - over \$14,000 cash, clip-seal bags, cutting agent and electronic scales found in bedroom. Drugs were found on appellant's person.</p>	<p>5 yrs 4 mths imp.</p> <p>TES 5 yrs 4 mths imp.</p> <p>Remorse.</p>	<p>Dismissed.</p> <p>At [10] <i>'The commercial aspect of the appellant's activity reflected in the significant quantity and purity of the drug places the appellant's conduct in the very serious category of offences of this type.'</i></p>
63.	<p><i>Cant v The State of Western Australia</i></p> <p>[2009] WASCA 188</p> <p>Delivered 3/11/2009</p>	<p>37 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Prior criminal record - poss amphetamines, cannabis and smoking implement.</p> <p>Full-time employment; assisted mother with care of mentally ill brother.</p>	<p><b>1 x Poss methyl wiss 69g at 21%.</b></p> <p>Classified by sentencing judge as low to mid-range dealer</p> <p>Appellant stopped by police and apprehended for other matters. Appellant then informed police he was in poss of the methyl.</p>	<p>4 yrs imp.</p> <p>TES 4 yrs imp.</p> <p>EFP</p>	<p>Dismissed.</p> <p>At [21] <i>The sentence is...at the higher end of the range but the offence involved a substantial quantity of methylamphetamine at quite a high level of purity.</i></p> <p>NB: The original sentence was imposed whilst the transitional provisions were in force.</p>

<p>62.</p>	<p><i>Giglia v The State of Western Australia</i></p> <p>[2010] WASCA 9</p> <p>Delivered 22/01/2010</p>	<p>25 yrs at time offending. 27 yrs at time sentencing.</p> <p>Convicted after trial (acquitted 3 charges).</p> <p>Minor prior criminal record - assault, weapons and traffic offences.</p> <p>No substance abuse problem - never tried illicit substances.</p> <p>Educated to yr 12; good work history; supportive family and fiancée.</p>	<p>3 x Poss MDMA wiss 300, 500 and 500 tablets.</p> <p><b>1 x Poss methyl wiss 84g.</b></p> <p>8 x Offer to supply methyl to another (various weights below 63g).</p> <p>1 x Supply methyl.</p> <p>1 x Att to poss MDMA wiss 500 tablets.</p> <p>Offending in context joint enterprise between appellant and co-offenders to try and sell methyl and MDMA.</p> <p>Arrest and charges result telephone intercepts over approx 4 week period.</p>	<p>TES 8 yrs 6 mths.</p> <p>Remorse at sentencing – previously maintained innocence.</p>	<p>Dismissed.</p> <p>At [48] <i>‘The offences committed by the appellant were serious. He was a commercial dealer of both methylamphetamines and ecstasy. He was not solely involved in the sale of drugs at the street level, but was selling drugs to other people who were selling them to the ultimate users. He sold drugs purely for financial gain, rather than to support an addiction.’</i></p> <p>NB: The original sentence was imposed whilst the transitional provisions were in force.</p>
<p>61.</p>	<p><i>The State of Western Australia v Atherton</i></p> <p>[2009] WASCA 148; (2009) 197 A Crim R 119</p> <p>Delivered 25/08/2009</p>	<p>44-45 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Cts 8 &amp; 9 committed whilst on bail for cts 1-7.</p> <p>Minor prior criminal record - had not previously served a term of imprisonment.</p>	<p><b>Ct 1: Poss methyl wiss 142.2g at 9-10%.</b></p> <p><b>Ct 2: Poss methyl wiss 855.4g at 13%.</b></p> <p>Ct 3: Poss cannabis wiss 50.4g.</p> <p>Ct 4: Poss cannabis wiss 133g.</p> <p>Ct 5: Poss cannabis wiss 353g.</p> <p>Ct 6: Poss MDMA wiss 655g at 28%.</p> <p>Ct 7: Poss MDMA wiss 342g at 9%.</p> <p><b>Ct 8: Poss methyl wiss 28.7g at 19 – 33%.</b></p> <p>Ct 9: Poss MDMA wiss 31.77g at 28-30%.</p> <p>Quantities of drugs and cash found indicated higher level of commercial dealing.</p>	<p>Ct 1: 3 yrs 4 mths imp.</p> <p>Ct 2: 6 yrs 8 mths imp.</p> <p>Ct 3: 8 mths imp.</p> <p>Ct 4: 8 mths imp.</p> <p>Ct 5: 12 mths imp.</p> <p>Ct 6: 5 yrs 4 mths imp.</p> <p>Ct 7: 3 yrs 4 mths imp.</p> <p>Ct 8: 16 mths imp.</p> <p>Ct 9: 16 mths imp.</p> <p>TES 8 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>TES increased to 11 yrs imp.</p> <p>At [175]-[179] Sentences imposed for cts 1, 2, 6 and 7 outside range of sound exercise of sentencing discretion in that they were manifestly inadequate.</p>
<p>60.</p>	<p><i>Nguyen v The State of Western</i></p>	<p>53 yrs at time offending.</p> <p>Convicted after fast-track PG (methyl &amp; heroin).</p>	<p><b>1 x Poss methyl wiss 138.8g (52-55%).</b></p> <p>1 x Poss heroin wiss 55.8g (59%).</p> <p>1 x Poss MDMA wiss.</p>	<p>5 yrs 6 mths imp.</p> <p>3 yrs imp.</p> <p>8 mths imp.</p>	<p>Dismissed.</p> <p>NB: The original sentence was imposed whilst the</p>

	<p><i>Australia</i></p> <p><b>[2009] WASCA 81</b></p> <p>Delivered 7/05/2009</p>	<p>Convicted after trial (MDMA – also acquitted charge supply methyl 1.213kg).</p> <p>Minor prior criminal record. History poly-substance abuse.</p> <p>Poor health (two operations for brain haemorrhage; spinal injuries in car accident resulting in chronic back pain) - started using drugs as coping mechanism for disability.</p>	<p>Sentenced on basis commercial trafficker - flew from Sydney to Perth &amp; rented house for sole purpose of dealing.</p> <p>Methyl found in 5 packages in bag in appellant's pocket. Heroin in package on table in centre of bedroom. Also found electronic scales &amp; \$2,110 cash.</p>	<p>TES 6 yrs imp.</p> <p>Minimal insight into illness and illicit substance abuse.</p>	<p>transitional provisions were in force.</p>
<p><b><i>Transitional Provisions Repealed (14/01/2009)</i></b></p>					
59.	<p><i>The State of Western Australia v Tran</i></p> <p><b>[2008] WASCA 183</b></p> <p>Delivered 2/09/2008</p>	<p>67 yrs at time offending.</p> <p>Convicted after early PG. Cooperated with police, prepared to testify against co-offenders.</p> <p>Vietnam migrant; war veteran; POW; heart disease; gout; high blood pressure; asthma.</p> <p>Limited contact with four children after separating from wife.</p>	<p><b>1 x Poss methyl wiss 1.213kg at 50 – 56%.</b></p> <p>Befriended at Burswood casino by co-offenders, asked to hold large quantities of drugs in safekeeping which co-offender was bringing to Perth from Sydney.</p> <p>Carried out role in offence from lower rung of criminal hierarchy receiving only small reward.</p>	<p>3 yrs 3 mths imp.</p> <p>TES 3 yrs 3 mths imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Sentence low but not so low as to warrant State appeal.</p>
58.	<p><i>Rigney v The State of Western Australia</i></p> <p><b>[2008] WASCA 96</b></p> <p>Delivered</p>	<p>Convicted after PG.</p> <p>2<sup>nd</sup> offence committed whilst on bail for 1<sup>st</sup> offence.</p> <p>Prior criminal record – 32 convictions between 1983-2005.</p> <p>Good family, hard working</p>	<p><u>Indictment 1:</u></p> <p><b>1 x Poss methyl wiss 87.74g at 30-51%</b></p> <p><u>Indictment 2:</u></p> <p><b>1 x Poss methyl wiss 11.07g at 25-34%</b></p> <p><u>s 32 offences:</u></p> <p>1 x Poss cannabis wiss 318.5g bud &amp; 6.5g seed material.</p> <p>1 x Poss unlicensed ammunition.</p>	<p>4 yrs 6 mths imp.</p> <p>18 mths imp.</p> <p>3 mths imp.</p> <p>3 mths imp.</p>	<p>Dismissed.</p>

	10/04/2008	person; performed well in programs since imprisonment.	<p><u>Indictment 1:</u> Appellant passenger in car that was stopped by police. Electronic scales and \$5000 cash found in car and drugs were found in 3 clip-seal bags hidden in appellant's socks and underwear.</p> <p><u>Indictment 2:</u> Police executed search warrant at appellant's home. Drugs found in appellant's tracksuit pants and at various locations throughout house. \$8070 cash also found along with scales, clip-seal bags and a piece of paper with numbers written on.</p> <p><u>s 32 offences:</u> Cannabis found when police attended appellant's home on separate occasion. Cannabis found in different locations and in different size quantities.</p>	TES 6 yrs imp. EFP.	
57.	<p><i>Bahn v The State of Western Australia and Luu v The State of Western Australia</i></p> <p>[2008] WASCA 40</p> <p>Delivered 28/02/2008</p>	<p>Both appellants convicted after PG – joint indictment with same charges.</p> <p><u>Bahn:</u> 35 yrs at time sentencing.</p> <p>No relevant criminal record.</p> <p>Good work record; offending out of character.</p> <p><u>Luu:</u> 23 yrs at time offending. 27 yrs at time sentencing.</p> <p>No prior criminal record.</p> <p>Well educated; remorseful; became involved drugs following relationship breakdown; attempts</p>	<p><b>1 x Conspire to sell methyl 2kg.</b> 1 x Offer to sell ecstasy 10,000 tablets. 1 x Supply heroin 1 kg.</p> <p>Offences part multifaceted course criminal conduct.</p> <p>Arrests result organised crime investigation involving phone intercepts, surveillance and undercover operative.</p> <p><u>Luu:</u> Offending way clearing drug debts and for personal financial gain.</p> <p><u>Bahn:</u> Amphetamine user and financial difficulties led to offending.</p>	<p>5 yrs imp. 4 yrs imp. 8 yrs imp.</p> <p>TES 10 yrs imp.</p> <p>Sentences same for each appellant.</p>	<p>Dismissed.</p> <p>Some summary of comparative cases for each offence in judgement.</p>

		at rehabilitation.			
56.	<i>Cohen v The State of Western Australia [No 2]</i>  [2007] WASCA 279  Delivered 18/12/2007	53 yrs at time sentencing.  Convicted after trial - co-operated by making certain admissions and reducing length trial.  Prior criminal record – drug trafficking convictions.  Not a drug addict, motivated solely by greed – carried on drug trafficking business.	<b>Ct 1: Poss methyl wiss 1.68g at 19%.</b> <b>Ct 2: Poss methyl wiss 164g at 19%.</b> Ct 3: Poss cocaine wiss 13.5g at 30%. <b>Ct 4: Poss methyl wiss 1.64g at 19%.</b>  Came to attention of police through telephone intercepts. Car searched and drugs subject ct 1 found concealed in car’s air-conditioning duct. Apartment subsequently searched – rubber gloves, cipseal bags and dextrose (cutting agent methyl) found, as well as \$100,000 cash. Empty apartment next door also searched – drugs subject cts 2 & 3 found. House then searched – drugs subject ct 4 found.	Ct 1: 1 yr imp. Ct 2: 8 yrs imp. Ct 3: 7 yrs imp. Ct 4: 2 yrs imp.  TES 9 yrs imp. EFP.	Allowed - primarily on ground that confiscation of lawfully acquired house (inherited from mother and worth more \$1,000,000) not originally taken into account as mitigating factor given sentence cts 2 & 3 are at upper end of range.  TES reduced 7 yrs 6 mths.  At [21] the possibility of deportation alone not mitigating factor.
55.	<i>Monument v The State of Western Australia</i>  [2007] WASCA 239 NB: Co-offender of Toothill (below)  Delivered 8/11/2007	37 yrs at time offending.  Convicted after PG after trial listed but before it began.  Minor prior criminal record for driving offences.  Begun using amphetamines after work injury; offences ‘out of character’; more significant role than co-offender.	<b>1 x Poss methyl wiss 499g at 78%.</b> 1 x Poss somatropin wiss (growth hormone, intended to use for neck soreness and sell half to cover cost).  Offender and co-offender tailed by police, co-offender observed throwing backpack containing 499g of methyl into bushes.  Search of home located \$22,860 cash, scales and tick book.	6 yrs imp. 1 yr imp.  TES 7 yrs imp.	Dismissed.  At [18] ‘ <i>The sentence imposed in respect of the methylamphetamine was, having regard to the standards of sentencing appropriate for such offences, a moderate one having regard to the quantity and the purity of the drug and the role played by the appellant.</i> ’
54.	<i>The State of Western Australia v Toothill</i>  [2007] WASCA	24 yrs at time offending.  Convicted after PG (cts 2 & 3). Convicted after trial (ct 1). No prior criminal record.	<b>Ct 1: Poss methyl wiss 499g at 78%.</b> Ct 2: Poss MDMA wiss 11.4g. <b>Ct 3: Poss methyl wiss 3.36g at 34%.</b>  Telephone intercepts of co-offender’s mobile.	Ct 1: 4 yrs 8 mths imp. Ct 2: 18 mths imp. Ct 3: 18 mths imp.  TES 4 yrs 8 mths.	Allowed.  TES increased to 6 yrs imp.  At [39] ‘ <i>Having regard to the quantity and purity of the drug</i>

	<b>236</b> Delivered 8/11/2007	Good health; no dependants; good family relations; long standing drug habit.	Appellant and co-offender tailed by police, appellant observed throwing backpack containing 499g of methyl into bushes.  Search of appellant's home located drugs subject of cts 2 and 3.	EFP.  Remorse.	<i>involved and the nature and level of the respondent's participation..the usual range of sentence is 6 -10 years'.</i>
<b>53.</b>	<b><i>Bosworth v The State of Western Australia</i></b>  [2007] WASCA 144; (2007) 175 A Crim R 49  Delivered 13/07/2007	57 yrs at time offending.  Convicted after fast track PG.  Offending breached 2yr CRO (poss methyl wiss).  Very stable family background.	<b>1 x Poss methyl wiss 84.17g at 15 – 36%.</b> 10 x Sell methyl 3.5g.  Police conducted a search of appellant's house. Appellant helped police locate the drugs in various locations in the house. Also located \$11,750 cash and set of electronic scales which appellant admitted using to weigh methyl. Appellant admitted \$10,000 of the cash came from selling drugs and admitted having sold methyl on 10 occasions in lots of 3.5g for \$1000 each.	5 yrs 10 mths imp. 18 mths imp each count.  TES 7 yrs 4 mths imp.  EFP.	Dismissed.  <i>At [13] 'There are a sufficient number of comparable sentences in this jurisdiction to satisfy me that the sentence of 5 years and 10 months is not inconsistent with sentences customarily imposed or outside the range of a sound sentencing discretion'.</i>  <i>At [19] 'Weighing heavily in this conclusion is the appellant's cooperation with police which resulted in his convictions on the selling counts.'</i>
<b>52.</b>	<b><i>Laws v The State of western Australia</i></b>  [2007] WASCA 95  Delivered 27/04/2007	38 yrs at time sentencing.  Convicted after PG.  Offending subject of ct 2 breached bail for ct 1.  Good employment history; stable de facto relationship of 20 yrs.  Suffered back injury in 2001 – caused drug addiction.	<b>Ct 1: Poss methyl wiss 11.7g.</b> <b>Ct 2: Poss methyl wiss 19.06g at 23%.</b>  Police executed a search warrant at appellant's home and drugs subject ct 1 were found, as well as \$8000 cash, clipseal bags and other amounts of drugs. Appellant released on bail. Approx 11 mths later, police executed search warrant for appellant's car and found drugs subject of ct 2, as well as \$2270 cash and scales.	Ct 1: 16 mths imp. Ct 2: 24 mths imp.  TES 3 yrs 4 mths imp.  EFP.  Remorse; accepted responsibility.	Dismissed – leave refused on papers.



<p>51.</p>	<p><b><i>Vagh v The State of Western Australia</i></b></p> <p>[2007] WASCA 17</p> <p>Delivered 19/01/2007</p>	<p>22 yrs at time offending.</p> <p>Convicted after PG - co-operated with police.</p> <p>No prior criminal record.</p> <p>Strong family support.</p>	<p><b>Ct 1: Poss methyl wiss 133.3g at 15-17%.</b>  Ct 2: Poss LSD wiss 58 trips.  Ct 3: Sold MDMA 98 tablets 30.65g.  3 x s 32 offences</p> <p>Commercial motivation.</p> <p><u>Cts 1 &amp; 2:</u> search warrant at appellant's home found 133.3g crystal methyl and 58 LSD trips in jacket in wardrobe.  <u>Ct 3:</u> appellant arranged to sell 98 MDMA tablets to another. Sent person to transact the sale and received \$2350 in return.</p>	<p>Ct 1: 3 yrs 9 mths imp.  Ct 2: 1 yr 8 mths imp.  Ct 3: 2 yrs 1 mth imp.  s 32: 2 mths imp each offence.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [71]-[72] Sentence not disproportionate to overall criminality and not crushing.</p> <p>At [77] 'As the Sentencing Judge correctly observed, the appellants conduct involved extremely serious offending; it was not isolated, it involved a reasonable amount of dangerous drugs and he played an important role in their distribution.'</p>
<p>50.</p>	<p><b><i>Colangelo v The State of Western Australia</i></b></p> <p>[2004] WASCA 294</p> <p>Delivered 8/12/2004</p>	<p>23 yrs at time sentencing.</p> <p>Convicted after PG (not at first opportunity).</p> <p>Ct 3 committed whilst on bail for first two counts.</p> <p>Drug user.</p>	<p><b>1 x Poss methyl wiss 53.32g at 9-48%.</b>  1 x Poss MDMA wiss 74 tablets.  <b>1 x Poss methyl wiss 26.3g at 36%.</b></p> <p>Sentenced on basis he was a mid range dealer.</p> <p>Police executed search warrant at appellant's house – found drugs; scales; bags; tick lists.</p>	<p>4 yrs imp.  2 yrs imp.  2 yrs imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p>	<p>Dismissed - within range of sentences for this type of offending.</p> <p>At [24] affirms <i>Marker</i> in that drug addiction not mitigating factor.</p>
<p>49.</p>	<p><b><i>Tulloh v The Queen</i></b></p> <p>[2004] WASCA 169; (2004) 147 A Crim R 107</p> <p>Delivered 11/08/2004</p>	<p>28 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal record – cultivate cannabis; poss weapon.</p> <p>Previously served in the army.</p> <p>Partner pregnant at time sentencing.</p>	<p><b>1 x Poss methyl wiss 805g (423.8 g at 51% and 381.7g at 68%).</b></p> <p>Appellant booked a motel room and arrived at approx 6pm with a co-offender. Approx 2 hours later, police executed a search warrant on the motel room. Police had to force their way in by breaking down the door and when they entered the appellant was at an open window with the flyscreen removed. Police recovered the two packages containing the methyl in the garden below the window. Police found electronic scales, clipseal bags and glucodin in the motel room.</p>	<p>15 yrs imp.</p> <p>TES 15 yrs imp.</p>	<p>Dismissed.</p> <p>At [13] "...persons prepared to possess large quantities of high grade methylamphetamine must realise that they will face lengthy terms of imprisonment if apprehended – particularly so if their involvement is for commercial gain."</p> <p>NB: The original sentence was imposed whilst the transitional provisions were in force.</p>

			Applicant claimed police placed the items above in the motel room and that he had no knowledge of the drugs in the garden.		
48.	<i>Stapleton v The Queen</i> <b>[2004] WASCA 130</b>  Delivered 21/06/2004	58 yrs at time offending.  Convicted after PG on day of trial.  Offending breached bail.  Prior criminal record - dishonesty involving \$125 000.  Gambling problems; separated from wife; two teenage children.  Opportunistic offence.	<b>1 x Supply methyl 437g at 58%.</b>  Couriered drugs from NSW with 2 co-offenders. Telephone intercepts specifically targeted appellant and one co-offender. Played an integral role in interstate distribution of drugs.	9 yrs imp.  TES 9 yrs imp.  EFP.	Dismissed.  NB: The original sentence was imposed whilst the transitional provisions were in force.
47.	<i>Sinagra-Brisca v The Queen</i> <b>[2004] WASCA 68</b>  Delivered 7/04/2004	Convicted after fast-track PG. Extensive investigation and significant amount of evidence against appellant.  Prior criminal record - poss amphetamines and poss amphetamine and MDMA wiss (3 yrs imp.)  Gambling problem.	Ct 1: Poss MDMA wiss 10,000 tablets, 2.4kg at 27%. <b>Ct 2: Poss methyl wiss 5.06kg at 21 – 50%.</b>  <b>Ct 3: Poss methyl wiss 800g at 28 – 70%.</b> Ct 4: Poss MDMA wiss 55 tablets, 14g at 18%.  Significant drug dealer in a well-organised syndicate.  10,000 tablets found in vehicle. Subsequent charges resulted from a search of properties.	Ct 1: 17 yrs 6 mths imp. Ct 2: 17 yrs 6 mths imp. Ct 3: 3 yrs imp. Ct 4: 3 yrs imp.  TES 20 yrs 6 mths imp.  EFP.	Dismissed.  Adequate discount for guilty plea, more acceptance of inevitable prosecution than genuine remorse.  No further mitigation required for property confiscation, offender failed to lead evidence property sourced from non-drug related funds.  NB: The original sentence was imposed whilst the transitional provisions were in force.

***Transitional Provisions Enacted (31/08/2003)***

<p>46.</p>	<p><i>Kirby v The Queen</i></p> <p>[2003] WASCA 164</p> <p>Delivered 31/07/2003</p>	<p>40 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Prior criminal record of serious drug convictions.</p>	<p>1 x Poss cocaine wiss 4.85g at 25%.  <b>1 x Poss amphetamine wiss 3.168kg at 9-10%.</b>  3 x s 32 convictions (not drug related).</p> <p>Characterised as being involved in commercial drug dealing.</p> <p>Appellant stopped and searched while riding motorbike. Initially co-operated but became aggressive when police wanted to search underpants. Appellant ran from police and was seen to remove something from his pants and throw it away. Appellant detained and drug dog found clipseal bag containing white powder in vegetation. Also found \$928 cash on appellant in search.  Appellant's property then searched – found Tupperware container buried near water tank adjacent to the house. Container had 7 vacuum sealed bags inside (3.168kg amphetamine). Also found amphetamine residue in bags in bin, on kitchen sink and bench and on set scales found. Police also found \$363,700 cash buried in 5 different spots on the property, unlicensed ammunition and firearms.</p>	<p>4 yrs imp.  9 yrs imp.</p> <p>6 mths, 3 mths, 3 mths imp.</p> <p>TES 9 yrs imp.</p> <p>EFP.</p>	<p>Dismissed – within proper range.</p> <p>At [144] “<i>Courts must impose sentences which will operate as a real deterrent to those who may be minded to involve themselves in the business of drug dealing</i>’.</p> <p>At [150] cocaine and amphetamine in highest category of drugs for sentencing purposes.</p>
<p>45.</p>	<p><i>Kezkiropolous v The Queen</i></p> <p>[2002] WASCA 352; (2002) A Crim R 522;</p> <p>Delivered 16/12/2002</p> <p>Co-offender of <i>Marker</i></p>	<p>37 yrs at time offending.</p> <p>Convicted after late PG - just before trial.</p> <p>No prior criminal record.</p> <p>Respectable family background; in long term relationship at time offending; no history substance abuse; resident of Victoria.</p>	<p>1 x Supply methyl 0.1 gram at 59.3%.  <b>1 x Poss methyl wiss 422.5g at 59.3%.</b></p> <p>Financial motivation.</p> <p>Appellant travelled from Victoria, bringing drugs to sell. Surveillance by AFP led to raid on hotel room where sale drugs conducted.</p>	<p>15 mths imp.  10 yrs imp.</p> <p>TES 10 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p>

44.	<i>Cameron v The Queen</i>  [2000] WASCA 286  Delivered 3/10/2000	Convicted after PG.  Prior criminal record - dishonesty offences and malicious wounding (2 yrs imp).  Committed offence to gain money.	<b>1 x Poss methyl wiss 5268 tablets, 1.136kg at 3-4%.</b>  Committed offence to gain money.	9 yrs imp.  TES 9 yrs imp.  EFP.	Dismissed.
-----	---	--	--	--	------------

### Weight of methyl/amphetamine: 3 – 65 grams

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
43.	<i>The State of Western Australia v Polmear</i>  [2013] WASCA 291  Delivered 23/12/2013	33 yrs at time sentencing.  Convicted after PG.  Criminal record; mainly traffic offences; minor drug offences.  Upbringing was itinerant and dysfunctional; victim of sexual and physical abuse.  Never met biological father; mother had chronic issues with illicit substance and alcohol abuse.  Heavy user of cannabis since 13 yrs - ceased 4 yrs ago; regular user of methyl.  Significantly reduced his drug use since arrest; had 12 relapses over 12 mths.	<b>Offered to sell/supply methyl x 19.</b> Offered to sell/supply cannabis x 2. <b>Sold methyl x 1.</b> <b>Conspire to sell/ supply methy x 9.</b>  Police intercepted a number of telephone communications involving the respondent. Among the intercepted communications were telephone conversations between the respondent and unknown persons in which the respondent offered to sell or supply prohibited drugs or various weights and types – cannabis and methyl.  Police also intercepted telephone conversations between the respondent and his partner. On 9 occasions the respondent and his partner conspired with each other to sell or supply methyl. One sale was personally effected by the respondent at a carpark.  Police executed a search warrant at the respondent's house and located mobile phones various indicia of drug dealing.  Total amount of methyl 46.2g. Total amount of cannabis offered 6 oz. Total amount of money discussed between	6 mth PSO.  Initially denied involvement.  Sentencing judge acknowledged he had been dealing extensively in illicit drugs as a 'relatively low quantity street level'.  Dealing principally to support his drug addiction.	Allowed.  PSO order set aside.  Remitted to District Court for sentence by a different Judge.  At [29] The present case is not one where it would be open to the learned sentencing judge, even if the respondent successfully completed the pre-sentence order, to impose anything other than a term of immediate imprisonment. ...  At [33] ... there is nothing in the circumstances of this case to reasonably justify a departure from the imposition of the ordinarily appropriate sentence of a term of imprisonment. It is not uncommon in cases of dealing in dangerous illicit drugs for offenders to have taken positive steps towards rehabilitation ...

			\$18,600 and \$21,750. Taken at its lowest, the respondent averaged \$300 a day on drug sales between the period of communication intercept.		
42.	<p><i>Pittard v The State of Western Australia</i></p> <p>[2013] WASCA 126</p> <p>Delivered 21/05/2013</p> <p>Co-offender of</p> <p><i>Jenkin v The State of Western Australia</i> [2014] WASCA 226</p>	<p>43 yrs at sentencing.</p> <p>Convicted after trial; however made sensible concessions at trial.</p> <p>Modest criminal record.</p> <p>In a stable relationship; good record of employment</p> <p>Long history of illicit drug abuse.</p> <p>Co-offender Forman charged with 11 Cts on indictment and 6 Cts on s32 notice. PG to all and sentenced to TES 6 yrs imp. EFP.</p> <p>Co-offender Jenkin charged with poss methyl wiss and poss MDMA wiss. Convicted after trial and sentenced to TES 6 yrs imp. EFP.</p>	<p><b>Ct 1: Poss methyl wiss, 54.65g at 20-21%</b>  <b>Ct 2: Poss MDMA wiss, 58.75 g, 199-200 Pills.</b>  <b>Ct 3: Poss cannabis wiss, 113.04g.</b></p> <p>Police officers in Geraldton had Trevor Forman under surveillance. He was seen to travel from Geraldton to Perth to acquire methyl and ecstasy from the appellant.</p> <p>In the early hours of 20 July 2012, the appellant supplied quantities of methyl and ecstasy to Foreman.</p> <p>Forman later drove from the appellant's home. Police stopped the vehicle on the Grand Highway near Dongara. Hidden inside the tailgate the police discovered a cryovac sealed bag containing two packages of drugs. One package contained methyl and the other MDMA.</p> <p>At the same time as Forman's car was being searched, police executed a search warrant at the appellant's home. Next to the appellant's bed two bags were found which contained a total of \$108,030 in cash.</p> <p>In the appellant's shed, police found two vacuum-sealing machines, vacuum bags, clipseal bags, heat shrink plastic, sets of electronic scales and a large quantity of a cutting agent.</p> <p>Police found cannabis separated into three identical bags, together with a grinder which</p>	<p>Ct 1: 6 yrs imp.  Ct 2: 1 yr imp (cum).  Ct 3: 6 mths imp (conc).</p> <p>TES 7 yrs imp.  EFP.</p> <p>Sentencing judge found the appellant was Forman's supplier and Forman was a dealer who would, in turn, supply those drugs to his customers in the Geraldton area.</p> <p>Sentencing judge found the offences were committed in the context of an established relationship between the appellant and Forman and were not a 'one-off transaction' between the two men.</p> <p>Sentencing judge found that although police did not find any documentation that showed that the appellant was a commercial dealer in</p>	<p>Dismissed – refused on papers.</p> <p>At [56] Miller AJA's analysis (in <i>Bosworth</i>) does not amount to a sentencing matrix... It is not the case that whenever an offender is convicted of an offence of possession between 3g and 65g of methylamphetamine with intent to sell or supply, he or she must receive a term of imprisonment between 2 and 5 years.</p>

			had been used to chop up the cannabis.	drugs, the appellant conducted his business on a cash basis; Found that 'most if not all' of the cash found was the proceeds of his drug dealing.  Moderate risk of re-offending.	
41.	<i>The State of Western Australia v Reid</i>  [2012] WASCA 109  Delivered 18/05/2012	<p>Convicted after fast-track PG.</p> <p>Minor prior criminal record – common assault; disorderly behaviour; driving offences.</p> <p>Heavy methyl addiction.</p> <p>Raised in supportive family environment; no alcohol or domestic violence issues.</p> <p>Educated to yr 10; employed in mining industry as dump truck operator until 2008 when lost job due to alcohol related driving conviction.</p> <p>After lost job encountered financial difficulties – lost family home; vehicles repossessed.</p> <p>Relationship with mother of his children ended in 2008.</p> <p>Alcohol and drug use escalated after events of 2008.</p>	<p><b>1 x Poss methyl wiss 26.6g at 17%.</b></p> <p>Respondent is an aboriginal man. Police executed a search warrant at respondent's residence. During the search, police found a eight clip-seal bags of methyl (total weight 26.6g) in respondent's jeans pocket. Also found empty clip-seal bags and electronic scales. During search respondent admitted to obtaining methyl on credit and selling it in point quantities (0.1g) for \$50.</p>	<p>2 yrs imp.</p> <p>TES 2 yrs imp susp 12 mths.</p>	<p>Allowed.</p> <p>TES 2 yrs immediate imprisonment substituted.</p> <p>At [22] Imposition of SIO inconsistent with sentences of immediate imp imposed in closely comparable cases.</p> <p>At [24] <i>"The fact that the respondent's life conditions and circumstances are not the norm in indigenous communities is not a material fact that reduces his culpability for the offending."</i></p> <p>At [26] Quantity and purity of drug significant factor in sentencing as it speaks to the potential harm caused to the community – close association between methyl use and crime is well recognised.</p>
40.	<i>Reid v The State of Western</i>	<p>26 yrs at time offending.</p> <p>27 yrs at time sentencing.</p>	<p><b>Ct 1: Poss methyl wiss 14.98g at 20%.</b></p> <p>Ct 2: Poss MDMA 10 pills.</p>	<p>Ct 1: 2 yrs imp.</p> <p>Ct 2: 3 mths imp.</p>	<p>Dismissed – leave refused on papers.</p>

	<p><i>Australia</i></p> <p><b>[2012] WASCA 23</b></p> <p>Delivered 30/01/2012</p>	<p>Convicted after trial of cts 1 &amp; 3. Convicted after PG ct 2.</p> <p>No relevant prior criminal record</p> <p>Good character; supportive family; privileged background.</p> <p>Excellent work history and references.</p> <p>Became involved in peer support group in prison.</p> <p>Occasional social drug use – cannabis; ecstasy.</p>	<p>Ct 3: Att poss MDMA wiss 573g, 2339 tablets.</p> <p>Sentenced on basis willingly and voluntarily dealing drugs in partnership with her boyfriend to reduce the drug debt he owed. Appellant would also conduct drug transactions in the absence of boyfriend when he was working away.</p> <p>Drugs found when police executed a search warrant at the appellant's home. Tablets subject of ct 3 later found to be caffeine and paracetamol but the appellant believed them to be ecstasy pills (MDMA). Police also found 'tick lists', scales, gloves and cutting agent.</p>	<p>Ct 3: 6 yrs imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>Little acceptance of responsibility; little insight into broader impact of offending; little remorse; unlikely to re-offend; good prospects rehabilitation (ended relationship with boyfriend at time sentencing).</p>	<p>At [50] No basis to distinguish between MDMA and other drugs such as methyl, heroin or cocaine in sentencing process.</p> <p>At [58] General sentencing principle that personal circumstances carry little weight in sentencing for dealing or trafficking prohibited drugs equally as applicable to attempts to deal or traffic in prohibited drugs.</p> <p>At [59] 6 yrs imp for ct 3 high but tempered by orders of concurrency so TES appropriate.</p>
39.	<p><i>Ottaway v The State of Western Australia</i></p> <p><b>[2012] WASCA 21</b></p> <p>Delivered 30/01/2012</p>	<p>29 yrs at time offending. 31 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Heavy methyl user – begun using methyl after 5 yrs abstinence following his father's death.</p> <p>Dysfunctional family background; father abused alcohol; domestic violence.</p> <p>Educated to yr 9 and then expelled;</p>	<p><b>1 x Poss methyl wiss 28g (14g at 19% and 14g at 15%).</b></p> <p>Low-mid level drug dealer.</p> <p>Police were carrying out surveillance and telephone intercepts on co-offender. Appellant was stopped by police after leaving co-offender's house and car search. Initial search found nothing and appellant was detained until further officers arrived. Second search found 2 bags of methyl subject of offending above, digital scales, empty clip-seal bags and a pipe used to smoke methyl hidden under the panelling of the left-hand side of the centre console.</p>	<p>2 yrs 8 mths imp.</p> <p>TES 2 yrs 8 mths imp.</p> <p>EFP.</p> <p>No remorse; no acceptance of responsibility – continues to deny offending.</p>	<p>Dismissed.</p> <p>At [57]-[73] No disparity between appellant's sentence and that of co-offender given co-offender's PG, personal circumstances and positive prospects of rehabilitation.</p>
38.	<p><i>Huynh v The State of Western Australia</i></p>	<p>45 yrs at time offending.</p> <p>Convicted after late PG – a few days before trial.</p>	<p><b>Ct 1: Poss methyl wiss 40.57g at 2-26%.</b></p> <p>Ct 2: Poss heroin wiss 4.42g at 55%.</p> <p>Ct 3: Sold heroin 55.7g.</p> <p>Ct 4: Sold heroin 27.9g at 53%.</p> <p>Ct 5: Sold heroin 56.8g at 54%.</p>	<p>TES 10 yrs imp.</p>	<p>Dismissed – leave to appeal refused on papers.</p> <p>Only sentences for firearms offences challenged.</p>

	<p><b>[2012] WASCA 8</b> Delivered 16/1/2012</p>	<p>Offending breached SIO - poss methyl wiss (28g).</p> <p>Offending for Cts 3 – 10 breached bail for Cts 1 – 2.</p> <p>Vietnamese refugee.</p> <p>Depression; gambling problem.</p>	<p>Ct 6: Sold methyl 27.5g at 63%. Ct 7: Poss heroin wiss 100.57g at 45-51%. <b>Ct 8: Poss methyl wiss 18.35g at 45-55%.</b> Ct 9: Poss of unlicensed firearm. Ct 10: Poss of unlicensed firearm.</p> <p>Offending at high end of scale of seriousness. Appellant close to top of distribution hierarchy - sentenced on basis that weights and purity of drugs indicated close to source of production or importation. Firearms used for protection during drug trades. Offending period approx 7 mths.</p> <p>Cts 1 and 2 resulted from police search of appellant's home. Remaining cts result of sale of drugs to UCO and subsequent police raid on appellant's home.</p>		<p>Sentence on firearm offences not manifestly excessive.</p> <p>At [19] No prospect of establishing a different TES should have been imposed.</p> <p>At [21] No reasonable prospect of establishing that the sentencing judge erred in the exercise of his discretion in relation discount for PG. Appellant's claims of remorse and scope for rehabilitation at odds with breach of SIO and offending on bail.</p>
37.	<p><b>Moreton v The State of Western Australia</b></p> <p><b>[2011] WASCA 258</b> Delivered 29/11/2011</p>	<p>39 yrs at time offending. 40 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Offending breached bail for earlier offence of poss methyl wiss.</p> <p>Prior criminal record – drug offences; traffic and driving offences; breach VRO; poss stolen property; breach bail; breach CBO.</p> <p>Parole on 8 mths imp imposed for poss methyl wiss (3.27g) cancelled when failed urinalysis.</p>	<p><b>1 x Poss methyl wiss 27.3g at 16%.</b></p> <p>Low-mid level drug dealer.</p> <p>Appellant passenger in a parked car adjacent to his house when police approached. Police saw cigarette packet, blue container and used syringe on the ground next to the car. Cigarette packet contained 3 cigarettes and visible traces of methyl. Blue container contained 8 sachets of methyl totalling 27.3g at 16% purity. \$1, 600 cash also found concealed in the car. Appellant denied knowledge of drugs and lied to police about the cash. Police later seized appellant's mobile phone – analysis of calls and messages revealed appellant involved in sale illicit drugs. DNA analysis of cigarette packet and blue container revealed appellant's DNA on both.</p> <p>After results DNA analysis known to police,</p>	<p>5 yrs imp.</p> <p>TES 5 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Sentence high but not manifestly excessive.</p> <p>At [2] Significant need in this instance for personal deterrence.</p> <p>At [33] Weight of drugs important factor but not prime factor in sentencing process.</p> <p>At [45] Purpose or motive behind drug dealing does not detract from commercial nature of such offending.</p>



			they required appellant to accompany them to police station (approx 2 months later). Appellant attempted to throw away a new mobile phone he had – police seized that and also analysed contents. Phone revealed appellant continued to engage in sale of illicit drugs.		
36.	<i>Lynch v The State of Western Australia</i>  [2011] WASCA 243  Delivered 3/11/2011	43 yrs at time offending.  Convicted after fast-track PG.  Educated to yr 12.  Good employment history. Heavy methyl user.	<b>1 x Poss methyl wiss 34.76g at 34%.</b> 1 x Cultivate cannabis. 1 x Poss smoking utensil.  Sentenced on basis drugs partly for personal use and partly to supply to friends.  Appellant car stopped by police – passenger was co-offender (respondent in <i>The State of Western Australia v Berlingeri</i> [2011] WASCA 242). Appellant and co-offender had been in relationship approx 10 yrs. Police searched vehicle and co-offender’s handbag – co-offender gave permission for bag to be searched but removed her wallet immediately after giving that permission. Police told co-offender wallet would need to be searched too – co-offender threw wallet in car and said only her passport was in it. Police searched wallet and found 27.9g methyl at 34% purity. co-offender stated she did not know how drugs came to be in her wallet. Co-offender advised under arrest. co-offender moved to the passenger side of the car with her hands in her pocket and threw two clip-seal bags containing 3.38g and 3.48g methyl both at 34% purity. Co-offender denied all knowledge of drugs and appellant testified he secretly placed drugs in her wallet and jacket pocket.	3 yrs 6 mths imp. 2 mths imp. 6 mths imp.  TES 3 yrs 6 mths imp.  EFP.	Dismissed.  At [10] Establishing a range of sentence customarily imposed does not establish a range of sound sentencing discretion.  At [11] <i>Bosworth v The State of Western Australia</i> (2007) A Crim R 49 does not provide a sentencing matrix for establishing an appropriate length of sentence nor does not it establish a customary range.  At [12] Weight and purity are integral part of the assessment of the seriousness of offending.
35.	<i>The State of</i>	32 yrs at time sentencing.	<b>1 x Poss methyl wiss 34.76g at 34%.</b>	2 yrs 8 mths imp.	Allowed.

	<p><i>Western Australia v Berlingeri</i></p> <p>[2011] WASCA 242</p> <p>Delivered 3/11/2011</p>	<p>Convicted after trial.</p> <p>No prior criminal record.</p> <p>Educated to yr 12; diploma of child care services.</p> <p>Good employment history.</p> <p>Supportive family; stable home environment and history.</p> <p>Social use of methyl.</p>	<p>Respondent was a passenger in car stopped by police – car driven by co-offender (appellant in <i>Lynch v The State of Western Australia</i> [2011] WASCA 243). Respondent and co-offender had been in relationship approx 10 yrs. Police searched vehicle and respondent's handbag – respondent gave permission for bag to be searched but removed her wallet immediately after giving that permission. Police told respondent wallet would need to be searched too – respondent threw wallet in car and said only her passport was in it. Police searched wallet and found 27.9g methyl at 34% purity. Respondent stated she did not know how drugs came to be in her wallet. Respondent advised under arrest. Respondent moved to the passenger side of the car with her hands in her pocket and threw two clip-seal bags containing 3.38g and 3.48g methyl both at 34% purity.</p> <p>Respondent denied all knowledge of drugs and co-offender testified he secretly placed drugs in her wallet and jacket pocket.</p>	<p>TES 2 yrs 8 mths imp susp 2 yrs.</p> <p>Low treatment needs; low risk re-offending.</p>	<p>TES 2 yrs 4 mths immediate imp substituted – reduced to reflect performance of obligations imposed as part of SIO.</p> <p>EFP after 14 mths imp.</p> <p>At [18] Suspended term inconsistent with type sentence customarily imposed and with sentence given to co-offender – culpability less than co-offender but not so low as to leave suspended imp open.</p>
34.	<p><i>O' Driscoll v The State of Western Australia</i></p> <p>[2011] WASCA 156</p> <p>Delivered 15/07/2011</p>	<p>27 yrs at time sentencing.</p> <p>Convicted after late PG.</p> <p>Some of the s 32 offences breached bail for indictable offence.</p> <p>Long prior criminal record – drugs; firearms; driving offences; receiving; burglary.</p> <p>Travelled to India at 12 yrs with father – father disappeared and</p>	<p><b>1 x Poss methyl wiss 22.5g at 11%.</b> 24 x s 32 offences.</p> <p>2 drug related s 32 offences: Ct 1: Poss testosterone 3mL. Ct 24: Poss methyl wiss 3.2g.</p> <p>Police searched appellant's home and found methyl subject of indictable charge along with digital scales and clip-seal bags. Text messages from appellant's mobile phone were indicative of drug dealing.</p>	<p>3 yrs imp. Sentence range fines – 8 mths imp.</p> <p>Ct 1:1 mth imp. Ct 24: 8 mths imp.</p> <p>TES 4 yrs 10 mths imp.</p>	<p>Dismissed – leave refused on papers.</p> <p>NB: Individual sentences not challenged.</p>

		<p>has not been seen or heard of since; dysfunctional upbringing since that time.</p> <p>Involvement in criminal gangs.</p> <p>Drug abuse problem.</p>			
33.	<p><i>The State of Western Australia v MacKenzie</i></p> <p>[2011] WASCA 116</p> <p>Delivered 13/05/2011</p>	<p>39 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Prior criminal record – previous drug offences for which term imp has been served; previously declared a drug trafficker.</p> <p>Good employment history; stable and supportive family.</p> <p>Long history entrenched substance abuse – high functioning addict.</p>	<p><b>Ct 1: Poss methyl wiss 31.34g (27g at 48%, 2.05g at 57%, remainder unknown purity)</b>  <b>Ct 2: Poss cannabis wiss 281.75g hydroponic.</b></p> <p>s 32 offences:  1 x Poss cannabis wiss 0.57g head material.  1 x Poss smoking utensil.  1 x Poss methyl 0.67g.</p> <p>Respondent driving along West Coast Highway when stopped by police for a traffic matter. As police conducted a license check, the respondent ran through the car park and up a dune track to the beach. Police saw respondent throw a clip-seal bag away – recovered later and contained 27g methyl (ct 1). Police also saw respondent tear open second clip-seal bag and throw it away – recovered later as were traces of drugs from the sand (ct 1). Cannabis (s 32) also found in clip-seal bag in dunes. Respondent reached the water and disposed of an unknown substance in the surf.</p> <p>Subsequent search of respondent’s uncovered \$3,750 cash and smaller amount methyl (0.9g). Also found \$200 on respondent’s person.</p> <p>Police later searched respondent’s home – cannabis subject of ct 2 found, as well as</p>	<p>18 mth PSO imposed on 21/01/2011.</p>	<p>Allowed.</p> <p>Remitted to DC for sentencing before a different judge.</p> <p>At [42] there are no exceptional circumstances in this case to allow a conclusion that a sentence other than immediate imprisonment was open.</p> <p>Due to be sentenced on 22/07/2011.</p>

			smoking implements and methyl which were the subject of the s 32 charges.		
32.	<p><i>Phillips v The State of Western Australia</i></p> <p>[2011] WASCA 69</p> <p>Delivered 23/03/2011</p>	<p>34 yrs at sentencing.</p> <p>Convicted after fast-track PG.</p> <p>At time offending on 12 mth ISO (1 x poss prohibited drug; 1 x stealing; 1 x receiving) and 6 mth CBO (1 x unlawful damage).</p> <p>Serious prior criminal record – drugs; burglary; assault; AOBH; assault public officer; robbery; breach VRO; dep lib; unlawful wounding; various traffic offences.</p> <p>Married 6 yrs – wife supportive; 4 children (all under 9 yrs).</p> <p>History poly substance abuse – began in early to mid teens; alcohol, cannabis, heroin and methyl.</p> <p>Diagnosed schizophrenic – history mental illness and was receiving treatment at Bentley Mental Health services prior to sentencing. Mental illness was, to significant degree, result illicit drug use.</p>	<p>Ct 1 -16: Offer sell/supply methyl. Ct 17 -20: Att obtain methyl wiss. <b>Ct 21: Poss methyl wiss 20.9g at 6%.</b></p> <p>Street level dealer – unable to work because of mental health issues and financial pressure lead to drug dealing.</p> <p><u>Ct 1:</u> Phone call to arrange sale methyl. <u>Ct 2:</u> Arranged meeting to sell methyl. <u>Ct 3:</u> Arranged for person to meet with supplier to purchase 3.5g methyl for \$1600. <u>Ct 4:</u> Arranged meeting to purchase 1.75g methyl. <u>Ct 5:</u> Arranged to sell 1.5g methyl for 4200. <u>Ct 6:</u> Arranged meeting to sell \$150 worth methyl. <u>Ct 7:</u> Arranged meeting to sell 1.75g methyl for \$1000. <u>Ct 8:</u> Agreed to meet to sell 1g methyl for \$500. <u>Ct 9:</u> Agreed to meet to sell 0.3g methyl for \$150. <u>Ct 10:</u> Agreed to supply 0.5g methyl in return for 6 MS Contin tablets. <u>Ct 11:</u> Discussed supplying either 1g methyl for \$500 or 1.5g methyl for \$700. <u>Ct 12:</u> Offered sell \$15,000 worth methyl – said could</p>	<p>Cts 1-20: 15 mths imp each count. Ct 21: 18 mths imp.</p> <p>Also sentenced to 3 mths imp for each offence subject of ISO and 1 mth for offence subject of CBO.</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>Significant risk re-offending given criminal history, personality pathology and major psychiatric disorder.</p>	Dismissed - leave to appeal refused on papers.

			<p>obtain one pound (16 ounces) of high quality methyl.</p> <p><u>Ct 13:</u> Agreed to sell 0.6g methyl for \$300.</p> <p><u>Ct 14:</u> Offered to sell 0.6g methyl for \$200.</p> <p><u>Ct 15:</u> Offered to sell 0.5g methyl for \$250.</p> <p><u>Ct 16:</u> Offered to sell 0.5g methyl for 4250.</p> <p><u>Ct 17:</u> Agreed to meet to sell \$250 worth methyl.</p> <p><u>Ct 18:</u> Offered to sell 1.7g methyl for \$750.</p> <p><u>Ct 19:</u> Asked for 7 g methyl to be given to him to sell, saying drugs worth approx \$2000 and he would sell it all that day. Offered part payment.</p> <p><u>Ct 20:</u> Discussed obtaining 3.5g methyl for \$1300.</p> <p><u>Ct 21:</u> Detectives stopped motor vehicle appellant travelling in – found \$2600 in console. Executed search warrant on appellant's house and found 20.9g methyl at 6% purity. Also located 2 sets scales and numerous plastic bags.</p>		
31.	<p><i>Baghdadi v The State of Western Australia</i></p> <p>[2011] WASCA 38</p> <p>Delivered 17/02/2011</p>	<p>43 yrs at time sentencing.</p> <p>Convicted after fast-track PG.</p> <p>Offending breached bail (att poss methyl wiss charge).</p> <p>Prior criminal record – drugs; firearms; dishonesty. Never served term imp.</p> <p>History substance abuse since 20</p>	<p><b>1 x Poss methyl wiss 15.78g at 9% &amp; 2.6g at 32%.</b></p> <p>Commercial enterprise.</p> <p>Search warrant executed at appellant's home. Powdered substance in glass tray on top microwave found in kitchen – 'bong water residue' (methyl appellant recovered from evaporated water left in smoking implement (15.78g). Also found smaller amount methyl (2.6g), 95.3g cutting agent, 4 sets of digital</p>	<p>2 yrs 3 mths imp.</p> <p>TES 2 yrs 3 mths.</p> <p>EFP.</p>	<p>Dismissed – leave to appeal refused on papers.</p> <p>At [30] That the sentence impacts on invalid father and mother is not mitigatory.</p>

		yrs; long-term employment; carer for father (partially paralysed by stroke) and mother.	scales with methyl residue (2 belonging to appellant), pieces of paper with numbers written on them, sawn-off 12-gauge shotgun, .22 calibre rifle and a crossbow.		
30.	<i>Haasy v The State of Western Australia</i>  [2010] WASCA 207  Delivered 27/10/2010	25 yrs at time offending.  Convicted after fast-track PG.  Offending breached bail. Prior criminal record –agg burg; steal motor vehicle; poss drugs.  Long-time drug user; selling drugs to support own addiction and pay back accumulated drug debt.  Strong family support; willing to address addiction issues.	<b>Ct 1: Poss methyl wiss 3.79g at 2%.</b> <b>Ct 2: Poss methyl wiss 9.54g at 5%.</b> <b>Ct 3: Poss methyl wiss 25.22g at 10%.</b>  s 32 Offences: <b>2 x Poss methyl 0.6g; 0.62g</b> 2 x poss smoking utensil. 2 x Poss cannabis. 1 x poss cannabis wiss 1g. 1 x Poss stolen/unlawfully obtained property.  No evidence to suggest appellant making profit on drugs – dealing predominantly to support habit.  Appellant’s car was stopped and searched on 3 separate occasions – drugs subject cts 1-3 found respectively and the s 32 charges.	Ct 1: 6 mths imp. Ct 2: 2 yrs 3 mths imp. Ct 3: 3 yrs 9 mths imp  1 mth imp each ct. \$100 fine each ct. \$200 fine each ct. \$200 fine. \$200 fine.  TES 4 yrs 5 mths imp.  EFP.	Allowed.  TES reduced to 3 yrs 6 mths imp.  At [23] Aggregate sentence excessive and disproportionate to total criminality.
29.	<i>Basilio v The State of Western Australia</i>  [2010] WASCA 202  Delivered	32 yrs at time offending.  Convicted after trial.  Prior criminal record - no prior dealing convictions, but poss methyl and smoking implement charges.	Ct 1: Att to poss methyl wiss 869g at 55-59%. Ct 2: Att to poss methyl wiss 139g at 34-37%. <b>Ct 3: Poss methyl wiss 17.7g at 39-58%.</b> Ct 4: Poss MDMA wiss 6.86g.  Commercial dealer at very high level - not a street level dealer supporting own habit but at top end of supply chain in WA.	Ct 1: 10 yrs imp. Ct 2: 6 yrs imp. Ct 3: 3 yrs imp. Ct 4: 2 yrs imp.  TES 13 yrs imp.  EFP.	Allowed.  TES reduced to 10 yrs.  At [26] ‘ <i>Having regard to the maximum penalty for these offences, the comparable cases, and the circumstances of this offending, the TES imposed by</i>

	21/10/2010	3 children – aged 3, 11 & 14 yrs at time sentencing. Became addicted to methyl after grandmother passed away – began dealing initially to support habit	<u>Ct 1:</u> Appellant sent three people interstate to collect drugs and provided \$187,000 to purchase. Couriers arrested at Perth airport with 869g subject of first attempt. <u>Ct 2:</u> Appellant lent car to another person and sent them to collect 10 ounces. Person collected the drugs and took them to house in Canning Vale where police arrested them – seized 139g. <u>Cts 3 &amp; 4:</u> Search at appellant’s house then located 17.7g methyl and 6.86g MDMA plus scales, snap lock bags, vacuum sealer, glass smoking pipe and \$18,440 cash		<i>the sentencing judge exceeded a sound discretionary range.’</i>
28.	<b>Russell v The State of Western Australia [No 2]</b>  [2010] WASCA 159  Delivered 4/08/2010	35 yrs at time offending.  Convicted after fast-track PG.  Prior criminal record - traffic offences and one possess cannabis (fined).  Unremarkable family background; good references; good work history.  Significant medical difficulties since birth – chronic asthma, sever lower back pain from spinal fusion, eczema and obesity; depression; low self esteem.	<u>Ct 1:</u> Offer to sell MDMA 50 pills. <b>Ct 2: Offer to sell methyl 56g.</b> <u>Ct 3:</u> Sold MDMA 421 pills 121g at 37%. <u>Ct 4:</u> Offer to sell MDMA 50 pills. <u>Ct 5:</u> Sold MDMA 585 tablets 175.8g at 37%. <u>Ct 6:</u> Offer to sell MDMA 50 pills. <u>Ct 7:</u> Att to obtain MDMA wiss 2000 pills.  Categorised as mid range user/dealer.  Offending period approx 2mths.  Claimed dealing drugs to fund addiction to ecstasy that had developed after becoming immune to effects painkillers .	<u>Ct 1:</u> 1 yr imp. <u>Ct 2:</u> 3 yrs imp. <u>Ct 3:</u> 4 yrs imp. <u>Ct 4:</u> 1 yr imp. <u>Ct 5:</u> 4 yrs imp. <u>Ct 6:</u> 1 yr imp. <u>Ct 7:</u> 3 yrs 6 mths imp.  TES 7 yrs 6 mths imp.  EFP.  Participated in program, at Cyrenian House on bail; remorse; good prospects rehabilitation.	Allowed.  Manifestly excessive in that original sentence did not bear proper relationship to level of criminality.  TES reduced to 6 yrs imp.  EFP.
27.	<b>Smith v The State of Western Australia</b>  [2010] WASCA	50 yrs at time offending.  Shocking prior record; spent 24 yrs of his adult life in prison- prior serious drug convictions.	<u>Sentencing before Yeats DCJ:</u> <b>Ct 1: Poss methyl wiss 14.77g at 20%.</b> <b>Ct 2: Poss methyl wiss 27.9g at 32%.</b>  s 32 offences: 8 x Receiving.	2 yrs imp. 3 yrs imp.  2-9 mths imp each ct. 6 mths imp each ct.	Dismissed.

	<p><b>150</b></p> <p>Delivered 30/07/2010</p>	<p>Alcoholic until 33 yrs then became drug addict.</p> <p>Sexually abused 7-9 yrs old and regularly beaten by father; ward of the State 14 yrs – 16 yrs old.</p>	<p>6 x Poss stolen/unlawfully obtained property. 1x Poss morphine wiss 46 Capanol tablets. 1 x Poss cannabis wiss 33g. 1 x Supply cannabis 2 x 2g ‘sticks’. 1 x Poss unlicensed firearms. 1 x Poss unlicensed ammunition. 1 x Fail to stop. 1 x Reckless driving. 1 x Drive contrary to learner’s permit.</p> <p><u>Sentencing before Wager DCJ:</u> <b>3 x Sold methyl 3.42g at 25%; 3.43g at 28%; 0.6g.</b> 39 x Offer to sell/supply methyl 0.1g-3.5g. <b>1 x Poss methyl wiss 3.41g at 2%.</b></p> <p>Commercial enterprise – at [6] calculated and busy drug trade. Began dealing in drugs in 1991 – drug dealing main source income.</p> <p>Cts 1 &amp; 2 before Yeats DCJ relate to sale methyl conducted at appellant’s home. Remainder drug offences result of telephone intercepts – 39 offer to sell/supply occurring over 5 week period.</p>	<p>6 mths imp. 2 mths imp. 3 mths imp. 9 mths imp. 6 mths imp. \$200 fine. 6 mths imp. \$100 fine.</p> <p>TES Yeats DCJ 6 yrs 3 mths imp.</p> <p>2 yrs; 20 mths; 1 yr imp. 18 mths each ct. 2 yrs imp.</p> <p>20 mths imp ordered cum on 6 yrs 3 mths imposed by Wager DCJ.</p> <p>TES 7 yrs 11 mths imp.</p>	
<p><b>26.</b></p>	<p><b><i>Wickham v The State of Western Australia</i></b></p> <p><b>[2010] WASCA 73</b></p> <p>Delivered</p>	<p>30 yrs at sentencing.</p> <p>Convicted after PG.</p> <p>2<sup>nd</sup> &amp; 3<sup>rd</sup> offences committed whilst on bail for 1<sup>st</sup> offence</p> <p>Minor prior criminal record.</p> <p>Supportive family and steady employment; sole custody of son</p>	<p>1 x Poss MDMA wiss 22 tablets 6.19g at 28% 1 x Poss MDMA wiss 69 tablets 14g at 34% <b>1 x Poss methyl wiss 26g 17% (judge found bulk for personal use).</b></p> <p>1<sup>st</sup> offence drug found with \$550 and MSN and tick list and \$2600 found at his house. 2<sup>nd</sup> and 3<sup>rd</sup> offences result of search warrant on appellant’s house.</p>	<p>12 mths imp. 2 yrs imp. 6 mths imp.</p> <p>TES 3 yrs 6 mths imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Sentence clearly within the range indicated in <i>Bosworth</i>.</p> <p>NB: appeal after State appeal <b>[2009] WASCA 137</b> resulted in matter being remitted to District Court for a trial of issues and re-sentencing.</p>



	28/04/2010	but since 2007 son living with appellant's parents until after 2 <sup>nd</sup> arrest returned to live with 8 yr old son and his parents.			
25.	<i>Tran v The State of Western Australia</i>  [2010] WASCA 38  Delivered 2/03/2010	45 yrs at sentencing.  Convicted after trial (cts 1 & 2). Convicted after PG (cts 3,4 & 5).  Record of dishonesty & drug offences.  Vietnamese refugee; drug user but offences not to support her habit.	Cts 1-2: Att to poss methyl 27.3g & 132g.  <b>Ct 3: Poss methyl wiss 37.013g.</b> Ct 4: Poss heroin wiss 41.4g. Ct 5: poss cannabis wiss - 60 large & 125 small plants.  Appellant recruited two women to bring in methyl from Eastern State. Couriers caught by police on both occasions (attempt charges). Later search of her home found 3 quantities of drug the subject of possession charges.	Ct 1: 4 yrs imp. Ct 2: 5 yrs imp. Ct 3: 2 yrs imp. Ct 4: 2 yrs imp. Ct 5: 2 yrs imp.  TES 9 yrs imp.  EFP.	Dismissed.
24.	<i>Cartwright v The State of Western Australia</i>  [2010] WASCA 4  Delivered 15/01/2010	25 yrs at time sentencing.  Convicted after trial.  Very heavy user of methyl but had ceasing using at time sentencing; mother started her on methyl as teenager and she had lived in abusive relationship with man who supplied her with methyl. At time sentencing working part-time, drug free and in stable relationship.	<b>1 x Poss methyl 11.8g at 78%.</b>  Sentenced on basis acting as user/courier.  Appellant stopped by police for speeding. Appellant's car was searched, a drug-smoking pipe was located. In the back of the vehicle, among bags of clothing was \$16,400 cash wrapped in newspaper. Police also found \$3,000 in the pocket of the appellant's jeans, \$2,500 in a CD case and \$250 lying loose on the console of the vehicle (total of \$22,150 in cash found). Appellant then driven to the police station in her car. On leaving the car, appellant flung a black jewellery bag away. The police located it and drugs subject of charge found. Appellant lied about origins of money.	3 yrs imp.  TES 3yrs imp.  EFP.  Little remorse.	Dismissed.  At [15] Well within the standards of sentencing customarily imposed.

<p>23.</p>	<p><i>EBE v The State of Western Australia</i></p> <p>[2009] WASCA 236</p> <p>Delivered 22/12/2009</p>	<p>In early 40s at time offending.</p> <p>Convicted after trial. Significant co-operation with police and provided information of use.</p> <p>No prior criminal record.</p> <p>Separated from wife; 3 children.</p> <p>Heavy methyl user – accepted in sentencing small portion drugs from own use.</p>	<p><b>1 x Poss methyl wiss 49.1g at 13%</b></p> <p>Sentenced on basis that offending was not isolated event but course conduct.</p> <p>Police executed search warrant at appellant’s home – drugs found on his person. Police also located \$30 000 cash, ammunition, firearm, list of names and figures, cutting agent, clip seal bag, formula for making methyl</p>	<p>4 yrs imp.</p> <p>TES 4 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>Sentence failed to take into account cooperation with police.</p> <p>TES reduced to 3 yrs imp.</p>
<p>22.</p>	<p><i>Fernandes v The State of Western Australia</i></p> <p>[2009] WASCA 227</p> <p>Delivered 17/12/09</p>	<p>31 yrs at time offending.</p> <p>Convicted after late PG.</p> <p>Prior convictions for poss wiss - served 4 yrs 6 months in 2003.</p> <p>Used amphetamines since 23 yrs.</p> <p>Single; owned own business as panelbeater.</p> <p>Committed current offence to repay business loan.</p>	<p><b>1 x Poss methyl wiss 47.58g at 7 – 30%.</b></p> <p>1 x Poss MDMA wiss 2.52g at 17%.</p> <p><b>1 x Poss methyl wiss 3.53g at 20-29%.</b></p> <p>Appellant observed placing canister on top of a shed located inside yard of neighbouring industrial unit. Police attended and seized canister – contained drugs subject cts 1 &amp; 2.</p> <p>Following day, police searched appellant’s car – found drugs subject ct 3 and \$575 cash.</p>	<p>3 yrs imp.</p> <p>1 yr imp.</p> <p>2 yrs imp.</p> <p>TES 5 yrs imp.</p> <p>Appeal judgment does not make reference to EFP.</p>	<p>Dismissed.</p>

<p>21.</p>	<p><i>Hobby v The State of Western Australia</i></p> <p>[2009] WASCA 108</p> <p>Delivered 25/06/2009</p>	<p>24 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>No relevant prior criminal record.</p> <p>Relatively happy and stable upbringing; some difficulties when appellant 17 yrs relating to death of his mother</p>	<p>Ct 1: Offer to sell/supply amphetamine.  Ct 2: Offer to sell/supply MDMA.  Ct 3: Offer to sell/supply MDMA 50 tablets.  Cts 4-6: Offer to sell/supply cannabis.</p> <p>Ct 7: Offer to sell/supply MDMA.  Ct 8: Offer to sell/supply cannabis.  Ct 9: Offer to sell/supply MDMA 490 tablets.  Ct 10: Offer to sell/supply MDMA 20 tablets.  Ct 11: Offer to sell/supply cannabis 14g.  Ct 12: Offer to sell/supply cannabis 56g.  Ct 13: Offer to sell/supply methyl 84g.  Ct 14: Offer to sell/supply methyl 28g.  Ct 15: Offer to sell/supply methyl 2.25g.  Ct 16: Offer to sell/supply methyl 28 g.  Ct 17: Offer to sell/supply cannabis 28g.  Ct 18: Offer to sell/supply methyl 3.5g.  Ct 19: Offer to sell/supply methyl 53.5g.  <b>Ct 20: Poss methyl wiss 53.5g at 19-21%.</b></p> <p>Mid-range distributor. Offending period 23 days.</p> <p>Initially began dealing as a favour on non profit basis but became engaged in dealing for profit at some point - engaged in selling substantial quantities of 3 different drugs.</p>	<p>Ct 1: 8 mths imp.  Ct 2: 8 mths imp.  Ct 3; 16 mth simp.  Cts 4-6: 4 mths imp each  Ct 7: 12 mth simp.  Ct 8: 6 mths imp.  Ct 9: 3 yrs imp.  Ct 10; 16 mths imp.  Ct 11: 6 mths imp.  Ct 12: 12 mths imp.  Ct 13: 4 yrs imp.  Ct 14: 24 mths imp.  Ct 15: 16 mths imp.  Ct 16: 24 mths imp.  Ct 17: 12 mths imp.  Ct 18: 12 mths imp.  Ct 19: 16 mths imp.  Ct 20: 4 yrs imp.</p> <p>TES 7 yrs imp.</p> <p>EFP.</p> <p>Limited insight into seriousness of offending.</p>	<p>Dismissed.</p> <p>At [26] Submissions regarding good character missed the point that general deterrence comes to the fore.</p> <p>NB: The original sentence was imposed whilst the transitional provisions were in force.</p>
------------	--	---	--	--	--

20.	<p><i>TLM v The State of Western Australia</i></p> <p>[2009] WASCA 106</p> <p>Delivered 25/06/2009</p>	<p>30 yrs at time offending.</p> <p>Convicted after early PG - full admissions in VROI.</p> <p>Placed on CBO 2 days before arrest – breached and reinstated – poor compliance. Signed witness statement against others.</p> <p>Prior criminal record - traffic and assault; no prior drug convictions.</p> <p>Drug user.</p>	<p><b>1 x Sold methyl 13.8g at 30%.</b> 1 x Att to poss methyl at 14g.</p> <p>Recruited by friend to sell 1 ounce methyl to another (UCO). Sold UCO first half. UCO gave appellant \$9000 for second half but she was arrested before she could source second half.</p>	<p>3 yrs imp. 2 yrs imp.</p> <p>TES 3 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>Failure to give or quantify discount for cooperation with authorities.</p> <p>TES reduced to 22 mths imp.</p>
<p><i>Transitional Provisions Repealed (14/01/2009)</i></p>					
19.	<p><i>Coleski v The State of Western Australia</i></p> <p>[2008] WASCA 260</p> <p>Delivered 11/12/2008</p>	<p>24 yrs at time offending.</p> <p>Convicted after fast track PG. Fully co-operated during VROI.</p> <p>Prior criminal record - simple poss and poss smoking implement.</p> <p>Addicted to methyl since 21 yrs; depression.</p>	<p><b>1 x Poss methyl wiss 9.87g at 24%.</b></p> <p>Driving motorbike when dropped package containing methyl. Police driving behind him have seen him drop it and stopped to pick it up. Appellant returned later to collect the package and police were waiting for him.</p>	<p>12 mths imp.</p> <p>TES 12 mths imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Nothing exceptional to make susp sentence appropriate.</p>
18.	<p><i>The State of Western Australia v Wynne</i></p> <p>[2008] WASCA 195; (2008) A Crim R 502</p>	<p>27 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>Minor prior drug offences (possession).</p> <p>Attempted to assist police in other drug investigations.</p>	<p><b>1 x Poss methyl wiss 27.3g at 21%.</b></p> <p>Police conducting random breath testing stopped the respondent's car as it was travelling south towards Albany. Respondent was informed that she and the vehicle were going to be searched. Respondent voluntarily produced a bag containing methyl which had been hidden in her bra. Also</p>	<p>12 mths imp.</p> <p>TES 12 mths imp susp 2 yrs.</p>	<p>Allowed.</p> <p>TES increased to 15 mths imp.</p> <p>EFP.</p> <p>Susp sentence manifestly inadequate.</p>

	Delivered 26/09/2008	5 children, gave birth after charged; history violent relationships.  History of drug abuse in family; became mother to her younger brothers due to her own mother's dealing and drug habit.	carrying \$1,685 in cash on her. Respondent had travelled from Albany to Perth to purchase the drugs on behalf of her husband who had pre-arranged the sale.		
17.	<i>Pellew v The State of Western Australia</i>  [2008] WASCA 169  Delivered 20/08/2008	29 yrs at time offending.  Convicted after PG.  No prior significant convictions.  2 young children; suffered depression; drug addict; sold drugs to fund her own use; sought treatment after arrest	<b>1 x Poss methyl wiss 17.5g at 31%.</b> 8 x Sell/supply methyl.  Search of house located methyl in first count, along with scales, clipseal bags, cutting agent and over \$5000 cash Computer listed 8 names with money recorded next to them. Appellant admitted she had supplied methyl to these people	18 mths imp. 12 mths imp each count.  TES 4 yrs 6 mths imp.  EFP.	Dismissed  At [13] TES in range according to serious and repeated nature of offending, guilty plea, cooperation with police and personal circumstances.
16.	<i>The State of Western Australia v Hatch</i>  [2008] WASCA 162  Delivered 1/08/2008	48 yrs at time PSO imposed.  Convicted after PG.  Prior criminal record – incl poss drug convictions.  Entrenched drug user – on methadone at time offending.  Single parent with 4 children, including disabled son aged 14yrs and 19yr daughter recently given birth to twins.	1 x Poss wiss heroin 4.2g at 26%. <b>1 x Poss wiss methyl 3.4g at 21% .</b> <b>1 x Poss wiss methyl 11.45g at 24%.</b> 1 x Poss wiss cocaine 6.38g at 80%. 1 x Supply heroin .04g.  Drug dealer at a relatively high level.  Police searched respondent's car and home. Found drugs subject first 4 charges and other indicia of commercial distribution. (first 4 charges) While on bail for first 4 charges, house searched again – police found .04g of heroin.	PSO imposed 06/03/2008.  Spent 234 days in custody prior PSO.  Respondent admitted to taking prohibited drugs after being released on bail for these offences, showed little insight into her current offences and seemed to place the majority of the blame on outside sources'.	Allowed – remitted to DC for sentencing – imposition PSO an error.  At [22] not open to sentencing judge to conclude that if respondent complied with PSO might not impose term of imprisonment – relevant sentencing principle together with serious nature and circumstances of offending meant immed imp only appropriate option.

<p>15.</p>	<p><i>The State Of Western Australia v Saxild</i></p> <p>[2008] WASCA 156</p> <p>Delivered 24/7/08</p>	<p>21 yrs at time offending.</p> <p>Convicted after PG.</p> <p>No prior criminal record.</p> <p>Lived with family; had almost completed a 4yr apprenticeship; positive reference from employer;</p> <p>Completed drug/alcohol program at Holyoak.</p>	<p>1 x Poss MDMA wiss 171 tablets 50.69g 35-50%.</p> <p><b>1 x Poss methyl wiss 2g 10-18%.</b></p> <p>1 x Poss MDMA wiss tablets 2.56g.</p> <p><b>1 x Poss methyl wiss 0.73g.</b></p> <p>Drugs found following search appellant' scar and house - \$9140 cash also found.</p>	<p>18 mths imp each count.</p> <p>TES 18 mths imp susp 18 mths.</p> <p>EFP.</p>	<p>Allowed – immed imp ordered.</p> <p>15mths immediate imp each count substituted.</p> <p>TES increased to 15mths imp.</p> <p>NB: double jeopardy applied to State appeals at this time.</p> <p>At [12] whatever motive engaging drug trade, incentives must be weighed against clear and certain understanding that such offences ordinarily result in imprisonment.</p>
<p>14.</p>	<p><i>Jackson v The State of Western Australia</i></p> <p>[2008] WASCA 95</p> <p>Delivered 30/04/2008</p>	<p>46 yrs at time offending.</p> <p>Convicted after PG (pleaded to various counts in satisfaction of indictment).</p> <p>Offending breached CBO for 3 count sell methyl (0.38g, 0.16g, 3.44g at 18%).</p> <p>Prior criminal record - minor drug offences; poss stolen property, explosives, ammunition, stealing.</p> <p>Drug user; taking steps to curb his use; three children (one very young).</p>	<p>31 x Offer to sell/supply methyl.</p> <p><b>1 x Poss methyl wiss.</b></p> <p>1 x Breach CBO.</p> <p>Appellant conducting business drug dealing from home. Local residents expressed concern to police about regular anti-social behaviour of people attending property to buy drugs and excessive vehicle traffic at the appellant's home. Police placed appellant's home under surveillance.</p>	<p>TES 6 yrs 6 mths imp.</p>	<p>Dismissed.</p> <p>Appeal against 21 mths imp imposed for breach of CBO only.</p>

13.	<p><i>Swains v The State of WA</i></p> <p>[2007] WASCA 251</p> <p>Delivered 6/11/2007</p>	<p>45 yrs at time offending.</p> <p>Convicted after PG.</p> <p>Stable relationship; three daughters.</p> <p>Post traumatic stress disorder from traffic accident; drug addiction.</p> <p>Willingness to address substance abuse issues.</p>	<p><b>1 x Poss methyl wiss 8.071g – 25%.</b> 1 x Poss cannabis wiss 63g. 1 x Receiving.</p> <p>Engaged in sale of methyl from his home - drug user selling drugs to finance habit. Not engaged in drug dealing in a very significant manner, but ongoing.</p> <p>Drugs were found during search of appellant's home – also found cash and drugs paraphernalia.</p>	<p>18 mths imp. 3 mths imp. 3 mths imp.</p> <p>TES 21 mths imp. EFP.</p>	<p>Dismissed.</p> <p>At [14] <i>'Dealing in serious drugs, whether to feed a habit or otherwise, is a serious offence. There is nothing in this case to take it out of the ordinary range.'</i></p>
12.	<p><i>Burke v The State of Western Australia</i></p> <p>[2007] WASCA 210</p> <p>Delivered 17/10/2007</p>	<p>22 yrs at time offending.</p> <p>Convicted after PG (cts 2-3). Convicted after trial (ct 1).</p> <p>No prior criminal record.</p> <p>Suffered depression; supportive family; substantial amphetamine habit.</p>	<p>Ct 1: Supply MDMA 3.2g at 33%, 300 tablets Ct 2: Poss MDMA wiss 49g at 32%, 200 tablets. <b>Ct 3: Poss methyl wiss 27.89g 11-46%.</b> 2 x s 32 offences.</p> <p>Offending described as serious.</p> <p>Police arrested appellant in car 22.12.2004 – drugs subject of cts 2 and 3 in DVD case under passenger seat. Earlier that day police saw appellant go to house and hide something under statue. Search warrant at the house later that day located drugs subject of ct 1 in desk drawer. Scientific evidence those drugs and drugs subject of ct 2 came from same source. Also found \$21,000 cash at appellant's home which he admitted at trial was for drugs.</p>	<p>Ct 1: 3 yrs 4 mths imp. Ct 2: 1 yr 9 mths imp.</p> <p>Ct 3: 2 yrs imp. s 32 offences concurrent on sentences above.</p> <p>TES 5 yrs 4 mths imp. EFP.</p>	<p>Allowed only in relation to ct 3 and TES not disturbed.</p> <p>Ct 3 reduced to 1 yr 10 mths.</p> <p>TES 5 yrs 4 mths imp unaltered.</p> <p>At [18] <i>'It appears..that the TES imposed in respect of counts 1 and 2 was entirely appropriate for offending of this type committed in circumstance where there was significant personal mitigation.'</i></p>
11.	<p><i>Borbil v The State of Western Australia</i></p> <p>[2007] WASCA 24; (2007) A</p>	<p>52 yrs at time offending.</p> <p>Convicted after PG.</p> <p>Migrated to Australia from Romania in 1982 as political refugee.</p>	<p>Ct 1: Supply heroin 0.057g at 20%. <b>Ct 2: Supply methyl 26.806g at 14%.</b> Ct 3: Supply heroin 28g at 17%. Ct 4: Poss heroin 0.29g.</p> <p>Sold drugs due to financial pressures, not a user of illicit drugs.</p>	<p>Ct 1: 11 mths imp. Ct 2: 3 yrs 4mths imp. Ct 3: 4 yrs imp. Ct 4: 8 mths imp.</p> <p>TES 7 yrs 4 mths imp.</p>	<p>Allowed.</p> <p>TES reduced to 5 yrs 6 mths imp.</p> <p>At [55]-[81] Lengthy discussion of comparative cases.</p>

	<p><b>Crim R 152</b></p> <p>Delivered 1/02/2007</p>	<p>Sole carer of 11 yr old son with learning disabilities; strong bond with son; glowing references.</p> <p>In poor health; previously had heart by-pass surgery.</p> <p>Financial difficulties; on disability pension at time offending.</p>	<p>Associate of appellant contacted him and arranged for a third party to meet appellant at his home. Appellant supplied third party with small amount of heroin (ct 1). Third party returned to appellant's home and appellant offered to supply one ounce of heroin for \$10,000. Appellant offered third party a sample of methyl. Third party subsequently bought quantity of methyl (ct 2). Appellant then left his home and went to nearby bushland where he retrieved a quantity of heroin. Appellant returned to his house and supplied it to third party for \$10,000 (ct 3). After a police search of the appellant's home, the drugs forming subject ct 4 found.</p>	<p>EFP.</p> <p>Very low risk re-offending; offending out of character.</p>	
10.	<p><i>Dixon v The State Of Western Australia</i></p> <p>[2006] WASCA 255</p> <p>Delivered 28/11/2006</p>	<p>27 yrs at time offending.</p> <p>Convicted after PG.</p> <p>No relevant prior criminal record.</p> <p>Qualified as a welder; working since 2004.</p> <p>Took initial steps towards rehabilitation; powerful motivations for rehabilitation.</p>	<p><b>1 x Poss methyl wiss 56.17 g at 4-6%.</b> 1 x Poss MDMA wiss 19.3 g 21-25%. 1 x Poss 0.02 g LSD.</p> <p>Dealing to finance own habit.</p> <p>Drugs were found in 13 clip-seal bags in the centre console of the appellant's car.</p>	<p>3 yrs 2 mths imp. 1 yr 3 mths imp. 3 mths imp.</p> <p>TES 4 yrs 8 mths imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [12] TES proportionate to total criminality of offending.</p>
9.	<p><i>Dann v The State of Western Australia</i></p> <p>[2006] WASCA 254</p> <p>Delivered 24/11/2006</p>	<p>28 yrs at time offending.</p> <p>Convicted after PG.</p> <p>Offending breached ISO and SIO.</p> <p>Prior criminal record - numerous dishonesty and drug offences including possess heroin wiss.</p> <p>Drug addict - using since 12 yrs</p>	<p><b>1 x Poss methyl wiss 30.99 g at 79-80%.</b></p> <p>Search of appellant's home located drugs, three sets of electronic scales, empty clip seal bags and \$242,000 cash.</p>	<p>6 yrs imp.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [9] '<i>Considering the weight and purity of the drug, the fact that the appellant was dealing on more than a minor scale, and the absence of mitigation, it is difficult to see the sentence imposed as inappropriate.</i>'</p>



		old; one child from former relationship.			
8.	<i>HV v The State of Western Australia</i>  [2006] WASCA 242  Delivered 16/11/2006	Convicted after fast-track PG.  Co-operated with police.	Ct 1: Supply methyl 3.5 g. <b>Ct 2: Poss methyl wiss 44.1 g at 20-21%.</b>  Search warrant executed at appellant's home. Appellant and associate were found in garage. Drugs subject to ct 1 found on associate - appellant admitted supplying them.  Dealing in part to support own habit.	Ct 1: 8 mths imp. Ct 2: 2 yrs imp.  TES 2 yrs 8 mths imp.  EFP.	Dismissed - sentence proportionate to the criminality.
7.	<i>Samuels v The State of Western Australia</i>  [2006] WASCA 222  Delivered 26/10/2006	33 yrs at time offending.  Convicted after trial.  Member Gypsy Jokers motorcycle group.	<b>1 x Poss methyl wiss 25.3g at 34%.</b> 1 x Poss MDMA wiss 315.8g at 21%.  Operating at a level of mid-level commerciality.  Police surveillance set up on appellant's tattoo shop in the wake of the car bomb that killed Don Hancock as revenge for the shooting of a gypsy joker member. Search warrant executed at tattoo shop and drugs were found in a back shed at the property.	5 yrs imp. 4 yrs imp.  TES 6 yrs imp.  EFP.	Dismissed.  At [75] offending at the upper end of scale of seriousness.
6.	<i>The State of Western Australia v Marchese</i>  [2006] WASCA 153; (2006) 163 A Crim R 363  Delivered 4/08/2006	24 yrs at time offending.  Convicted after PG.  Employed; 20mth old daughter.	<b>1 x Poss methyl wiss 27.97g</b> 1 x Poss MDMA wiss 2.06g.  Found in respondent's home; also found cutting agent, clip-seal bags, scales and \$18,000 (half which was admitted to be drug-related), book & electronic organizer containing drug debts owed; respondent admitted dealing drugs for financial motive & denied being addicted.	2 yrs imp. 18 mths imp. TES 2 yrs imp susp 2yrs.  Positive PSR - insight shown.	Dismissed.  Suspended sentence inadequate but not disturbed as appellant spent 8 mths in the community before appeal was decided.  NB: Double jeopardy principles applied and exceptional as State did not expedite appeal.

5.	<p><i>Olomi v The State of Western Australia</i></p> <p>[2004] WASCA 304</p> <p>Delivered 20/09/2004</p>	<p>Convicted after fast-track PG.</p> <p>Offending breached parole (armed robbery).</p> <p>Prior criminal record.</p> <p>Family support.</p>	<p>1 x Poss MDMA wiss 247 tablets 53.85g.  <b>1 x Poss methyl wiss 64.48g.</b>  2 x s 32 offences (ammunition &amp; poss smoking implement).</p> <p>Drugs found in appellant's home - also found \$3150, set of electronic scales, clip-seal bags and deal book.</p> <p>Offences partly committed to maintain a drug habit but appellant stood to gain \$30,000.</p>	<p>2 yrs 8 mths imp.  2 yrs 8 mths imp.</p> <p>Owed 987 breach of parole days (cumulative on sentence above).</p> <p>TES 5 yrs 6 mths imp.</p> <p>Remorse.</p>	<p>Dismissed.</p>
<p><i>Transitional Provisions Enacted (31/08/2003)</i></p>					
4.	<p><i>Marker v The Queen</i></p> <p>[2002] WASCA 282; (2002) 135 A Crim R 55</p> <p>Delivered 10/18/2002</p>	<p>Youth mitigating factor.</p> <p>Convicted after late PG – charges changed and extensive plea negotiations.</p> <p>Engaged in rehabilitative measures and self improvement in two years between sentence and arrest.</p>	<p><b>1 x Poss methyl wiss 53.9 g at 41%</b>  <b>1 x Poss methyl 0.1 g at 59.3%</b></p> <p>User/dealer who was an integral part of chain of supply.</p> <p>Appellant despatched to obtain sample of drugs in poss of co-offender (Kezkiropolous). Appellant meant to test quality and potency of sample so decision could be made as to whether larger amount would be purchased. Arrested after left co-offender's hotel room and drugs found on his person. Co-offender known to Federal Police and under surveillance from time he left Victoria. Subsequent search of offender's home located assault rifle, handgun, scales (traces of methyl found on them) and \$7600 cash.</p>	<p>6 yrs 8 mths imp.  15 mths imp.</p> <p>TES 6 yrs 8 mths imp.  Equivalent to 4 yrs 3 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [80]-[81] drug addiction not mitigating factor.</p>

3.	<p><i>Vogel v The Queen</i></p> <p>[2002] WASCA 261</p> <p>Delivered 20/09/2002</p>	<p>Youth mitigating factor.</p> <p>No significant prior criminal record.</p> <p>Good character; employed; favourable references.</p>	<p><b>1 x Poss methyl wiss: 3.8 g at 11% &amp; 2.86 g at 37%.</b></p> <p>Drugs found on appellant's person at police lock-up following his arrest after an incident outside a nightclub - also found \$1850 cash. Appellant purchased drugs as "party drugs" to use while on holiday in WA (from Sydney).</p>	<p>3 yrs imp.</p> <p>TES 3 yrs.</p> <p>Equivalent to 2 yrs imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.
2.	<p><i>Giannopoulos v The Queen</i></p> <p>[2000] WASCA 396</p> <p>Delivered 13/12/2000</p>	<p>33 yrs at time offending.</p> <p>Convicted after trial.</p> <p>No relevant prior criminal record.</p> <p>History substance abuse (using 2-3g cocaine per day and had health problems as result) – self referred for detox but progress in program unsatisfactory.</p> <p>Married with 3 yr old child and another baby on way; good work history; numerous positive references.</p>	<p>1 x Poss cocaine wiss 24.8g at 20%.</p> <p><b>1 x Poss amphetamine wiss 12.8g at 3.5%.</b></p> <p>1 x Poss cannabis wiss 451g leaf.</p> <p>Amphetamine and cocaine found in appellant's car. Appellant maintained for personal use but jury rejected and found intent to sell. Due to purity and addiction, sentencing judge sentenced on basis not commercial dealer but still intended sell/supply two destructive drugs.</p>	<p>5 yrs imp.</p> <p>3 yrs imp.</p> <p>6 mths imp.</p> <p>TES 5 yrs imp.</p> <p>Equivalent to 3 yrs 4 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.
1.	<p><i>Nelis v The Queen</i></p> <p>[2000] WASCA 194</p> <p>Delivered 2/08/2000</p>	<p>Convicted after early PG.</p> <p>Significant prior criminal record of dishonesty offences.</p> <p>Ward of State after mother left at 2 yrs old – lived in a boy's home.</p> <p>Good father; supported wife and 4</p>	<p>1 x Sell amphetamine powder 27.4 g at 2.5%.</p> <p>1 x Sell amphetamine powder 54.75 g</p> <p><b>1 x Poss amphetamine powder wiss 27.5g at 2.5-21%.</b></p> <p>Premeditated commercial dealing in amphetamines – mainstream dealer not merely a distributor. Not dealing to support own habit. Search of offender's home located electronic</p>	<p>3 yrs imp.</p> <p>7 yrs imp.</p> <p>3 yrs imp.</p> <p>TES 7 yrs imp.</p> <p>Equivalent to 4 yrs 8 mths imp after implementation of transitional provisions.</p>	Dismissed.  At [13] cost to community of the impact of illicit drugs discussed.

		kids; hard worker – employed as fly-in, fly-out mine worker.  Psychiatric issues, ADD and possibly bi-polar.	scales, clip seal bags and \$4900 cash. Took active role in selling drugs, contacted undercover police officer in order to make sale.		
--	--	--	---	--	--

Office of the Director of Public Prosecutions