

# Child Sex Offences – Intra-familial

Prior to 1 January 2014

**Transitional Sentencing Provisions:** This table is divided into thirds based on the three relevant periods of Sentencing Provisions:

- Post-transitional provisions period
- Transitional provisions period
- Pre-transitional provisions period

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

imp	imprisonment
susp	suspended
conc	concurrent
cum	cumulative
PG	plead guilty
agg	aggravated
burg	burglary
sex pen	sexual penetration without consent
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
dep lib	deprivation of liberty
att	attempted
EFP	eligible for parole
indec	indecent
pen	penetrate
TES	total effective sentence
ISO	intensive supervision order

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
56.	<p><i>SG v The State of Western Australia</i></p> <p>[2013] WASCA 26</p> <p>Delivered 15/10/2013</p>	<p>35 yrs at time of sentencing.</p> <p>Convicted after trial.</p> <p>Lengthy criminal record in Qld and WA; no prior convictions for sexual offences.</p> <p>Dysfunctional childhood; exposure to domestic violence and abuse; introduced to illicit substances by stepmother at 11 yrs.</p> <p>Became a street kid; began using amphetamines at 15 yrs.</p> <p>Fractured education; spent many years in juvenile detention and prison; most offending attributed to drug abuse.</p> <p>Drug use and heavy drinking increased after his baby daughter died and he suffered from depression.</p>	<p>Indecent deal child u13 yrs s320(4) <i>Criminal Code</i> x 2.</p> <p>Sex pen child u 13 yrs s320(2) <i>Criminal Code</i> x 1.</p> <p>Agg sex pen de facto child s329(2) <i>Criminal Code</i> x 6.</p> <p>Sex pen de facto child s329(2) <i>Criminal Code</i> x 2.</p> <p>The victim was the appellant's de facto daughter, who was aged between 11 and 16 yrs at the time of offending. The offending occurred while the appellant was living in a de facto relationship with the victim's mother. Over the years, the appellant and the victim's mother had 3 more children together.</p> <p>The appellant began grooming the victim within months or even week of moving in with the family. The appellant used bribery and promises together with intimidation and physical coercion to obtain sexual favours.</p> <p>The acts included masturbating in her presence, digital penetration, having the victim perform oral sex on him and sexual penetration. The sexual activity often caused the victim significant pain. The offending persisted even while the victim was grieving for the death of her mother's baby.</p> <p>The appellant did not use contraception, which resulted in the victim becoming pregnant when she was 15. Penetration also occurred when she was pregnant and after the baby was born.</p>	<p>TES 12 yrs imp.</p> <p>EFP.</p> <p>No real acceptance of responsibility or any remorse.</p> <p>Moderate to high risk of re-offending.</p>	<p>Appeal dismissed – on papers.</p> <p>At [27] ... it is well-established that cases of intra-familial sexual abuse typically attract significant sentences of imprisonment.</p> <p>At [34] ... The offending was calculated and persistent. The appellant, who was a father figure to the complainant, set about exploiting the complainant in an utterly callous way to satisfy his own sexual desires.</p>
55.	<i>JWD v The State</i>	34 yrs at time sentencing.	Sex pen lineal relative, a child s329(2) <i>Criminal</i>	TES 6 yrs imp.	Allowed.

<p><i>of Western Australia</i></p> <p><b>[2013] WASCA 233</b></p> <p>Delivered 07/10/2013</p>	<p>Convicted after PG.</p> <p>Chaotic and dysfunctional childhood; very limited contact with biological father; step-father was a violent alcoholic who physically abused the appellant and his mother; ran away from home on a regular basis.</p> <p>Removed by DCP and lived with aunty; then lived with grandmother; spent long periods living on the streets, sometimes supporting himself through prostitution.</p> <p>Long standing drug and alcohol abuse.</p> <p>Stable relationship; partner is schizophrenic and appellant acts as his carer.</p> <p>Borderline personality disorder.</p>	<p><i>Code x 7.</i> Indecent deal lineal relative, a child s329(4) <i>Criminal Code.</i></p> <p>Between 1996 and 2001 the appellant committed various sexual acts against the victim, his biological half-brother. The offending commenced when the victim was 12 yrs of age and continued until he was 16. It was accepted that the offences were representative of a course of conduct by the appellant.</p> <p>The acts included having the victim perform oral sex on him, urinating in the victim's mouth, masturbating in the victim's presence, having the victim masturbate him, performing oral sex on the victim, anal penetration and licking the victim's anus.</p>	<p>EFP.</p> <p>Appellant made voluntary disclosure of offences.</p> <p>Some progress towards rehabilitation.</p> <p>Risk of re-offending was in the moderate to low category.</p> <p>Appellant's relationship to the victim gave him an opportunity to influence the victim.</p> <p>Affect upon the victim had been profound, including contracting an STD and psychological effects.</p>	<p>Re-sentenced to 4 yrs imp.</p> <p>EFP.</p> <p>At [39] It became apparent on the hearing of the appeal that the essential contention was that the total effective sentence of 6 yrs imp breached the first limb of the totality principle because it was not a proper reflection of the voluntary disclosure and of the efforts that the appellant had made towards his rehabilitation in the 12 yr period that had elapsed since the last offence was committed.</p> <p>At [54] The voluntary disclosure reflected acceptance of responsibility, genuine remorse and resulted in offences coming to light that may otherwise have remained undealt with. There is public interest in recognising the value of such a disclosure.</p>
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<p>54.</p>	<p><i>ERA v The State of Western Australia</i></p> <p>[2013] WASCA 163</p> <p>Delivered 19/07/2013</p>	<p>64 yrs at sentencing.</p> <p>Convicted after trial.</p> <p>Criminal record.</p> <p>In 1983 and 1984, the appellant committed incest with his daughter. She was 10 or 11 and he was 35 or 36. The incest involved numerous acts of penile/vaginal intercourse. On 5 May 1984 he pleaded guilty to 1 count of incest and sentenced to 5 yrs imp with min of 2 yrs 4 mths imp.</p> <p>Good work history.</p>	<p>Indecent deal u 14 yrs s183 (repealed) <i>Criminal Code</i> x 10.</p> <p>Carnal knowledge u 13 yrs s185 (repealed) <i>Criminal Code</i> x 1</p> <p>Sex pen lineal relative s329(2) <i>Criminal Code</i> x 10</p> <p>The appellant sexually abused two generations of children within his family.</p> <p>L and J are the appellant's nieces. The offending against them occurred in 1974 and 1975.</p> <p>N and C are the appellant's grand-daughters (son's children). The offending against them occurred between 2005 and 2008. N was about 8-11 and C was about 7-10. The appellant was about 57-60.</p> <p>In 1974, the appellant was living in rural WA with his then wife and their two children. In 1974 victim's L and J were staying with their mother and the appellant and his family for several months. L was aged 11 or 12, J was 8 and he was 26 or 27. During the period of the appellant's offending against L and J, he had intimate relations with their mother on several occasions.</p> <p><u>Cts 1 and 3</u></p> <p>In relation to L, the appellant indecently dealt with L, then a child under the age of 14 yrs. The offending occurred between 1 December 1974 and 30 June 1975 at a house in rural WA where the appellant rubbed the victim's vagina and rubbed his penis against her vagina.</p> <p><u>Cts 4-8 and 10 -13</u></p>	<p>TES 16 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge found N and C were groomed from a very young age by rewards, including money. It was apparent that both girls had reached a point where such conduct was unremarkable, only being occasionally memorable.</p> <p>The offences were not isolated occurrences. They were representative and part of an ongoing course of conduct.</p> <p>Victim J sustained significant long-term damage.</p> <p>The appellant denied the offences to Psychiatrist and suggested they had been fabricated in the context of a conflict with his daughter-in-law; Also denied having a sexual interest in children.</p> <p>Considerable risk of re-</p>	<p>Dismissed.</p> <p>At [134] The appellant was not sentenced merely for offences which he had committed many years ago. His offending against N and C was appalling and relatively recent. This is a matter of some importance in applying the second limb of the totality principle. The present case did not involve an offender who had ceased intra-familial sexual offending a long time ago. Also, it did not involve an offender who had been wholly or substantially rehabilitated.</p>
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		<p>In relation to J, in each count the appellant indecently dealt with J, then a child under the age of 14 years; except for one which the appellant had unlawful carnal knowledge of J, then a child under the age of 13 years. The offending occurred between 1 December 1974 and 30 June 1975 at the appellant's place of work in rural WA. In Ct 4 the appellant rubbed J's vagina with his hand. In Ct 5 on the same occasion; the appellant used J's hand to masturbate his penis. In Ct 6 the appellant touched J's vagina with his fingers. In Ct 7, on the same occasion the appellant rubbed his penis against J's vagina until he ejaculated. In Ct 8 the appellant used J's hand to masturbate his penis. In Ct 10, on the same occasion the appellant rubbed his penis against J's vagina until he ejaculated. In Ct 11 the appellant rubbed his penis against J's vagina until he ejaculated. In Ct 12 the appellant used J's hand to masturbate his penis. In Ct 13 the appellant penetrated J's vagina with his penis.</p> <p><u>Cts 16-19</u> Counts 16-19 relate to N. The offending occurred between 1 January 2005 and 31 December 2007 at rural locations near a WA country town. Each count alleged that on separate unknown dates during the period of offending the appellant sexually penetrated N, a child who he then knew to be a lineal relative by penetrating her vagina with his penis.</p> <p><u>Cts 21-26</u> Counts 21-26 relate to C. The offending occurred between 1 January 2006 and 31 December 2008 in rural WA. The appellant knew C was his lineal</p>	<p>offending.</p> <p>No remorse or victim empathy.</p> <p>Sentencing Judge noted that offending was not in the worst category, but was nonetheless very serious.</p>	
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			relative. In Ct 21 the appellant inserted his finger into her vagina. In Ct 22 on the same date the appellant inserted a vibrating sex toy into the victim's vagina. In Ct 23 on the same date the appellant inserted his penis into C's vagina. In Ct 24 on a date unknown the appellant inserted his finger into her vagina. In Ct 25 on the same occasion the appellant inserted a vibrating sex toy into her vagina. In Ct 26 on the same date and place as Ct 24 the appellant inserted his penis into C's vagina.		
53.	<p><i>BGE v The State of Western Australia</i></p> <p>[2013] WASCA 136</p> <p>Delivered 31/05/2013</p>	<p>27 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Extensive prior criminal history including for sexual penetration of a child 13-16 yrs.</p> <p>Deprived upbringing.</p> <p>Witnessed violent incident where uncle fatally stabbed and aunt seriously injured.</p> <p>Expelled from school at 12, lacking structure, routine and purpose since.</p> <p>Never been gainfully employed.</p> <p>Affected by alcohol at time of offending.</p> <p>Admitted to Forensic</p>	<p>Victim was appellant's cousin.</p> <p>1 x Indecent deal u 13 yrs s320(4) <i>Criminal Code</i>.</p> <p>Victim aged 12 yrs. Appellant was at the victim's home. He spent the day drinking with members of the victim's family. The victim's older sister, who was aged 20, was present during the day but left in the early part of the evening.</p> <p>During the evening the appellant went to the victim's bedroom. The older sister was not there. The victim was in bed.</p> <p>The victim felt heavy breathing on her and felt the appellant attempting to rub against her chest, pulling at her bra strap and trying to place a finger in her bra. She kicked her feet and felt something between her legs.</p> <p>The appellant grabbed the victim's hands and put them against the bed. The appellant attempted to pull at her shorts and was endeavouring to remove them. She screamed and almost simultaneously, her</p>	<p>20 mths imp.</p> <p>EFP.</p> <p>Sentenced on the basis that when he entered the victim's bedroom, he honestly believed that the older sister was in the bed. However, sentencing judge found that when the appellant began interfering with the victim in her bed the appellant's belief was not reasonable.</p> <p>According to Forensic Psychological report showed no understanding of impact of his offence on the victim.</p> <p>He externalised blame towards the victim's older</p>	<p>Dismissed on papers.</p> <p>At [28] Generally, as a matter of principle, an offender who has been convicted of indecent dealing with a child under the age of 13 years, and who honestly but unreasonably believed that the victim was of the age of consent and was consenting to the relevant act, will be less culpable than an offender who did not have an honest belief that the victim was of the age of consent or was consenting. However, whether and, if so, to what extent, an honest belief will, in a particular case, be a mitigating factor, depends on all the</p>

		Psychologist that he had had many different sexual partners including his relatives and that he would have sexual intercourse with any woman at any time.	mother entered the bedroom, turned on the light and saw the appellant between the victim's legs with the victim's shorts unzipped and one of her breasts exposed.	sister.  Distorted sexual attributes towards women and underage girls.  High risk of re-offending in a sexual manner if he does not make changes.	relevant facts and circumstances.
52.	<b><i>HFM v The State of Western Australia</i></b>  <b>[2012] WASCA 217</b>  Delivered 30/10/2012	58-65 yrs at time offending. 75 yrs at time sentencing.  Convicted after fast track PG.  No prior convictions.  Good employment history until made redundant due to injuries at 53 yrs old; difficulties adjusting to retirement; forced to re-locate to caravan park due to financial stress.  Appellant's wife died in 2008 after 44 yrs of marriage.  Profound hearing loss; sever osteoarthritis in right knee; depression	Victim was appellant's step granddaughter. Victim aged 5-12 yrs. Offending period approx 6 ½ yrs. 10 years between offending and sentencing.  Ct 1: Indecent deal u 13 yrs. Ct 2: Indecent deal u 13 yrs. Ct 3: Indecent deal u 13 yrs. Ct 4: Sex pen u 13. Ct 5: Indecent deal u 13. Ct 6: Sex pen u 13. Ct 7-10: Indecent deal u 13.  <u>Incident 1 (cts 1-4):</u> Victim aged 5 yrs. Appellant aged 58 yrs. Appellant was babysitting victim and her brothers. Victim was sitting on appellant's lap watching TV when the appellant began to rub her upper thigh near her vagina. Appellant then pushed her lags apart and rubbed around and on her vagina (ct 1). Appellant then carried victim to bed, removed her track pants and underwear and stared at her vagina for an extended period (ct 2). Appellant then rubbed victim's vagina for at least 2 minutes (ct 3) and licked on and around the victim's vagina for at least two more minutes (ct 3) only stopping when he heard the victim's parents return home.	Ct 1: 18 mths imp. Ct 2: 12 mths imp. Ct 3: 18 mths imp. Ct 4: 3 yrs imp. Ct 5: 18 mths imp. Ct 6: 3 yrs imp. Ct 7-10: 18 mths imp each ct.  TES 6 yrs imp.  EFP.  Remorse; ashamed; low risk re-offending (erectile dysfunction and no sexual desire); unable to explain offending behaviour.	Allowed.  TES reduced to 4 yrs imp.  Individual sentences not challenged or altered on appeal.  At [60]-[62] There is a distinction between cases in which an offender has not been convicted of offences between time of offending and sentencing and cases where the offender is genuinely remorseful or rehabilitated. Given that intra-familial sexual abuse of young children, by its nature, often remains undetected for significant periods of time this difference is of great importance.

		<p><u>Incident 2 (cts 5 and 6):</u>  Victim aged 8 yrs. Appellant aged 61 yrs. Appellant entered victim's room while she was in bed reading. Appellant sat on her bed and read her a book. While doing that, appellant put his hand under the covers, inside victim's underwear and rubbed her clitoris (ct 5) stopping only when victim's mother walked past the door. After victim's mother had passed, appellant put his hand back under the covers and inside the victim's underwear and digitally penetrated her vagina causing vaginal bleeding and pain (ct 6).</p> <p><u>Incident 3 (ct 7):</u>  Victim aged 8 yrs. Appellant aged 61 yrs. Victim was home from school with tonsillitis and appellant and wife were babysitting her. Appellant and victim were alone in lounge room playing chess when appellant placed his hand under the blanket, inside the victim's underwear and rubbed clitoris.</p> <p><u>Incident 4 (cts 8 and 9):</u>  Victim aged 10 yrs. Appellant aged 63 yrs. Appellant picked victim up from school and took her to his work. Appellant stood behind the victim, put his hands under jeans and underwear and rubbed her vagina (ct 8). A short time later the victim wanted to go home and the appellant volunteered to drive her home. On the journey, appellant rubbed victim's vagina over her clothing (ct 9).</p> <p><u>Incident 5 (ct 10):</u>  Victim aged 12 yrs. Appellant aged 65 yrs. Victim and her family were at appellant's home for a birthday party. Victim was in appellant's room playing computer games when appellant entered. Appellant put his hands down victim's pants and</p>		<p>At [71] Appellant's significant mobility issues and hearing issues mean that imprisonment would be more arduous than usual.</p> <p>AT [76] It is an aggravating factor that the victim was so young (5 yrs old) when offending commenced.</p>
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			<p>rubbed her vagina only stopping when victim's brother entered the room.</p> <p>Offences were five discrete incidents and not representative of a course of conduct.</p> <p>Victim first complained of offending to her grandmother at 8 yrs old. Victim's mother accused her of lying and slapped her face and her step-father (appellant's son) hit her four times on the lower legs and back with a leather belt.</p> <p>Victim suffered significant emotional trauma, anxiety, shame, humiliation and loss of self-esteem as well as contemplating suicide.</p>		
51.	<p><i>The State of Western Australia v FJG</i></p> <p>[2012] WASCA 206</p> <p>Delivered 17/10/2013</p>	<p>34-40 yrs at time offending. 69 yrs at time sentencing.</p> <p>Convicted after PG (cts 1, 2, 6, 7 and 9). Convicted after trial (cts 3-5, 8, 10-14).</p> <p>No prior criminal record.</p> <p>Good employment history.</p> <p>Wife of 40 yrs remains supportive of respondent.</p> <p>Some health problems but overall in reasonable health – high blood pressure and cholesterol; asthma;</p>	<p>2 victims – respondent's daughters. Victim 1 aged 10-14 yrs. Victim 2 aged 8-14 yrs. Offending period 1977-1982. Offences representative of long term and systemic sexual abuse of the two victims.</p> <p>Offending extremely serious and constituted an horrendous breach of trust.</p> <p>Ct 1: Indecent deal u14 s183 <i>Criminal Code</i>. Ct 2: Carnal knowledge of daughter s 197 <i>Criminal Code</i>. Ct 3: Indecent deal u14 s183 <i>Criminal Code</i>. Ct 4: Indecent deal u14 s183 <i>Criminal Code</i>. Ct 5: Indecent deal u14 s183 <i>Criminal Code</i>. Ct 6: Indecent deal u14 s183 <i>Criminal Code</i>. Ct 7: Indecent deal u14 s183 <i>Criminal Code</i>. Ct 8: Indecent deal u14 s183 <i>Criminal Code</i>. Ct 9: Carnal knowledge of daughter s 197 <i>Criminal Code</i>.</p>	<p>Ct 1: 20 mths imp. Ct 2: 4 yrs imp.</p> <p>Ct 3: 2 yrs imp. Ct 4: 4 yrs imp. Ct 5: 3 yrs imp. Ct 6: 20 mths imp. Ct 7: 20 mths imp. Ct 8: 3 yrs 9 mths imp. Ct 9: 12 mths imp.</p>	<p>Allowed.</p> <p>TES increased to 10 yrs 6 mths imp. Individual sentences not disturbed.</p> <p>At [62] Offending was very close to falling within the worst case category for offending of this kind.</p> <p>At [58]-[60] Discussion comparable cases and broad sentencing range.</p>

		<p>osteoarthritis and moderate to severe hearing loss.</p>	<p>Ct 10: Carnal knowledge of daughter s 197 <i>Criminal Code</i>.  Ct 11: Carnal knowledge of daughter s 197 <i>Criminal Code</i>.  Ct 12: Indecent deal u14 s183 <i>Criminal Code</i>.  Ct 13: Carnal knowledge of daughter s 197 <i>Criminal Code</i>.  Ct 14: Carnal knowledge of daughter s 197 <i>Criminal Code</i>.</p> <p><u>Cts 1 and 2:</u>  Victim 1, aged 10 yrs. Victim 1 in lounge room when respondent called for her to sit on his knee. Victim 1 did. Respondent put his hand up her skirt and inserted his finger into her vagina (ct 1). Respondent then took victim 1 into his bedroom, locked the door, removed her pants and inserted his penis into her vagina. Respondent engaged in sexual intercourse with victim 2 until ejaculation (ct 2).</p> <p><u>Ct 3:</u>  Victim 2. Victim 2 sitting on respondent's knee watching TV. Respondent kissed victim 2 and made her masturbate him until he ejaculated. While doing this, respondent told victim 2 that all little girls that love their daddy do this and that she shouldn't tell anyone.</p> <p><u>Ct 4:</u>  Victim 2, aged 10 yrs. Respondent held victim 2's head to his crotch area and forced his penis into her mouth, making her choke. Victim 2 accidentally bit respondent's penis and respondent hit her on the head. Respondent continued until ejaculating in victim 2's mouth, forcing her to swallow the ejaculate. Victim 2 then vomited and respondent</p>	<p>Ct 10: 5 yrs 8 mths imp.  Ct 11: 5 yrs imp.  Ct 12: 3 yrs imp.  Ct 13: 5yrs 8 mths imp.  Ct 14: 4 yrs 6 mths imp.  TES 8 yrs 6 mths imp.  EFP.  Low risk of re-offending.</p>	
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			<p>made her clean the vomit up.</p> <p><u>Ct 5:</u> Victim 2. Respondent made victim 2 perform fellatio on him.</p> <p><u>Ct 6:</u> Victim 1, aged 13 yrs. Respondent and victim 2 were in the car driving. Respondent reached over and put his hand in her pants and inserted his finger into her vagina.</p> <p><u>Ct 7:</u> Victim 2, aged 11 yrs. Offending occurred on victim 2's 11<sup>th</sup> birthday. Respondent entered victim 2's bedroom, naked from the waist down, lay on top of her and put his penis between her legs. Respondent simulated having sexual intercourse with victim 2 until ejaculating on the sheets.</p> <p><u>Ct 8:</u> Victim 2, aged 11 yrs. Respondent inserted a 'long, sharp, pointy and cold' object into victim 2's vagina. The object hurt victim 2 and she told respondent to stop. Respondent refused to stop. While inserting the object, respondent touched victim 2 'everywhere'. Respondent was so aroused that he ejaculated. The insertion of the object caused victim 2 to bleed onto the sheets and respondent made her scrub the sheets to get the blood out.</p> <p><u>Ct 9:</u> Victim 1, aged 14 yrs. Last occasion respondent sexually offended against victim 1. Respondent had sexual intercourse with victim 1, ejaculating into her vagina. Respondent wiped semen off the end of his penis and asked victim 1 to lick it off his finger but she refused.</p> <p><u>Ct 10:</u></p>	
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		<p>Victim 2, aged 12 ½ yrs. First occasion respondent had sexual intercourse with victim 2. Respondent found out victim 2 had begun menstruating. Respondent went into victim 2's room and told her she was 'now a woman' and could 'handle this'. Respondent then engaged in sexual intercourse with victim 2, ejaculating inside her vagina. Victim 2 asked respondent to stop as he was hurting her but he refused. Respondent saw blood on the sheets when he had finished and made victim 2 wash them. Victim 2 so afraid that she slept in a cupboard that night.</p> <p><u>Ct 11:</u> Victim 1, aged 14 yrs. Respondent went into victim 1's room while they were on a fishing trip with others and engaged in sexual intercourse with her.</p> <p><u>Ct 12:</u> Victim 2, aged 12 ½ yrs. Respondent made victim 2 perform fellatio on him.</p> <p><u>Ct 13:</u> Victim 2, aged 12 or 13 yrs. Respondent forced victim 2 to have sexual intercourse with him, ejaculating inside her vagina. Respondent then made victim 2 shower with him. Respondent washed victim 2 and forced her to wash him. Victim 2 cried throughout the offending and asked the respondent to stop. Respondent replied that this was what "all good little girls do with their daddy" and said it was normal.</p> <p><u>Ct 14:</u> Victim 2, aged 14 yrs. Respondent engaged in sexual intercourse with victim 2. Within a short time after ct 14, victim 2 disclosed the respondent's offending to a school guidance officer and the matter was brought to the attention</p>	
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			of the Department for Community Welfare. There was some investigation but the police were not notified and no action was taken. The sexual offending against victim 1 did not come to light at this time.		
<b>50.</b>	<b><i>MMC v The State of Western Australia</i></b>  <b>[2012] WASCA 187</b>  Delivered 27/09/2012	14 yrs at time offending against victim 1 (half-sister). 35-38 yrs at time offending victim 2, 3 and 4 (de facto daughters).  Convicted after fast-track PG.  No relevant prior criminal record – traffic offences.  Satisfies diagnostic criteria for paedophilia; compulsive collector of pornography (including child pornography).  Significant personality dysfunction with narcissistic, anti-social and borderline traits.  History poly substance abuse.  Family history of depression, suicide,	4 victims – 3 were appellant’s de facto daughters; one was appellant’s half-sister. Victim 1 (half-sister) aged 11 yrs. Victim 2 aged 10-12 yrs. Victim 3 aged 10-11 yrs. Victim 4 aged 7-8 yrs. Offending period March 1987-January 1988.  Cts 1-5: Carnal knowledge s 185 <i>Criminal Code</i> (max penalty 20 yrs imp). Ct 6: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 7: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 8: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 9: Indecent dealing with a child u13 s 320(4) <i>Criminal Code</i> . Ct 10: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 11: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 12: Att sex pen u 13 s 320(2) <i>Criminal Code</i> . Ct 13: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 14: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 15: Sex pen u13 s 320(2) <i>Criminal Code</i> . Ct 16: Sex pen u13 s 320(2) <i>Criminal Code</i> .  <u>Cts 1-5 Victim 1:</u> Appellant’s half- sister, aged 11 yrs. Appellant aged 14 yrs at time offending. On each occasion, appellant removed victim 1’s underwear, lay on top of her and penetrated her vagina with his penis. <u>Cts 6, 13, 14, 15 and 16 Victim 2:</u> Victim’s de facto daughter, aged 10-12 yrs. Counts	Cts 1-5: 1 yr imp each ct.  Ct 6: 4 yrs imp. Ct 7: 3 yrs imp. Ct 8: 3 yrs imp. Ct 9: 1 yr 6 mths imp.  Ct 10: 3 yrs imp. Ct 11: 3 yrs imp. Ct 12: 1 yr 6 mths imp. Ct 13: 4 yrs imp. Ct 14: 4 yrs imp. Ct 15: 3 yrs imp. Ct 16: 4 yrs imp.  TES 11 yrs imp.  EFP.  Profound lack of empathy; no remorse.	Dismissed – application for extension of time refused on papers.

		<p>aggression , violence and alleged sexual offending.</p> <p>Childhood behaviour included truancy, cruelty to animals, running away from home and lighting fires.</p>	<p>were representative offences – the sexual offending repeatedly occurring between August 2008 and 2011.</p> <p>Victim 2 told appellant she had been sexually abused by her previous step-father. Appellant told her he could help her overcome the grief by having sex with her. A short while later, the appellant asked victim 2 to have sex with him, they removed their clothes and the appellant penetrated victim 2’s vagina with his penis (ct 6).</p> <p>Victim 2’s mother was at work and appellant asked victim 2 to come into the bedroom to look after her baby brother. After victim 2 had put the baby to bed, appellant asked her to have sex, removed their clothing and penetrated her vagina with his penis (ct 13).</p> <p>Appellant penetrated victim 2’s vagina with his penis in similar circumstances on a later date (ct 14). Immediately afterwards, the appellant performed cunnilingus on victim 2 (ct 15). The appellant then again penetrated victim 2’s vagina with his penis stopping when he ejaculated (ct 16).</p> <p><u>Cts 7, 8, 9 and 12 Victim 3:</u></p> <p>Victim’s de facto daughter, aged 10-12 yrs. Counts were representative offences – the sexual offending repeatedly occurring between May 2010 and April 2011.</p> <p>Appellant penetrated victim 3’s vagina with his finger on two occasions (cts 7 and 8). Appellant touched victim 3’s breast (Ct 9). Appellant attempted to penetrate victim 3’s anus with his penis (ct 12).</p> <p><u>Cts 10 and 11 Victim 4:</u></p> <p>Victim’s de facto daughter, aged 7-8 yrs.</p> <p>Appellant, on two separate occasions, was tucking</p>		
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			victim 4 into bed and asked her if she wanted “tickle time”. Appellant reached under the covers and digitally penetrated her vagina.		
49.	<b><i>KJW v The State of Western Australia</i></b>  [2012] WASCA 162  Delivered 22/08/2012	46 yrs at time sentencing.  Convicted after trial.  Minor prior criminal record.  At time of arrest, appellant living inter-state with a woman with 2 children.  Good work history; educated to yr 10.	2 victims - appellant’s step-daughters. Offending period 1999 and 2005.  Ct 1: Indecent dealing with a child u13 s 321(4) <i>Criminal Code</i> . Ct 4: Indecent dealing with a child u13 s 321(4) <i>Criminal Code</i> . Ct 5: Indecent dealing with a child u13 s 320(4) <i>Criminal Code</i> . Ct 6: Indecent dealing with a child u13 s 321(4) <i>Criminal Code</i> . Ct 7: Indecent dealing with a child u13 s 321(4) <i>Criminal Code</i> .  Offending was of serious nature.  Victims were not related- the appellant was married to the mother of victim 1 until 1999 and the mother of victim 2 from 2002-2006.  Cts 1, 4, 5, 6 involved the appellant rubbing the victim’s vagina under her clothing – generally when the victim was asleep (the victim awakening to find the appellant touching her). Ct 7 involved the appellant touching the victim’s breasts, again while she asleep.	Ct 1: 18 mths imp.  Ct 4: 18 mths imp.  Ct 5: 18 mths imp.  Ct 6: 18 mths imp.  Ct 7: 12 mths imp.  TES 4 yrs imp.  EFP.  Low risk re-offending; denies offending; no remorse.	Dismissed – leave refused on papers.
48.	<b><i>APC v The State of Western Australia</i></b>	42 yrs at sentencing.  Convicted after trial.	Ct 1: Indecent deal lineal relative u16 s329(4) <i>Criminal Code</i> . Ct 2: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i>	Ct 1: 24 mths imp.  Ct 2: 36 mths imp.	Conviction appeal allowed by majority (Pullin JA dissenting).

<p><b>[2012] WASCA 159</b></p> <p>Delivered 17/08/2012</p>	<p>Prior criminal record however his Honour said that it was of 'no moment'.</p> <p>Strong work ethic and had been gainfully employed for most of her life.</p> <p>Continued to have support from his family.</p>	<p>Ct 3: Sex pen lineal relative u 16 s329(2) <i>Criminal Code</i></p> <p>Ct 4: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 5: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 6: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 7: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 8: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 9: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 10: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 11: Encourage lineal relative u16 to engage in sexual behaviour s329(3) <i>Criminal Code</i></p> <p>Ct 12: Unlawful detention s333(2) <i>Criminal Code</i></p> <p>Ct 13: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 14: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 15: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 16: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 17: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 18: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 19: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 20: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p>	<p>Ct 3: 54 mths imp.</p> <p>Ct 4: 42 mths imp.</p> <p>Ct 5: 24 mths imp.</p> <p>Ct 6: 24 mths imp.</p> <p>Ct 7: 36 mths imp.</p> <p>Ct 8: 60 mths imp.</p> <p>Ct 9: 30 mths imp.</p> <p>Ct 10: 60 mths imp.</p> <p>Ct 11: 36 mths imp.</p> <p>Ct 12: 36 mths imp.</p> <p>Ct 13: 72 mths imp.</p> <p>Ct 14: 24 mths imp.</p> <p>Ct 15: 54 mths imp.</p> <p>Ct 16: 36 mths imp.</p> <p>Ct 17: 60 mths imp.</p> <p>Ct 18: 24 mths imp.</p> <p>Ct 19: 48 mths imp.</p> <p>Ct 20: 48 mths imp.</p>	<p>Conviction and sentences set aside and a new trial ordered.</p> <p>At [2], [104] and [124] Because appeal against conviction allowed, not necessary to deal with sentence appeal. However, would have dismissed – if it required to consider it.</p>
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		<p>Ct 21: Encourage lineal relative u16 to engage in sexual behaviour s329(3) <i>Criminal Code</i></p> <p>Ct 22: Make a threat with intent to influence s329(3) <i>Criminal Code</i></p> <p>Ct 23: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i></p> <p>Ct 24: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 25: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>Ct 26: Att procure lineal relative u16 to engage in sexual behaviour</p> <p>Ct 27: Indecent deal lineal relative u16 s329(4)<i>Criminal Code</i>.</p> <p>The 27 offences related to 16 separate incidents committed against three victims (two of appellants own children and stepson) over a total period of eight years.</p> <p>The offences in relation to two of the victims were said to be representative of a course of conduct in respect of each of them.</p> <p>At the time of offending :  JAC, a girl, was aged between 7 yrs and 15 yrs.  JPC, a boy, was aged between 6 yrs and 13 yrs.  TWC, a boy, was aged 12 yrs.</p> <p><u>Ct 1</u>  Whilst JAC was in the shower; the appellant, whilst naked, got into the shower with her and picked her up and attempted to insert his penis into her vagina.</p> <p><u>Ct 2</u>  He then carried the victim to her bedroom and</p>	<p>Ct 21: 18 mths imp.</p> <p>Ct 22: 18 mths imp.</p> <p>Ct 23: 60 mths imp.</p> <p>Ct 24: 36 mths imp.</p> <p>Ct 25: 36 mths imp.</p> <p>Ct 26: 24 mths imp.</p> <p>Ct 27: 36 mths imp.</p> <p>TES 14 yrs imp.</p> <p>His Honour considered that the appellant should be sentenced on the basis that he had prior good character.</p> <p>At [109] With respect to the conduct of the trial, the appellant was given credit for facilitating ‘the efficient and effective disposition of the process’.</p> <p>The PSR and Psychological Reports revealed that the appellant continued to ‘emphatically deny the</p>	
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		<p>penetrated her vagina with his fingers.</p> <p><u>Ct 3</u> He then penetrated the victim with his penis.</p> <p><u>Ct 4</u> The appellant asked JAC to suck his penis in return for money. She did so. She vomited after the appellant ejaculated in her mouth.</p> <p><u>Ct 5</u> The appellant instructed JPC to touch his erect penis, which he did.</p> <p><u>Ct 6</u> The appellant then put his hands behind his back played with JPC's penis.</p> <p><u>Ct 7</u> The appellant played with JPS's penis.</p> <p><u>Ct 8</u> After which he anally penetrated JPC.</p> <p><u>Ct 9</u> Same incident as Ct 18 whereby the appellant allegedly put JPC's hands on JAC's vagina.</p> <p><u>Ct 10</u> The appellant had anal sex this JPC. JAC was present.</p> <p><u>Ct 11</u> The appellant offered JPC money for oral sex. JPC refused but the appellant persisted with his demands.</p> <p><u>Ct 12</u> The appellant then dragged JPC against his will.</p> <p><u>Ct 13</u> The appellant engaged in anal sex with JPC.</p> <p><u>Ct 14</u> The appellant touched the JAC's vagina.</p> <p><u>Ct 15</u> He then penetrated JAC's vagina with his penis.</p>	<p>offences'.</p> <p>Sentencing Judge remarked 'You used force, coercion and bribery to obtain your way with the victims. You were manipulative and controlling in respect of their relationships with you and other members of the family.'</p> <p>Sentencing judge found upper end of seriousness and most serious case of this nature.</p>	
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			<p><u>Ct 16</u> The appellant applied lubricant jelly to his fingers which he rubbed around JAC's anus and digitally penetrated it.</p> <p><u>Ct 17</u> The appellant then penetrated JAC's anus with his penis.</p> <p><u>Ct 18</u> The appellant attempted to touch JAC's vagina. When she said 'No', the appellant attempted to put JPC's hand down JAC's underpants.</p> <p><u>Ct 19</u> The appellant engaged in sexual intercourse with JAC.</p> <p><u>Ct 20</u> The appellant entered the bathroom and then shaved the whole of JAC's pubic region. He then engaged in an act of sexual intercourse with her.</p> <p><u>Ct 21</u> The appellant asked JAC for sexual intercourse as they walked past a park or a schoolyard. JAC refused.</p> <p><u>Ct 22</u> JAC threatened the appellant that she would tell her mother what he had been doing to her. The appellant reacted by threatening to kill her, coming at her, but not striking her, with a closed fist.</p> <p><u>Ct 23</u> The appellant anally penetrated JPC with his penis.</p> <p><u>Ct 24</u> The appellant masturbated JPC to ejaculation.</p> <p><u>Ct 25</u> TWC was awoken to find the appellant kneeling next to his bed masturbating him.</p> <p><u>Ct 26</u></p>	
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			<p>The appellant joined TWC in bed and tried to get TWC to masturbate him. The appellant then pushed TWC's head under the blankets in an attempt to have TWC suck his penis. The attempt was unsuccessful, because TWC crawled out of the end of the bed.</p> <p><u>Ct 27</u> Following from Ct 25 the appellant then ground himself up against TWC's bottom, rubbing his erect penis against his buttocks to ejaculation.</p>		
47.	<p><b><i>PDT v The State of Western Australia</i></b></p> <p><b>[2012] WASCA 134</b></p> <p>Delivered 20/06/2012</p>	<p>33 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>No prior criminal record.</p> <p>Severely dysfunctional and unsettled childhood; subjected to domestic violence; poor literacy and suspected dyslexia.</p> <p>Relationship with wife had deteriorated in period leading up to offending; subsequently separated from wife after offending. Drinking on day of offending and had taken a pill of unknown type which may have disinhibited him.</p> <p>Engaged in psychological counselling following</p>	<p>Victim was appellant's daughter. Victim aged 2 yrs.</p> <p>1 x Indecent dealing with a lineal relative u 16 s 329(4) <i>Criminal Code</i>.</p> <p>Victim was standing at the end of her bed watching a cartoon. Victim had removed her nappy and was naked from the waist down. Appellant knelt behind the victim, removed his penis from his clothing and rubbed it between the victim's thighs for a short period. Appellant accepted his penis probably touched the victim's genital area. The appellant's wife entered the room as this was happening and the appellant stopped.</p> <p>Appellant's wife rang the police and the appellant waited for them to arrive. Appellant later participated in an interview and admitted the offending behaviour in a remorseful manner. Offending committed to provide appellant with sexual gratification notwithstanding no penetration occurred.</p>	<p>2 yrs imp.</p> <p>EFP.</p> <p>Remorseful; low risk re-offending.</p>	<p>Allowed.</p> <p>TES reduced to 12 mths imp.</p> <p>At [24] Victim particularly vulnerable due to her age and the offending was a gross breach of trust.</p> <p>At [27] No tariff for cases of sexual offending involving children but acts of indecent dealing by adults on young children ordinarily result in immediate imprisonment. Comparable cases indicate that for a single incident of indecent dealing involving fondling of the genitalia a term of 18 mths</p>

		<p>offending – hospitalised with depression and suicidal ideation stemming from guilt over offending.</p> <p>Good employment history.</p>			<p>immediate imp is generally not exceeded.</p>
<p><b>46.</b></p>	<p><i>SWD v The State of Western Australia</i></p> <p><b>[2012] WASCA 76</b></p> <p>Delivered 3/04/2012</p>	<p>47-50 yrs at time offending. 61 yrs at time sentencing.</p> <p>No relevant prior criminal record.</p> <p>In de facto relationship of 4 yrs at time sentencing.</p> <p>Living interstate in the 10 yrs prior to being charged.</p>	<p>Victims were son (victim 1) and daughter (victim 2) of appellant. Victim 1 aged 10 yrs and victim 2 aged 7-8 yrs. Offences involving victim 2 representative of a course of conduct over 6 mths. Offending period 1997 – 1999 (convicted and sentenced in 2011).</p> <p>Ct 1: Sex pen lineal relative under 16 s 329(2) <i>Criminal Code</i>.</p> <p>Ct 2: Sex pen lineal relative under 16 s 329(2) <i>Criminal Code</i>.</p> <p>Ct 3: Sex pen lineal relative under 16 s 329(2) <i>Criminal Code</i>.</p> <p>Ct 4: Sex pen lineal relative under 16 s 329(2) <i>Criminal Code</i>.</p> <p>Ct 5: Sex pen lineal relative under 16 s 329(2) <i>Criminal Code</i>.</p> <p>Ct 6: Sex pen lineal relative under 16 s 329(2) <i>Criminal Code</i>.</p> <p><u>Cts 1-2:</u> Victim 1 aged 10 yrs. Offending occurred in 1997. Appellant’s wife was in hospital and appellant had care of victim 1 at home. Victim 1 was asleep in his bed when appellant entered bedroom and forcefully digitally penetrated victim 1’s anus (ct 1) and then forcefully engaged in penile penetration of victim</p>	<p>Ct 1: 4 yrs imp.</p> <p>Ct 2: 6 yrs imp.</p> <p>Ct 3: 8 yrs imp.</p> <p>Ct 4: 8 yrs imp.</p> <p>Ct 5: 8 yrs imp.</p> <p>Ct 6: 8 yrs imp.</p> <p>TES 14 yrs imp.</p> <p>EFP.</p> <p>No insight or remorse; denies offending.</p>	<p>Dismissed.</p> <p>At [27]-[43] Detailed discussion of comparable cases.</p> <p>At [48]-[49] Individual sentences for cts 2-6 are high but, given the circumstances, do not give rise to the inference that the sentencing discretion miscarried.</p> <p>At [53]-[66] TES high but circumstances of offending do not give rise to an inference of error – able to be distinguished from other cases on number of key facts.</p>

			<p>1's anus (ct 2). Offending inflicted severe pain on victim 1. During offending, appellant placed his hand over victim 1's mouth to stop him crying out and told him that "big boys don't cry". After the offending, appellant told victim 1 he would kill his mother if the victim told anyone what had happened. Victim 1 knew appellant had a gun and had witnessed him being violent to his mother, as well as suffering violence at the appellant's hands himself – victim 1 believed the threats. In the days following the offending, victim 1 was so distraught he made plans to leave home but never actually did. Offending was not isolated – instances of sexual conduct prior which were not charged.</p> <p><u>Ct 3:</u> Victim 2 aged 7-8 yrs. Offending occurred in 1999. Appellant separated from wife and had overnight access visits with his children. Victim 2 asleep in her bed when appellant forcefully penetrated her vagina with his penis. Appellant told victim 2 she "wanted it" and "deserved it". Appellant used his body weight while on top of her to stop her physical resistance and put a pillow over her head to stop her calling out – victim 2 felt like she was being suffocated. Appellant's youngest daughter (approx 6 yrs old) heard noises and came to see what was happening. Daughter saw what was happening and smashed a lamp over the appellant's head to stop the assault. Daughter then grabbed victim 2's hand and took her to the bathroom where they locked themselves in. Appellant eventually got tired of waiting for them to come out and the girls took the opportunity to run next door for help.</p> <p><u>Ct 4:</u> Victim 2 aged 7-8 yrs. Offending occurred in 1999.</p>		
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			<p>Victim 2 and younger sister staying with appellant and had fallen asleep on the bed together. Appellant took victim 2 into lounge room as she slept, placed a pillow over her head and engaged in forceful penile penetration of her vagina.</p> <p><u>Ct 5:</u> Victim 2 aged 7-8 yrs. Offending occurred in 1999. Victim 2 was staying alone with appellant was asleep in bed when the appellant entered the room and engaged in forceful penile penetration of her vagina. Appellant did not place a pillow over her head during offending as there was no one to hear her cries.</p> <p><u>Ct 6:</u> Appellant had been on day trip with family and victim 2 and youngest daughter fell asleep on the sofa. Appellant took youngest daughter to bed in spare room and returned to the lounge room. Appellant engaged in forceful penile penetration of victim 2's vagina. Victim 2 thought appellant placed a head on her pillow during this offending as well.</p> <p>Appellant threatened victim 2 in same manner as victim 1. Victim 2 also knew appellant had a gun and believed hid threats.</p> <p>Offending against victim 2 not isolated incidents – representative of a course of conduct over a 6 mth period. Offending ended only when victim 2 refused to visit her father overnight.</p> <p>Penetration of victim 2's vagina was so forceful that it caused severe injuries (tearing the skin and muscles between the vagina and the anus as well as the pelvic floor). Victim 2 requires reconstructive</p>		
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			surgery on her vagina as a result of the injuries. Psychological impact of offending on both victims immense.		
45.	<p><i>CJF v The State of Western Australia</i></p> <p>[2012] WASCA 69</p> <p>Delivered 27/03/2012</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal record.</p> <p>Happy childhood; good employment history.</p> <p>Partner whom appellant met on the internet was pregnant at the time of sentencing.</p> <p>Symptoms of anxiety and depression; on medication for depression since 2008.</p>	<p>Victim was appellant's de facto daughter. Victim aged 9-13 yrs. Counts representative of a continuing course of conduct.</p> <p>Ct 1: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i>.</p> <p>Ct 2: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i>.</p> <p>Ct 3: Sex pen de facto child u16 s 329 (2) <i>Criminal Code</i> (penile pen vagina).</p> <p>Ct 4: Sex pen de facto child u16 s 329 (2) <i>Criminal Code</i> (penile pen vagina).</p> <p>Ct 5: Sex pen de facto child u16 s 329 (2) <i>Criminal Code</i> (digital pen vagina).</p> <p>Ct 6: Sex pen de facto child u16 s 329 (2) <i>Criminal Code</i> (penile pen vagina).</p> <p><u>Cts 1-3:</u> Victim aged 12 or 13 yrs. Victim intended spending the night in a tent which had been pitched in backyard. Victim was sleeping in a sleeping bag and appellant entered tent. Appellant touched victim's breasts and reached under her clothes and touched her vagina (cts 1 &amp; 2). Appellant left tent. Appellant returned to tent in intoxicated state, unzipped sleeping bag, pulled victim's pants down and forcibly had sexual intercourse with her (ct 3). Victim was visibly upset throughout offending. Appellant told victim the next day he would kill her brother if she told anyone what had happened.</p> <p><u>Ct 4:</u></p>	<p>Ct 1: 12 mths imp.</p> <p>Ct 2: 2 yrs imp.</p> <p>Ct 3: 6 yrs imp.</p> <p>Ct 4: 7 yrs imp.</p> <p>Ct 5: 4 yrs imp.</p> <p>Ct 6: 6 yrs imp.</p> <p>TES 14 yrs imp.</p> <p>EFP.</p> <p>No remorse; maintains offending did not occur; low risk re-offending but high risk future sexual violence.</p>	<p>Allowed.</p> <p>TES reduced to 12 yrs imp.</p> <p>NB: Individual sentences not challenged.</p>



			<p>Victim aged 13 yrs. Victim cleaning her bedroom and was partly under her bed. Appellant entered her room, grabbed her ankles and pulled her out from under the bed. Appellant flipped her victim onto her back and began to punch her in the stomach, arms and elbows. Appellant then forcibly penetrated victim's vagina with his penis. Victim was frightened and in pain. Appellant affected by alcohol at time offending.</p> <p><u>Cts 5-6:</u>  Victim aged 13 yrs. Victim asleep on lower bunk in her bedroom. Victim's younger brother had had a nightmare and was sleeping on the upper bunk rather than in his own room. Appellant came into the bedroom, got into bed with victim and digitally penetrated her vagina. Appellant then tried to engage in sexual intercourse with victim but victim was squirming and moving too much in an attempt to avoid sexual intercourse. Victim stopped squirming when appellant became angry and appellant had forceful intercourse with her, causing the victim pain and making her cry.</p> <p>Appellant alternately used threats of and actual violence and gifts and attention to procure victim's silence and compliance – made offending more serious.</p> <p>As a result of offending victim has self-harmed, has poor self-image and an eating disorder.</p>		
44.	<i>MAS v The State of Western Australia</i>	<p>Convicted after trial.</p> <p>Prior criminal record – serious juvenile offences,</p>	<p>Victim was appellant's de facto daughter. Victim aged 11-18 yrs. Offending period approx 7 yrs.</p> <p>25 x Child sex offences.</p>		<p>Dismissed.</p> <p>At [86] Lack prior convictions and good</p>

	<p><b>[2012] WASCA 36</b></p> <p>Delivered 20/02/2012</p>	<p>including drugs, from 15 yrs. No relationship with biological father; raised in circumstances of deprivation and emotional abuse.</p> <p>Excellent employment history and work ethic.</p> <p>Never had successful relationship prior to victim's mother; abusive and age inappropriate relationship when a teenager which produced a child.</p> <p>Two children – little or no involvement in upbringing.</p> <p>Suffering from delusional disorder and poly-substance abuse – pre-disposition to narcissistic and anti-social behaviour and a hypersexual sex drive.</p>	<p>Offences included digital penetration of vagina, penile penetration of vagina, penile penetration of anus, fellatio, cunnilingus and indecent dealing by showing pornographic materials and shaving her pubic hair. Some instances of offending involved threats to kill and physical intimidation to compel victim's silence. In many instances of offending, victim resisted verbally and physically. Many of the offences involved the appellant driving victim to secluded places. Victim humiliated and mistreated by appellant during offending and many instances of penetration involved violence and left the victim bleeding and in pain. Victim's mother complicit in offending and was encouraged by the appellant to have sex with the victim as well.</p> <p>Appellant did not use contraception except for occasionally ejaculating outside the victim's body (humiliating and degrading act in itself). Consequently, victim fell pregnant to appellant at 16 yrs and was obliged to have an abortion. Following this victim began taking a contraceptive pill.</p> <p>Victim vulnerable child – mild physical disorder, bullied at school, only child with limited access to people outside school hours and separated from biological father for most of the time. Offending profoundly affected victim – problems with drug abuse, promiscuity and other negative behaviours; ability to trust adversely affected; eating disorders.</p>	<p>7 yrs imp.</p> <p>TES 12 yrs imp.</p> <p>No victim empathy; significant and long-term risk re-offending.</p>	<p>character not infrequent characteristic of child sex offenders. Serious abuse of trust and abhorrence of community of this type of offending means such considerations are of little weight.</p> <p>At [87] <i>“Those findings are replete with aggravating features of the offending conduct of the appellant, who subjected a vulnerable child in his care to almost every imaginable form of sexual conduct, against her will, over a lengthy period, depriving her of her innocence and of a normal childhood, with a predictable adverse effect upon her life and future prospects.”</i></p>
43.	<i>RDC v The State</i>	36-38 yrs at time offending.	Victim was appellant's de facto daughter. Victim		Dismissed.

<p><i>of Western Australia</i></p> <p><b>[2012] WASCA 16</b></p> <p>Delivered 25/01/2012</p>	<p>42 yrs at time sentencing.</p> <p>Convicted after PG on cts 1, 3, 5, 7 &amp; 9.</p> <p>Convicted after trial on cts 4, 6, 8, 12 and 14-17.</p> <p>No prior criminal record.</p> <p>Strong family support.</p> <p>Educated to yr 9; good employment history.</p> <p>‘Chaotic’ upbringing; learning and speech difficulties.</p>	<p>aged 16-18 yrs. Offending period approx 18 mths. Victim was not living at home during the time.</p> <p>Ct 1: Indecent deal de facto child over 16 yrs s 329(4) <i>Criminal Code</i>.</p> <p>Ct 3: Sex pen lineal relative over 16 yrs s 329 (2) <i>Criminal Code</i>.</p> <p>Cts 4, 6 &amp; 8: Agg sex pen without consent s 326 <i>Criminal Code</i>.</p> <p>Cts 10 &amp; 12: Agg sex pen without consent s 326 <i>Criminal Code</i>.</p> <p>Ct 14: Agg sex pen without consent s 326 <i>Criminal Code</i>.</p> <p>Ct 15: Agg sex pen without consent s 326 <i>Criminal Code</i>.</p> <p>Ct 16: Agg sex pen without consent s 326 <i>Criminal Code</i>.</p> <p>Ct 17: Agg sex pen without consent s 326 <i>Criminal Code</i>.</p> <p><u>Ct 1:</u> Victim aged 16 yrs. Victim was visiting mother and appellant at their home in rural Western Australia. Appellant masturbated in victim’s presence, attempted to touch victim and put his hand down her pants. Victim left room when she realised what was happening</p> <p><u>Cts 3&amp; 4:</u> Victim aged 17 yrs. Offending occurred approx 6 mths after ct 1 in the pool at the home of appellant’s sister and brother in law – approx 10m from where a group of adults (incl victim’s mother) were seated at a table. Appellant digitally penetrated the victim’s vagina (ct 3) and placed his penis into the victim’s mouth (ct 4). Offending was brief and the</p>	<p>Ct1: 6 months imp</p> <p>Ct 3: 2 yrs 6 months imp</p> <p>Ct 4, 6 &amp; 8: 4 yrs imp each ct.</p> <p>Cts 10 &amp; 12: 5 yrs imp each ct.</p> <p>Ct 14: 4 yrs imp.</p> <p>Ct 15: 5 yrs imp.</p> <p>Ct 16: 4 yrs imp.</p> <p>Ct 17: 5 yrs imp.</p> <p>TES 9 yrs 6 mths imp.</p> <p>EFP after 7 yrs 6 mths imp.</p> <p>Low risk re-offending.</p>	<p>At [22]-[23] Cases of intra-familial sexual abuse, matters personal to offender carry less weight and dominant sentencing considerations are punishment, deterrence and protection of vulnerable children.</p> <p>At [24]-[25] No tariff for this kind of offending – guidance afforded by comparative cases therefore flexible rather than rigid in nature.</p>
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		<p>adults at the table were not aware of it.</p> <p><u>Cts 6, 8 &amp; 10:</u>  Victim aged 17 yrs. Offending occurred in early hours of morning at home of appellant's sister and brother-in-law. Appellant digitally penetrated victim's vagina (ct 6) and performed cunnilingus on her (ct 8). Victim attempted to push appellant away but appellant pushed her legs apart. Victim turned head to avoid appellant's kisses and told appellant several times to stop and get off. Victim began to cry and appellant penetrated her vagina with his penis and engaged in sexual intercourse for approx 5 minutes (ct 10).</p> <p><u>Ct 12:</u>  Victim aged 17 yrs. Offending occurred at home of appellant's sister and brother in law. Appellant penetrated victim's vagina with his penis while she was affected by alcohol given to her by the appellant. Victim unable to recall how offending stopped due to intoxication.</p> <p><u>Ct 14 &amp; 15:</u>  Victim aged 18 yrs. Offending occurred at the home of the appellant's sister and brother in law. The appellant entered the bathroom whilst victim was showering. She asked him to leave but appellant ignored her. Appellant pulled a tampon out of the victim's vagina, removed her from the shower and pushed her down so that she was sitting on the bath. Appellant forced her legs apart and would not allow victim to leave, using some force to restrain victim before engaging in digital and penile penetration. Victim admitted to some consensual activity in the shower prior to incident.</p> <p><u>Ct 16 &amp; 17:</u>  Victim aged 18 yrs imp. Offending again occurred</p>	
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			at the home of the appellant's sister and brother-in-law. Appellant touched victim's breasts and vagina whilst she was asleep (ct 17). Appellant then engaged in sexual intercourse, holding the victim down by putting his hands on her breasts. Victim asked him to stop because he was hurting her but appellant only stopped when victim's mother entered an adjoining room.		
42.	<b><i>GJT v The State of Western Australia</i></b>  <b>[2011] WASCA 263</b>  Delivered 30/11/2011	38 or 39 yrs at time offending. 54 yrs at time sentencing.  Convicted after PG earliest opportunity.  No relevant prior criminal record.  Support of current wife and his adult children.	Victim was appellant's de facto daughter. Victim aged 12 yrs. Approx 15 yrs between offending and criminal proceedings. Offending occurred over two separate episodes.  Ct 1: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i> . Ct 2: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i> . Ct 3: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i> . Ct 4: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i> .  <u>Ct 1:</u> Victim was sleeping on sofa in lounge room of family home. Appellant rubbed victim's vagina with fingers on the outside of her underwear while she was asleep. Victim woke up and appellant walked away. Victim tried to ask appellant about incident the following morning and appellant became angry. <u>Cts 2, 3 &amp; 4:</u> Victim asleep in her bed. Appellant entered bedroom, sat on her bed and began to rub victim's vagina on outside of underwear (ct 2). Appellant	Ct 1: 14 mths imp. Ct 2: 14 mths imp. Ct 3: 12 mths imp. Ct 4: 12 mths imp.  TES 28 mths imp.  EFP.  Low risk re-offending; remorseful; limited victim empathy.	Allowed.  TES 8 mths imp suspended for 3 mths substituted.  McLure P and Mazza J both held open to sentencing judge to suspend term and that imposition term immed imp resulted in manifestly excessive sentence. Held appropriate term was 16 mths imp suspended – TES reduced on appeal to reflect fact at time of judgement appellant served 8 mths imp.  Buss JA dissented and held not open to suspend term.  At [81]-[84] Discussion

			<p>then began to rub victim's breasts while groaning and breathing heavily (ct 3). Victim opened her eyes and appellant stopped rubbing breasts. Appellant cradled victim in arms and kissed her, putting his tongue in her mouth (ct 4). Appellant repeatedly told victim he loved her and victim repeatedly told appellant to stop. Appellant left bedroom and went to work. Victim immediately went to mother and told her what happened. Victim's mother spoke to appellant about offending. After initial denying offending, appellant agreed to engage in counselling and stayed living in the family home. Attended counselling but the marriage between the victim's mother and appellant broke down in 1999.</p> <p>Appellant engaged in counselling for approx 4 yrs following offending and has taken steps to minimise risk re-offending.</p>		<p>of relevance of delay in charging to sentencing process – fundamental importance to distinguish between those cases where delay has given rise to genuine claims remorse and rehabilitation as owing to fear, shame and/or family dynamics delay in reporting of intra-familial sexual abuse is common.</p> <p>At [74]-[77] and [85]-[119] Discussion of comparable cases.</p>
41.	<p><b>SAP v The State of Western Australia</b></p> <p><b>[2011] WASCA 155</b></p> <p>Delivered 15/07/2011</p>	<p>40 yrs at time offending.</p> <p>Convicted after late PG – 2 weeks prior to trial.</p> <p>No prior criminal record.</p> <p>Good employment history; supportive sister and current partner (not victim's mother).</p> <p>Anxiety and depression; alcohol abuse.</p>	<p>Ct 1: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i>.</p> <p>Ct 2: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i>.</p> <p>Ct 3: Indecent deal de facto child u 16 yrs s 329(4) <i>Criminal Code</i>.</p> <p>Victim was appellant's step-daughter. Victim aged 8 yrs.</p> <p><u>Ct 1:</u> Appellant and victim showering together. Appellant took victim's hand, placed it on his penis and forced her to masturbate him until ejaculation.</p> <p><u>Ct 2:</u></p>	<p>Ct 1: 20 mths imp.</p> <p>Ct 2: 16 mths imp.</p> <p>Ct 3: 16 mths imp.</p> <p>TES 3 yrs imp.</p> <p>EFP.</p> <p>No remorse; despite PG maintained denial cts 1 &amp; 3; no insight into harm offending caused.</p>	<p>Dismissed – leave refused on papers.</p> <p>At [28] absence aggravating features such as no violence, no pornography or no threats does not reduce seriousness of offending.</p>

			<p>Appellant and victim showering together. Appellant passionately kissed victim on lips for prolonged time – only stopping when victim’s mother entered bathroom. Appellant claimed victim asked him to show her how to kiss a boy.</p> <p><u>Ct 3:</u> Appellant and victim watching TV in lounge room alone – victim giving appellant back massage and appellant grabbed her hands and put them down the front of his tracksuit pants, forcing her to masturbate him. Appellant stopped when victim’s mother entered room and guessed what was happening.</p>	Low risk re-offending.	
40.	<p><i>The State of Western Australia v Prince</i></p> <p>[2011] WASCA 22</p> <p>Delivered 28/01/2011</p>	<p>48-50 yrs at time offending. 51 yrs at sentencing.</p> <p>Convicted after trial.</p> <p>No prior relevant criminal record.</p> <p>Full support of immediate family – believed appellant’s denial notwithstanding his conviction.</p>	<p>Victim was biological granddaughter, aged 9-11yrs during period of offending which lasted at least 14 mths.</p> <p>Victim particularly vulnerable at time offending, having just returned to live with mother after protracted family court proceedings (victim fearful of further separation from mother and siblings).</p> <p>Offending held on appeal to be at higher end scale seriousness – multiple instances of offending; numerous and diverse types penetration young child, including anal; additional element perversion (filming).</p> <p>Five discrete incidents in total.</p> <p><u>Incident 1:</u> Cts 1 &amp; 3: Procure lineal relative u16 to do indecent act s 329 (5) <i>Criminal Code</i>. Ct 2: Indec record lineal relative u16 s 329(6) <i>Criminal Code</i>. Cts 4-7: Sex pen lineal relative u16 s 329 (2)</p>	<p>TES 5yrs 3 mths imp.</p> <p>Maintained total denial of offences – little mitigation relating to remorse or rehabilitation.</p> <p>Ct 1: 9 mths Ct 3: 18 mths imp. Ct 2: 18 mths imp. Ct 4: 54 mths imp. Ct 5: 36 mths imp.</p>	<p>Allowed.</p> <p>TES increased to 8 yrs imp.</p> <p>EFP after 6 yrs imp.</p>

		<p><i>Criminal Code.</i></p> <p>Victim stayed overnight at respondent's home. Respondent told victim to go to ensuite and remove clothes. Respondent told victim to lie in shower with legs open – victim complied (ct 1). Respondent recorded posing on digital camcorder (ct 2 – representative count; camcorder used throughout). Respondent told victim to feel vagina with fingers – victim did so (ct 3). Respondent placed camcorder on toilet and removed penis from pants. Respondent told victim put hands and feet on ground and buttocks in air – victim complied. Respondent penetrated victim's anus with penis for approx 5 minutes until victim told respondent to stop because of pain (ct 4). Respondent placed victim on bed and positioned camcorder to record him perform cunnilingus on victim (ct 5). While doing that, respondent positioned penis near respondent's face and made her perform fellatio for approx 5-10 minutes (ct 6). Respondent then made victim lay on back and inserted vibrator in and out of vagina (ct 7). Respondent stopped when victim complained of pain.</p> <p><u>Incident 2:</u> Ct 8: Indec deal lineal relative u16 s 329(4) <i>Criminal Code.</i></p> <p>Victim stayed overnight at respondent's home. Respondent showed victim pornographic internet site while he seated her on his knee.</p> <p><u>Incident 3:</u> Ct 9: Indec deal lineal relative u16 s 329(4) <i>Criminal Code.</i></p> <p>Ct 10: Sex pen lineal relative u16 s 329(2) <i>Criminal Code</i> .</p>	<p>Ct 6: 36 mths imp. Ct 7: 48 mths imp.</p> <p>Ct 8: 12 mths imp.</p> <p>Ct 9: 12 mths imp.</p> <p>Ct 10: 36 mths imp.</p>	
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		<p>Victim at respondent's home when respondent directed her into bedroom. Respondent told victim to kneel on floor. Respondent then sat on bed, removed penis and masturbated in front of victim. Respondent stood up, placed penis in victim's mouth and ejaculated. Victim spat ejaculate out.</p> <p><u>Incident 4:</u>  Ct 11: Sex pen lineal relative u16 s 329(2) <i>Criminal Code</i>.  Ct 12: Indec record lineal relative u16 s 329(6) <i>Criminal Code</i>.  Ct 13: Procure lineal relative u16 to do indecent act s329 (5) <i>Criminal Code</i>.  Ct 14: Procure lineal relative u16 engage sexual behaviour s 329(3) <i>Criminal Code</i>.</p> <p>Victim's mother suffered asthma attack and respondent came to victim's house to babysit while mother at hospital. Respondent went into victim's room, where victim alone, and made victim position herself with hands and feet on floor and with buttocks in air. Respondent penetrated anus with penis (ct 11) – lasted approx 5 min and caused victim pain. Respondent then told victim to take shower (ct 12 – representative count for indec acts which directed respondent to do and which he recorded). Respondent directed victim to rub breasts – victim complied (ct 13). Respondent directed victim to lie down in shower with legs spread and to rub her vagina with her fingers – victim complied (ct 14).</p> <p><u>Incident 5:</u>  Ct 15: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i>.  Ct 16: Sex pen lineal relative u16 s329(2) <i>Criminal Code</i>.</p>	<p>Ct 11: 54 mths imp.  Ct 12: 18 mths imp.  Ct 13: 12 mths imp.  Ct 14: 18 mths imp.</p> <p>Ct 15: 36 mths imp.  Ct 16: 36 mths imp.  Ct 17: 18 mths imp.</p>	
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			<p><i>Code.</i> Ct 17: Indecent record lineal relative u16 s329(6) <i>Criminal Code.</i> Victim and family at respondent's house celebrating Christmas. Respondent took victim for drive to Burns Beach. In parking lot, respondent directed victim to remove clothes – victim complied (ct 15). Respondent directed victim perform fellatio on him – complied for approx 5 minutes (ct 16). Respondent recorded events on camcorder he placed on dashboard of car (ct 17).</p>		
39.	<p><b><i>KMB v The State of Western Australia</i></b> <b>[2010] WASCA 212</b></p> <p>Delivered 29/10/2010</p>	<p>32 yrs-42 yrs at time offending. 44 yrs at sentencing. Convicted after trial.</p> <p>Hard working; thyroid cancer now in remission</p>	<p>Victim step-daughter of appellant. Offending period 10 yrs. Victim aged between 8-18 yrs.</p> <p>Appellant married victim's mother and his name was placed on birth certificate. Victim believed him to be biological father until mother told her truth at 18 yrs. After approx 4 yrs marriage, appellant and victim's mother separated – victim remained living with appellant. Victim testified appellant raped her 'continuously', on daily basis. Victim gave evidence appellant got her pregnant at 12 yrs and that she had had an abortion and been placed on birth control as a result (medical records supported but stated father was an unnamed 12 yr old boy).</p> <p>Offending within upper end range seriousness held on appeal that appellant 'predator of worst kind' at [124]</p> <p>Three discrete incidents offending on indictment. <u>Incident 1:</u> Ct 1: Have sexual relationship with child u16 s321A <i>Criminal Code.</i></p>	<p>TES 14 yrs 6 mths imp.  EFP.</p> <p>Ct 1: 10 yrs 6 mths imp.</p>	<p>Dismissed – severe but within range.</p>

			<p>3 incidents relied on – victim aged 8yrs appellant sex pen vagina with penis; few days later, appellant sex pen vagina with penis and ejaculated; victim approx 10yrs, appellant sex pen vagina with penis and ejaculated.</p> <p><u>Incident 2:</u> Ct 2: Sex pen de facto child (pen vagina with tongue). Ct 3: Sex pen de facto child (digital pen vagina). Ct 4: Sex pen de facto child (pen vagina with penis). Victim aged 17 yrs at time offending.</p> <p><u>Incident 3:</u> Ct 5: Sex pen de facto child (pen vagina with tongue). Ct 6: Sex pen de facto child (digital pen vagina) Ct 7: Sex pen de facto child (pen vagina with penis). Victim aged 18 yrs at time offending and had recently moved out of appellant's home.</p>	<p>Ct 2: 18 mths imp. Ct 3: 18 mths imp. Ct 4: 4 yrs imp.</p> <p>Ct 5: 18 mths imp. Ct 6: 18 mths imp. Ct 7: 4yrs imp.</p>	
38.	<p><i>M v The State of Western Australia</i></p> <p>[2010] WASCA 77</p> <p>Delivered 28/04/2010</p>	<p>Both convicted after fast-track PG.</p> <p><u>Female appellant:</u> 41 yrs at time offending. 46 yrs at time sentencing.</p> <p>No relevant prior criminal record.</p> <p>1<sup>st</sup> husband died and she was left to care for 3 children (all with mental &amp; physical disabilities);</p>	<p>Victim 13 yr old daughter of female appellant and has mild intellectual and physical disabilities.</p> <p>Male appellant met female appellant and became aware of her daughter (including disabilities). Regular communication between two over internet and male appellant asked female appellant to take and email indecent pictures of her daughter. Female appellant did so and emailed 14 photos (cts 1, 2 &amp; 27).</p> <p>Male and female appellant decided they would perform indecent acts on victim and encourage victim to perform same (cts 3-26). Male appellant set up camera in 2 bedroom unit in which female</p>	<p>TES female appellant 9 yrs imp; male appellant 8 yrs 8 mths imp.</p> <p><u>Female appellant:</u> Little insight into offending; low risk re-offending.</p> <p><u>Male appellant:</u> Medium risk re-offending; severely lacking insight into offending.</p>	<p>Allowed.</p> <p>TES both appellants reduced to 7 yrs imp.</p> <p>EFP after 5 yrs imp.</p>

	<p>further two failed and abusive marriages.</p> <p><u>Male appellant:</u> 24 yrs at time offending. 30 yrs at time sentencing.</p> <p>Good work history; completed yr 12 and did an apprenticeship in mechanical fitting.</p>	<p>appellant and children were staying – female appellant travelled from Perth to Wickham with victim and two sons to visit male appellant. Female appellant had a greater level physical involvement in offending and was a willing and enthusiastic participant. When victim expressed reluctance, female appellant repeated reassured and encouraged her. Male appellant was driving force behind offending.</p> <p><u>Female appellant:</u> Ct 1: Indecent record lineal relative u16 s 329(6) <i>Criminal Code</i>. Ct 2: Sell/supply child pornography. Ct 6: Encourage lineal/de facto child u16 do indecent acts s 329(5) <i>Criminal Code</i>. Ct 13: Encourage lineal/de facto child u16 do indecent act s 329(5) <i>Criminal Code</i>. Ct 15: Encourage lineal/de facto child u16 do indecent act s 329(5) <i>Criminal Code</i>.</p> <p><u>Male appellant:</u> Ct 7: Indecent deal child 13-16 yrs s 321(4) <i>Criminal Code</i>. Ct 14: Indecent deal child 13-16 yrs s 321(4) <i>Criminal Code</i>. Ct 16: Indecent deal child 13-16 yrs s 321(4) <i>Criminal Code</i>. Ct 21: Indecent deal child 13-16 yrs s 321(4) <i>Criminal Code</i>. Ct 24: Indecent deal child 13-16 yrs s 321(4) <i>Criminal Code</i>. Ct 27: Poss child pornography.</p> <p><u>Both appellants:</u> Ct 3: Encourage lineal/de facto child u16 engage sexual behaviour s 329(3) <i>Criminal Code</i>.</p>	<p>Ct 1: 3 yrs imp.</p> <p>Ct 2: 2 yrs imp. Ct 6: 2 yrs 6 mths imp.</p> <p>Ct 13: 3 yrs imp.</p> <p>Ct 15: 2 yrs 6 mths imp.</p> <p>Ct 7: 2 yrs imp.</p> <p>Ct 14: 2 yrs 6 mths imp.</p> <p>Ct 16: 2 yrs imp</p> <p>Ct 21: 2 yrs 6 mths imp.</p> <p>Ct 24: 2 yrs 6 mths imp.</p> <p>Ct 27: 20 mths imp.</p> <p>Ct 3: 3 yrs 6mths imp.</p>	
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			<p>Ct 4: Encourage lineal/de facto child u16 do indecent acts 329(5) <i>Criminal Code</i>.</p> <p>Ct 5: Encourage lineal/de facto child u16 do indecent acts 329(5) <i>Criminal Code</i>.</p> <p>Ct 8: Indecent record lineal relative u16 s 329(6)<i>Criminal Code</i>.</p> <p>Ct 9: Indecent record lineal relative u16 s 329(6)<i>Criminal Code</i>.</p> <p>Ct 10: Indecent record lineal relative u16 s 329(6)<i>Criminal Code</i>.</p> <p>Ct 11: Sex pen lineal relative u16 s 329(2) <i>Criminal Code</i>.</p> <p>Ct 12: Indecent record lineal relative u16 s 329(6)<i>Criminal Code</i>.</p> <p>Ct 17: Indecent deal child 13-16 yrs s 321(4) <i>Criminal Code</i>.</p> <p>Ct 18: Indecent record lineal relative u16 s 329(6)<i>Criminal Code</i>.</p> <p>Ct 19: Encourage lineal/de facto child u16 do indecent acts 329(5) <i>Criminal Code</i>.</p> <p>Ct 22: Indecent record lineal relative u16 s 329(6)<i>Criminal Code</i>.</p> <p>Ct 25: Indecent record lineal relative u16 s 329(6)<i>Criminal Code</i>.</p> <p>Ct 26: Indecent record child u16 s 321(6)<i>Criminal Code</i>.</p>	<p>Ct 4: 3 yrs imp.</p> <p>Ct 5: 3 yrs imp.</p> <p>Ct 8: 3 yrs 6 mths imp.</p> <p>Ct 9: 3 yrs 6 mths imp.</p> <p>Ct 10: 3 yrs 6 mths imp</p> <p>Ct 11: 7 yrs imp.</p> <p>Ct 12: 3 yrs 6 mths imp.</p> <p>Ct 17: 2 yrs 6 mths imp.</p> <p>Ct 18: 3 yrs 6 mths imp.</p> <p>Ct 19: 3 yrs 6 mths imp.</p> <p>Ct 22: 3 yrs 6 mths imp.</p> <p>Ct 25: 3 yrs 6 mths imp.</p> <p>Ct 26: 3 yrs 6 mths imp.</p>	
37.	<p><b><i>RMS v The State of Western Australia</i></b></p> <p><b>[2010] WASCA 76</b></p>	<p>37 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Dysfunctional and unstable family background; victim sexual abuse from older</p>	<p>Victim biological daughter of appellant. Offending period lasted approx 24 hrs. Victim aged 12 yrs.</p> <p>6 x Indecent deal lineal relative u16 s 329(4) <i>Criminal Code</i>.</p> <p>6 x Sex pen lineal relative u16 s 329(2) <i>Criminal Code</i>.</p> <p>Appellant and victim's mother recently separated –</p>	<p>TES 9 yrs imp.</p> <p>EFP.</p> <p>PSR – remorse.</p>	<p>Allowed.</p> <p>TES reduced to 7 yrs imp.</p> <p>EFP.</p> <p>NB: individual sentences</p>

<p>Delivered 29/04/2010</p>	<p>sister and brother; depressive illness; pattern alcohol abuse.</p>	<p>appellant had infrequent custody of victim. Victim staying night at appellant's on night offending. Appellant and victim been at friend's house in during evening – appellant gave victim number alcoholic drinks until victim, intoxicated, vomited. Appellant took victim to shower, removed clothes and washed her – fondling breasts and kissing victim as did so (ct 1). Appellant driving victim when pulled off road and asked victim to have sex. Victim declined. Appellant got out vehicle, lay victim down, pulled skirt and underwear off and engaged in penile sex pen vagina (ct 2). Appellant ejaculated on victim's stomach (ct 3). Appellant then took victim to place living, took her to ensuite and showered with her. During shower, appellant bent victim over and penetrated vagina with penis (ct 4). Appellant then washed and fondled victim (ct 5). Appellant dried victim and made her wash and dry his naked body (ct 6). Appellant took victim into bedroom, bent her over vanity and penetrated vagina with penis from behind (ct 7). Appellant ejaculated on victim's back (ct 8). Both lay down on bed to watch movies. Appellant lay on top of victim and penetrated vagina with penis (ct 9). Both fell asleep. When awoke, appellant asked victim for sex. Victim said too tired – appellant put hand in her pants and fondled vagina before penetrating with fingers (ct 10). Appellant made victim masturbate his erect penis with her hands (ct 11). Short while later, appellant penetrated vagina with penis (ct 12). Later that day, appellant took victim back to mother's house – victim still suffering effects intoxication.</p>	<p>Ct 1: 1y r 2 mths imp.  Ct 2: 4 yrs 6 mths imp. Ct 3: 1 yr 4 mths imp.  Ct 4: 4 yrs 6 mths imp. Ct 5: 1 yr 2 mths imp. Ct 6: 1 yr 2 mths imp.  Ct 7: 4 yrs 6 mths imp. Ct 8: 1 yr 4 mths imp.  Ct 9: 4 yrs 6 mths imp.  Ct 10: 3 yrs imp. Ct 11: 1 yr 8 mths imp.  Ct 12: 4 yrs 6 mths imp.</p>	<p>not disturbed – allowed on totality only. Short period offending and Voluntary admissions crucial factors).</p> <p>At [22] – [35] some discussion of comparative cases.</p>
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			11yr old girl engaged in oral sex, penetrative sex and posing with adult male sent by appellant (ct 4). Images surrendered to police by third party, not appellant. As a result, appellant's home searched. Appellant found have further child pornography stored on mobile phone (ct 5).	Ct 4: 2 yrs imp. Ct 5: 18 mths imp.	
35.	<b><i>RNN v The State of Western Australia</i></b>  <b>[2010] WASCA 26</b>  Delivered 16/02/2010	70 yrs at time sentencing. 27-37 yrs at time offending.  Convicted after negotiated PG –originally charged 24 counts, convicted after PG 11 counts.  No prior criminal record.  Youngest of 5 children; normal upbringing; since offending came to light no longer has contact with brothers; single; no dependants; isolated life with minimal social interactions.	3 victims were nephews of appellant. Offending period 10 yrs. Victims aged 9-16 yrs, 10-14 yrs and 13-16 yrs. 34 yrs between last offence and conviction.  5 x Indecent deal u14 (max penalty 7 yrs imp). 6 x Indecent assault (max penalty 3 yrs imp).  <u>Ct 3 – Indecent deal:</u> Victim A, 9yrs. Appellant visited brother's farm (A's father). Appellant slept on fold out bed in lounge room. Appellant told A had something special for him and to visit him after everyone else had gone to bed. A believed he would be given lollies and went to see appellant. Appellant told A to get into bed with him and then masturbated A. Appellant then masturbated himself and ejaculated on A's hand. Appellant told A something special had happened between them. <u>Ct 6 – Indecent deal:</u> Victim A, 12 or 13yrs. Appellant travelling with brother and brother's family in car. Appellant placed blanket over A and other child. Appellant placed hands under and masturbated A – on top of clothing to start and then inside trousers. A recalled being abused regularly by appellant but was unable to distinguish each incident. At 16 yrs A decided wanted nothing more to do with appellant	TES 4 yrs imp.  Ct 3: 6 mths imp.  Ct 6: 12 mths imp.	Dismissed.  At [40]–[41] the max penalty is the penalty in force at time offences committed but the court entitled to take into account current knowledge and understanding of the offence and its impact in sentencing.



		<p>and abuse stopped.</p> <p><u>Ct 9 – Indecent deal:</u> Victim J, 9 or 10 yrs. J asleep in his bedroom with younger brother C. Appellant entered room, pulled back bed covers from J and lay down on top of him. Appellant removed his penis from pants and rubbed it on J's body until he ejaculated onto bed. J said this behaviour regular occurrence and he did not resist as that made appellant more persistent. Appellant did not threaten J but would buy him chocolates. Not first count of abuse J remembered.</p> <p><u>Ct 10 – Indecent deal:</u> Victim K, 13 yrs. Appellant and K driving in rural WA. Appellant stopped car and both appellant and K went to toilet. When returned to car, appellant placed hand on K's penis through clothing. K pushed hand away twice and appellant placed hand in K's pants and masturbated him for approx 20 min. K too frightened to become aroused. Not first count of abuse K remembered.</p> <p><u>Ct 12 – Indecent assault:</u> Victim K, 14 yrs. Appellant took K camping. K awoke during night to find appellant sliding hand into his pants. Appellant masturbated K until erect. K then went to toilet. On return to bed, appellant performed oral sex on him until ejaculated.</p> <p><u>Ct 16 – Indecent assault:</u> Victim K, 14 or 15 yrs. Appellant driving K between his farm and brother's farm (K's father). Appellant stopped vehicle and began to masturbate K until erect. Appellant then performed oral sex on K until ejaculated. K said this kind behaviour occurred 6 or 7 times on journey between farms but that he could not distinguish separate incidents.</p>	<p>Ct 9: 16 mths imp.</p> <p>Ct 10: 12 mths imp.</p> <p>Ct 12: 14 mths imp.</p> <p>Ct 16: 12 mths imp.</p>	
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			<p><u>Ct 18 – Indecent deal:</u> Victim J, 12 or 13 yrs. Occurred at J’s home. J awoke to find appellant under bed covers masturbating him. When J erect, appellant performed oral sex until ejaculated.</p> <p><u>Ct 19 – Indecent assault:</u> Victim K, 15 yrs. Appellant visiting uncle’s (appellant’s brother) farm. Appellant and K sleeping fold out beds in lounge. K awoke to appellant’s hands on his crotch. Appellant then placed hands inside K’s pants and masturbated until K erect. Appellant performed oral sex on K until ejaculated.</p> <p><u>Ct 21 – Indecent assault:</u> Victim K, 15 yrs. Appellant took K to drive-in movie. Appellant masturbated K during movie and performed oral sex until ejaculated.</p> <p><u>Ct 23 – Indecent assault:</u> Victim K, 16 yrs. Appellant picked K up from TAFE. Appellant stopped car and fondled K’s crotch. Appellant pulled down K’s trousers, masturbated him until erect and performed oral sex until ejaculated. Last act sexual abuse against K.</p> <p><u>Ct 24 – Indecent assault:</u> Victim J, 14 yrs. Appellant driving with J in car. Appellant stopped car, masturbated J until erect and performed oral sex until ejaculated.</p>	<p>Ct 18: 18 mths imp.</p> <p>Ct 19: 8 mths imp.</p> <p>Ct 21: 8 mths imp.</p> <p>Ct 22: 8 mths imp.</p> <p>Ct 24: 8 mths imp.</p>	
34.	<p><i>LWJR v The State of Western Australia</i></p> <p>[2009] WASCA 200</p>	<p>32 yrs at time offending. 61 yrs at time sentencing.</p> <p>Convicted after fast-track PG – co-operated with police.</p>	<p>2 victims were appellant’s daughters. Offending period approx 18 mths. Victims aged 3-5 yrs. 28 yrs between last offence and conviction.</p> <p>7 x Indecent deal u13 s189(2) <i>Criminal Code</i> (max penalty 7 yrs).</p>	<p>TES 7 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>TES reduced to 5yrs imp.</p> <p>Sentencing judge in error when did not sentence on</p>

	Delivered 12/11/2009	<p>Causal link between offending and alcoholism; wife found out about offending and left; appellant stopped drinking and reconciled with wife; written letters of apology to victims at their request.</p> <p>No offending since and viewed by sentencing judge as completely rehabilitated (not challenged by State).</p>	<p><u>Ct 1:</u> Victim 1, 3 yrs. Appellant, naked, placed victim, wearing only T-shirt, on penis (no penetration).</p> <p><u>Cts 2 &amp; 3:</u> Victim 2, 5 yrs. Appellant placed penis in victim's mouth and made her perform oral sex (ct 2). As this was occurring, appellant digitally penetrated vagina (ct 3).</p> <p><u>Cts 4-7:</u> Victim 2, 5 yrs. Three counts fellatio (cts 4, 5 &amp; 6) and one count digital penetration (ct 7).</p>		basis that appellant completely rehabilitated (State did not challenge assertion; evidence confirmed it).
33.	<p><b><i>GMS v The State of Western Australia</i></b></p> <p><b>[2009] WASCA 107</b></p> <p>Delivered 25/06/2009</p>	<p>54 yrs at sentencing.</p> <p>Convicted after late PG (after committed for trial).</p> <p>Previous conviction for indecent dealing child u16.</p> <p>Claimed offending occurred when under influence panadeine forte and alcohol – no mitigation.</p> <p>Physically abusive father; mother of victim gang rape and subsequently died.</p>	<p>2 victims were appellant's daughters. Offending period approx 13 yrs (across both victims). Victims aged 9-17 yrs and 5-11 yrs. Most serious category of offending.</p> <p>3 x Indec deal lineal relative s 329(4) <i>Criminal Code</i>.</p> <p>9 x Sex pen lineal relative s 329(2) <i>Criminal Code</i>.</p> <p>1 x Att sex pen lineal relative s 552 <i>Criminal Code</i>.</p> <p><u>Ct 1 – Indecent deal lineal relative u16:</u> Victim 1, 9-10 yrs. Appellant sat victim on edge table. Victim's pants on one leg and pulled down to thigh. Appellant masturbated himself while standing between victim's legs – penis touched outside vagina. Stepped back to ejaculate. This activity continued on regular basis for remainder of that year.</p> <p><u>Ct 2 – Sex pen lineal relative u16:</u> Victim1, 10-12 yrs. Victim came home from school</p>	<p>TES 12 ½ yrs imp.</p> <p>PSR – no responsibility or insight; maintained denial of conduct; claimed PG to spare family trauma of court not because he admitted offences.</p> <p>Ct 1: 1 yr 8 mths imp.</p> <p>Ct 2: 4 yrs 6 mths imp.</p>	Dismissed – leave refused at hearing.

		<p>sick – appellant home. Appellant told victim to lie on his bed. She did and fell asleep fully clothed. Victim awoke to appellant on top of her with penis moving in and out vagina. Appellant ejaculated on bed. After this, appellant had sexual intercourse with victim on almost daily basis.</p> <p><u>Ct 3 - Sex pen lineal relative u16:</u> Victim 1, 10-14 yrs. Appellant ran business which required him work in country towns. Appellant sometimes take victim away on these trips. On one trip, appellant told victim to kneel on bed – because of past incidents, victim knew to remove bottom clothing and kneel on edge of bed with bottom out. Appellant penetrated vagina with penis until shortly before ejaculation (achieved by masturbating after removed penis).</p> <p><u>Ct 4 - Sex pen lineal relative u16:</u> Victim 1, 11-15 yrs. Appellant took victim to Northcliffe – stayed at friend’s house. Appellant had sexual intercourse with victim after telling her to join him in bed staying in. Victim heard noise and tried to push appellant away but he continued. Victim did not know whether appellant ejaculated inside her or not.</p> <p><u>Cts 5, 6 &amp; 7 – 2 x Sex pen child lineal relative; 1 x Indecent deal child lineal relative:</u> Victim 1, 15-17 yrs. Victim finished schooling and now working. Appellant removed victim from school to home school – allowing more time for sexual conduct to occur. Appellant engaging almost daily sexual intercourse with victim – this occasion, during penetration, victim said did not wish this to occur. Appellant stopped and made victim change position before resuming intercourse. Victim asked appellant how</p>	<p>Ct 3: 4 yrs 6 mths imp.</p> <p>Ct 4: 4 yrs 6 mths imp.</p> <p>Ct 5: 2 yrs 4 mths imp. Ct 6: 2 yrs 4 mths imp. Ct 7: 1 yr 2 mths imp.</p>	
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		<p>he would like it if his mother behaved this way towards him. Appellant became angry and told victim never to tell anyone – grabbed vagina lip with considerable force and pinched – victim felt his knuckles hit her pubic bone.</p> <p><u>Ct 8 – Sex pen child lineal relative:</u> Victim 1, 15-17 yrs. Appellant took victim to gazebo at rear of house to engage in sexual intercourse. Victim made to kneel on floor and appellant inserted penis from behind.</p> <p><u>Ct 9 – Sex pen child lineal relative:</u> Victim 1, 15-17 yrs. Victim on floor in dining area and appellant inserted penis in vagina from behind and engaged in sexual intercourse. Victim’s mother saw this happen.</p> <p>At 17 yrs, victim 1 became pregnant to appellant. Appellant arranged for abortion. Few weeks after this, victim 1 taken to Family &amp; Community Services by aunt. Later taken to police station – made statement as to one instance sexual abuse but indicated did not want to take complaint further. Victim 1 obtained restraining order against appellant and never returned again to family home. Appellant shifted attention to victim 1’s younger sister.</p> <p><u>Ct 10 – Sex pen lineal relative u16:</u> Victim 2, 5-8 yrs. Victim washing dishes, appellant took her to dining area. Appellant removed her shorts and pants and lifted her onto table. Appellant removed own pants, stood between her legs and inserted penis into vagina, engaging in sexual intercourse. Appellant told victim not to tell anyone.</p> <p><u>Ct 11 – Attempt sex pen lineal relative u16:</u> Victim 2, 5-8 yrs. Occurred day after count 10.</p>	<p>Ct 8: 2 yrs 4 mths imp.</p> <p>Ct 9: 3 yrs 6 mths imp.</p> <p>Ct 10: 4 yrs imp.</p> <p>Ct 11: 1 yr 8 mths imp.</p>	
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			<p>Appellant again took victim 2 to dining room and attempted to engage in sexual intercourse with her on dining table. Victim's mother came home after appellant removed erect penis from pants and interrupted.</p> <p><u>Ct 12 – Sex pen lineal relative u16:</u> Victim 2, 5-8 yrs. Appellant told victim to go to his room. Appellant told victim to kneel in middle of bed. Appellant pulled down her pants and thrust penis unto anus. Victim asked appellant to stop as it hurt but appellant continued until he heard victim 2's mother arrive home.</p> <p><u>Ct 13 – Indecent deal lineal relative u16:</u> Victim 2, 11 yrs. Victim in bath when appellant entered bathroom naked. Appellant got in bath, holding penis in hand. Victim fearful of sex and told appellant to stop, pushing herself away. Appellant got out of bath and told victim if she was going to act like that she would be grounded for life.</p> <p>Shortly after ct 13, victim 2 told victim 1 of incident and matter taken up with police. Appellant refused on two occasions to answer questions and was later arrested.</p>	<p>Ct 12: 4 yrs 6 mths imp.</p> <p>Ct 13: 1 yr 2 mths imp.</p>	
32.	<p><b><i>RJB v The State of Western Australia</i></b></p> <p><b>[2009] WASCA 49</b></p> <p>Delivered 26/02/2009</p>	<p>43-46 yrs at time offending.</p> <p>Convicted after fast-track PG.</p> <p>Good employment history in mining industry; large family; educated to yr 10.</p>	<p>Victim appellant's de facto daughter (called him 'dad'). Offending period approx 2 ½ yrs. Victim aged 8-10 yrs.</p> <p>4 x Sex pen de facto child u16 s 392(2) <i>Criminal Code</i>.</p> <p>4 x Indecent deal de facto child u16 s 392(4) <i>Criminal Code</i>.</p> <p><u>Cts 1 &amp; 2:</u></p>	<p>TES 8 yrs imp.</p> <p>4 yrs imp each ct.</p> <p>1 yr imp each ct.</p>	Dismissed.

			<p>Appellant inserted penis into victim's mouth and thrust it in and out, eventually ejaculating in his hand (ct 2). While doing this, the appellant rubbed victim's chest to further arouse himself (ct 1).</p> <p><u>Cts 3,5 &amp; 7 – Sex pen:</u> Save the location and date, identical to ct 1.</p> <p><u>Cts 4, 6 &amp; 8 – Indecent deal:</u> Are identical to count 2.</p> <p>During ct 6, victim refused to open mouth and appellant pinched ear until she did. Appellant told victim after incident not to tell anyone.</p> <p>After second incident, victim told mother but no police report made.</p> <p>Day prior to police involvement, appellant and victim's mother both intoxicated and appellant assaulted and threatened victim's mother. Victim's mother reported assault and, as a result, police interviewed victim who told them about sexual offending of appellant. Appellant later interviewed and admitted to assault, threats and sexual offences.</p>		
<b><i>Transitional Provisions Repealed (14/01/2009)</i></b>					
31.	<p><b><i>KC v The State of Western Australia</i></b></p> <p><b>[2008] WASCA 216</b></p> <p>23/10/2008</p>	<p>47 yrs at sentencing.</p> <p>Convicted after early PG.</p> <p>No relevant prior criminal record – traffic offences; assault; alcohol related offences.</p> <p>Both parents died when</p>	<p>4 Victims – two were appellant's step children and two were step grand-children. Offending period 17 yrs. Victims aged 5-12 yrs, 8 yrs, 5 yrs and 8 yrs.</p> <p>4 x Sex pen de facto child u16 s 392(2) and s329(9)(a) <i>Criminal Code</i>.</p> <p>3 x Indecent deal u14 s183 <i>Criminal Code</i>.</p> <p>1 x Indecent deal u13 s189 <i>Criminal Code</i>.</p> <p>7 x Indecent deal de facto child s 329(4) and s329(10)(a) <i>Criminal Code</i>.</p>	<p>TES 10 yrs 8 mths.</p> <p>EFP.</p> <p>PSR – limited insight into impact of offending; deep regret.</p>	<p>Allowed.</p> <p><u>Sentences altered on appeal:</u> Ct 14: 1 yr imp. Ct 15: 1 yr imp.</p> <p>TES reduced to 8 yrs 4 mths imp.</p>

		<p>appellant 10 yrs old; lived with strict aunt in Sydney; returned to rural WA; hardworking; alcohol abuse issues.</p>	<p><u>Ct 1 – Indec deal child u14 s183:</u> Victim 1 (step-daughter), 5-9 yrs. Appellant started coming into victim’s bedroom when she was in pre-primary and touching her inappropriately on vagina – continued each day until 9yrs.</p> <p><u>Ct 2 – Indec deal child u14 s 183:</u> Victim 1, 6-7yrs. Appellant took victim 1 to shed at rear of property. Appellant pulled her knickers down, sat her on a motorcycle, pulled out his penis and rubbed it on the outside of vagina.</p> <p><u>Cts 3 &amp; 4 – Sex pen de facto u16 s 329:</u> Victim 1, 9-11 yrs. Victim’s mother at work. Appellant told victim to go to his bedroom Pornographic movie playing in room when victim entered (woman performing oral sex on man). Appellant lay down on bed and exposed erect penis. Appellant pointed to TV and told victim to do the same to him. Victim complied. Scene on movie changed to man performing oral sex on woman and appellant licked outside of victim 1’s vagina.</p> <p><u>Ct 5 – Indec deal de facto child s 329:</u> Victim 1, 9-11yrs. Victim lying on back on sofa watching TV. Appellant came in and lay on top of her and began to rub against her as if engaging in sexual intercourse. Appellant stopped when victim 2 came into room.</p> <p>Appellant always told victim to never tell anyone. On one occasion, victim’s mother asked victim if appellant touching her inappropriately. Victim told mother what was happening but nothing further happened.</p> <p>Appellant stopped offending against victim 1 when she left family home, aged 12 yrs.</p> <p><u>Ct 6 – Indec deal child u14 s183:</u> Victim 2 (step-daughter; victim 1’s younger sister),</p>	<p>Ct 1: 1 yr 4 mths imp.</p> <p>Ct 2: 1 yr 4 mths imp.</p> <p>Ct 3: 4 yrs imp. Ct 4: 4 yrs imp.</p> <p>Ct 5: 1 yr 4 mths imp.</p> <p>Ct 6: 1 yr 4 mths imp.</p>	<p>EFP.</p>
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			<p>8 yrs. Family returning from Xmas party – victim fell asleep in back of car and awoke to appellant pulling her pants down and lying on top of her. Victim could see appellant even though dark as light from front veranda on. Appellant pulled pants and knickers down and began to rub vagina and chest with his hand. Victim tried to push appellant off but he was too heavy. Victim vomited and called out for mother. Appellant pulled her pants up and lifted her out of car. Victim hit and kicked appellant and ran inside. Later that night, appellant went into victim 2’s bedroom and told her made herself sick on purpose to get attention and that if she kept trying to get attention like that, her mother would send her to a home.</p> <p><u>Ct 7 – Indec deal child u13 s189:</u> Victim 2, 11 yrs. Victim 1 &amp; 2 sleeping in mother’s bed – living at grandparent’s home. Victim 2 felt someone get in between them and thinking it was their mother, moved over to make room. It was the appellant, not her mother. Appellant began rub penis on back of her legs and put hand between her legs. Victim 2 called out for mother but appellant told her to shut up or she would wake everyone and then she wouldn’t be able to live in the house anymore.</p> <p><u>Cts 8, 9 &amp; 10 – Indecent deal de facto child s 329:</u> Victim 2, 12yrs. Victim fell asleep on sofa watching TV and awoke to find appellant pulling pyjama pants down. Appellant touched vagina and victim pretended to be still asleep and rolled over. Appellant rolled her back and tried to insert finger in vagina (ct 8). Appellant then put hands inside pyjama top and rubbed her chest (ct 9). While doing this, appellant rubbed penis in front of victim.</p>	<p>Ct 7: 1 yr 4 mths imp.</p> <p>Ct 8: 2 yrs imp. Ct 9: 1 yr 4 mths imp. Ct 10: 1 yr 4 mths imp.</p>	
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		<p>Victim cried out for mother and appellant put penis away and left her alone.</p> <p><u>Cts 11, 12 &amp; 13 – Indecent deal de facto child s 329:</u>  Victim 2, 14 yrs. Victim’s mother interstate. Victim asleep in room and awoke to find appellant trying to put his tongue in her mouth. Victim kept mouth shut and teeth clenched. Appellant then undid pants and pulled out erect penis, rubbing it on victim 2’s back and face. Victim tried to pull covers over head but appellant pulled them back as he rubbed penis against her and climbed into her bed (ct 11). Victim rolled onto stomach. Appellant climbed on top of her and put her hands on his penis (ct 12). Victim tried to sit up, appellant held her down and tried to put penis in her mouth but she pushed head into pillow and kept it there. Appellant rubbed penis against back of her until ejaculated on her neck. (ct 13). Victim stayed awake remainder of night and, when she heard appellant leave for work in the morning, she packed her things and ran away to live with her father.</p> <p>Victim just under 7 yrs when appellant began living with her mother – within 3-4 weeks moving in appellant began to sexually abuse her.</p> <p><u>Ct 14 – Sex pen de facto u16 s 329:</u>  Victim 3 (step grand-daughter), 8 yrs. Appellant playing with victim at her home and has taken off her pants, underwear and shirt, then inserted his finger into her vagina. After removing finger, appellant put her clothes back on her and gave her money so that she would not tell parents what happened.</p> <p><u>Ct 15 – Sex pen de facto u16 s 329:</u>  Victim 4, 5 yrs. Appellant visiting victim at her</p>	<p>Ct11: 2 yrs imp.  Ct 12: 2 yrs imp.  Ct 13: 2 yrs imp.</p> <p>Ct 14: 2 yrs imp.</p> <p>Ct 15: 2 yrs imp.</p>	
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			home. Both in victim's bedroom when appellant has pulled her pants down and inserted finger into vagina. Appellant then gave her money so she would not tell her parents.		
30.	<i>Schriever v The State of Western Australia</i>  [2008] WASCA 133  Delivered 1/07/2008	23-26 yrs at time offending.  Convicted after early PG – full admissions to police, including disclosure ct 4.  No prior convictions.  University educated.  Accessed child pornography sites.	Appellant de facto partner of two victims' aunt. Victims were siblings – offending occurred when at aunt's house while parents at work.  7 x Indecent deal. 1 x Sex pen child u13.  <u>Cts 1-3 – Indecent deal:</u> Victim 1, aged 5-8 yrs. Appellant touched victim's vagina with hand (cts 1, 2 & 3 – committed on separate occasions). <u>Ct 4 – Sex pen:</u> Victim 1, aged 5-8 yrs. Appellant penetrated vagina with tongue. Victim asleep when this occurred and only charged due to appellant's voluntary disclosure. <u>Cts 5 &amp; 6 –Indec deal:</u> Victim 1, aged 5-8 yrs. Appellant touched vagina with hand. <u>Cts 7 &amp; 8 – Indec deal:</u> Victim 2, aged 10-11 yrs. Occurred on one occasion. Appellant touched victim's penis and scrotum with hand (ct 7). Appellant masturbated victim's penis (ct 8). <u>Ct 9 – Sex pen:</u> Victim 2, 10-11 yrs. Occurred same occasion cts 7 & 8. Appellant performed fellatio on victim.	TES 4 yrs 8 mths imp.  Remorse; willingness obtain treatment; victim empathy; medium-low risk re-offending.  Cts 1-3: 8 mths imp each ct.  Ct 4: 2 yrs imp.  Ct 5 & 6: 8 mths imp each ct.  Ct 7 & 8: 8 mths imp each ct.  Ct 9: 2 yrs imp.	Allowed.  Sentence on ct 4 reduced to 18 mths imp on grounds manifest excess.  TES reduced to 4 yrs 2 mths imp.  EFP.
29.	<i>F v The State of Western Australia</i>	35-38 yrs at time offending.  Convicted after PG –	Victim appellant's de facto daughter. Offending period 3 yrs – ended when victim made complaint to police. Victim aged 12-15 yrs.	TES 8 yrs imp.  EFP.	Dismissed.  AT [51]-[52] principles of

	<p><b>[2008] WASCA 100</b></p> <p>Delivered 30/04/2008</p>	<p>initially denied offences; 5 mths after charged, made partial admissions to wife.</p> <p>No prior criminal record.</p> <p>Sexually and physically abused as child by older cousin; parents violent towards him.</p> <p>Distorted belief system (schizophrenic but non compliant with medication) – believed victim given to him by God; heard voices; saw demons and ghosts;</p>	<p>1 x Indecent deal de facto child s 329(4) <i>Criminal Code</i>.</p> <p>11 x Sex pen de facto child s 329(2) <i>Criminal Code</i>.</p> <p><u>Ct 1 – Indecent deal:</u> Victim 12 yrs. Appellant told victim had crush on her and asked to touch her vagina. Victim refused. Appellant repeated request on number occasions until victim agreed. Appellant touched outside victim’s vagina and while doing so, exposed his erect penis to her. Over next 3 yrs appellant, after grooming behaviour so victim would accept his activities, had sexual relationship with victim.</p> <p><u>Cts 2-11 – Sex pen:</u> Involved instances oral penetration, digital penetration and penile penetration. On number occasions victim cried due to pain caused by appellant.</p>	<p>9 mths imp.</p> <p>Sentence range 18 mths - 3 yrs 6 mths imp.</p> <p>PSR – little insight; claimed relationship with victim ‘blessed by spirits; blamed victim for relationship</p>	<p>general deterrence and repetitive nature offending identified in <i>VIM</i> upheld.</p> <p>At [54] no tariff but recognised that intra-familial sex offences against children attract heavier sentence than those in which abuse occurred outside family.</p>
28.	<p><b><i>MPD v The State of Western Australia</i></b></p> <p><b>[2008] WASCA 57</b></p> <p>Delivered 13/03/2008</p>	<p>Both convicted after PGs (approx 12 mths after initially charged) – both refused testify in co-accused trials and both co-accused acquitted.</p>	<p>Appellants are husband (MPD) and wife (JD). Victim daughter of JD and de facto daughter of MPD. Victim aged 12-13 yrs. Two neighbours co-accused. Offending period approx 11mths.</p> <p>7 x Sex pen lineal/de facto child u16 s 329(2) <i>Criminal Code</i>.</p> <p>6 x Indec deal lineal/de facto child u16 s 329(4) <i>Criminal Code</i>.</p> <p>3 x Encourage lineal/de facto child u16 engage sexual behaviour s 329(3) <i>Criminal Code</i>.</p> <p><u>Ct 1 – Indec deal:</u> Victim 12 yrs. Both appellants supplied victim with</p>	<p>MPD: TES 10 yrs 2 mths imp.</p> <p>JD: TES 9 yrs 7 mths imp.</p> <p>Ct 1: JD 6 mths imp; MPD 6 mths imp.</p>	<p>Dismissed.</p> <p>At [51] absence circumstances such as force, cruelty or foreign objects does not mean seriousness offence less – emphasis on long-term impact/effects offending critical factor.</p>

		<p>pornographic material – naked men and women engaged in sexual acts. Both admitted to having started this when victim aged 12 yrs.</p> <p><u>Ct 2 – Indec deal:</u> Victim 12 yrs. Victim walked past door to appellants’ bedroom. MPD asked victim if she wanted to watch them engage in sexual intercourse. Victim did not know what to do and stood in doorway as appellants had sex.</p> <p><u>Cts 3 &amp; 4 – Encourage u16 engage sexual behaviour and Sex pen:</u> Victim 12 yrs. MPD took victim to dam. At dam, MPD asked victim to perform fellatio on him – victim did and MPD ejaculated in victim’s mouth. While engaged in this conduct, appellant encouraged victim to masturbate (pen vagina with own fingers).</p> <p><u>Ct 5 – Indecent deal:</u> Victim 12 yrs. Both appellants on their bed with victim. JD demonstrated to victim how to masturbate while MPD assured victim it was normal and something she should do herself.</p> <p><u>Cts 6, 7 &amp; 8 – 2 x Indecent deal and encourage child u16 engage sexual behaviour:</u> Victim 13 yrs. Appellants an victim watching TV in lounge room. JD said wanted to watch pornographic video and went and got one. MPD told victim he wanted her to stay and watch it – victim complied (ct 6). MPD and JD sat naked on sofa, watching video. JPD lay down on sofa and JD got on top of him and two engaged in sexual intercourse. JD then lay on sofa and MPD performed oral sex by licking her vagina (ct 7). Victim sitting nearby. Appellants encouraged victim to masturbate herself (ct 8)</p>	<p>Ct 2: JD 6 mths imp; MPD 6 mths imp.</p> <p>Ct 3: MPD 2 yrs 8 mths imp. Ct 4: MPD 2 yrs 2 mths imp.</p> <p>Ct 5: JD 13 mths imp; MPD 13 mths imp.</p> <p>Ct 6: JD 13 mths imp; MPD 2 yrs 2 mths imp.</p> <p>Ct 7: JD 6 mths imp; MPD 13 mths imp.</p> <p>Ct 8: JD 2 yrs 2 mths imp; MPD 2 yrs 2 mths imp.</p>	
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			<p><u>Cts 9 &amp; 10 – Sex pen and encourage child u16 engage sexual behaviour:</u> Victim 13 yrs. Appellants and victim in lounge room – JD and victim lying on floor; MPD on sofa. JD and victim partly clothed. JD performed cunnilingus on victim. While this happening, victim performing cunnilingus on JD (ct 9) – after encouragement by both appellants to do so (ct 10). MPD remained in room and watched.</p> <p><u>Cts 11 &amp; 12 – Sex pen:</u> Victim 13yrs. Appellants and victim in appellants’ bedroom. MPD next to victim and JD at end of bed. MPD penetrated victim’s vagina with fingers then took off her shorts and underwear and performed cunnilingus on victim.</p> <p><u>Cts13-16 – Indecent deal and 3 x sex pen:</u> Victim 13 yrs. Appellants, two neighbours (co-accuseds) and victim watching TV in lounge of neighbour’s house. Female neighbour began to perform cunnilingus on JD (ct 13). While this happened, JD reached into victim’s underpants and rubbed her clitoris (ct 14). MPD and male neighbour watched. Victim removed pants and JD performed cunnilingus on victim (ct 15). JD stopped and female neighbour performed cunnilingus on victim (ct 16) – JD masturbated herself as this happened and MPD and male neighbour continued watching. Shortly after this, victim locked herself in room, refused to engage in the sexual conduct – eventually left to live with grandparents and made a complaint to police.</p>	<p>Ct 9: JD 2 yrs 8 mths imp; MPD 1 yr 7 mths mths imp. Ct 10: JD 2 yrs 8 mths imp; MPD 1 yr 7 mths imp.</p> <p>Ct 11: JD 2 yrs 2 mths imp; MPD 2 yrs 2 mths imp. Ct 12: JD 2 yrs 8 mths imp; MPD 2 yrs 8 mths imp.</p> <p>Ct 13: JD 1 yr 7 mths imp.</p> <p>Ct 14: JD 3 yrs 3 mths imp; MPD 1 yr 7 mths imp.</p> <p>Ct 15: JD 4 yrs 3 mths imp; MPD 3 yrs 3 mths imp.</p> <p>Ct 16: JD 3 yrs 3 mths imp; MPD 3 yrs 3 mths imp.</p>	
27.	<b>FGC v The State of Western</b>	81yrs at time due to be released.	Victim was appellant’s grand-daughter. Offending period approx 7 yrs. Victim aged 5-12 yrs (22 yrs at	TES 6 yrs imp.	Dismissed.

	<p><b>Australia</b></p> <p><b>[2008] WASCA 47</b></p> <p>Delivered 3/03/2008</p>	<p>Convicted after trial.</p> <p>No prior criminal record.</p> <p>Respected member of Noongar community; 10 children; 30 grand children; previous good character.</p>	<p>trial). Period approx 10 yrs between cessation offending and trial.</p> <p><u>Ct 1:</u> withdrawn as no charge available in law at time offending.</p> <p><u>Ct 2:</u> Victim 5 yrs. Victim staying overnight at appellant's. Grandmother ill (appellant's wife). Appellant took victim into bedroom during night – grandmother asleep in bed. Appellant told victim to remove clothes and victim complied. Some cuddling and open mouth kissing occurred between victim and appellant before appellant digitally penetrated vagina, causing victim pain.</p> <p><u>Cts 3 &amp; 4:</u> Victim at appellant's house – grandmother (appellant's wife) recently died. Victim slept in appellant's room. Appellant touched breasts (ct 3) and rubbed clitoris (ct 4).</p> <p><u>Cts 5, 6 &amp; 7:</u> Victim 8-9 yrs. Victim staying at appellant's house in spare room. Appellant came into room at night and kissed victim on lips (ct 5), telling victim he would return later. Appellant returned approx 90min later and victim asleep. Appellant woke her up, took her to his bed – touched vagina (ct 6) and penile penetration occurred (ct 7).</p> <p>Victim came forward after seeing video on sexual abuse at school.</p>		<p>NB: individual sentences not challenged only totality of sentence.</p>
26.	<p><b>M v The State of Western Australia</b></p>	<p>Early 40s at time offending. 49 yrs at time sentencing. 50 yrs at time appeal.</p>	<p>Victim appellant's step-daughter. Offending period 2 yrs. Victim 14-15 yrs. Offences occurred between 1999-2000.</p>	<p>TES 7 yrs 9 mths imp. PSR – minimised</p>	<p>Dismissed.</p>

	<p><b>[2007] WASCA 238</b></p> <p>Delivered 8/11/2007</p>	<p>Convicted after late PG – on day of trial after extensive negotiations.</p> <p>No prior criminal record; history of community service.</p>	<p>4 x Indecent deal de facto u16. 2 x Sex pen de facto u16.</p> <p><u>Cts 2, 3 &amp; 5– Indecent deal:</u> Victim’s mother not at home. Appellant told victim take off pyjama pants and underwear. Appellant got small hand mirror and placed it between victim’s legs. Appellant pointed out different areas of her genitalia (ct 2). Appellant showed victim pornography (ct 3). Appellant then exposed penis and placed victim’s hand on it for several minutes (ct 5).</p> <p><u>Ct 6 – Sex pen:</u> Appellant principal in small country town and victim’s mother in Perth. Appellant and victim watching TV when appellant began to rub victim’s back. Appellant took off own clothing and victim’s clothing (leaving her in underwear) and placed erect penis in victim’s mouth and made her suck it for several minutes.</p> <p><u>Ct 7 – Sex pen:</u> Appellant and victim in bush collecting firewood. Appellant stopped car, went to passenger door and opened it. Victim screamed and cried. Appellant removed her underwear, exposed his erect penis and pushed it into vagina – engaging in intercourse until ejaculation.</p> <p><u>Ct 8 – Indecent deal:</u> Appellant and victim in car when appellant stopped car and removed vibrator from glove-box. Gave vibrator to victim and rubbed it on outside vagina. Victim said she had her period and did not want appellant to touch her. Victim estranged from mother as mother continues</p>	<p>conduct; externalised blame.</p> <p>Ct 2:18 mths imp. Ct 3:18 mths imp. Ct 5:18 mths imp.</p> <p>Ct 6: 3 yrs imp.</p> <p>Ct 7: 4 yrs 9 mths imp.</p> <p>Ct 8: 2 yrs 5 mths imp.</p>	
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			to support appellant.		
25.	<p><i>Truscott v The State of Western Australia</i></p> <p>[2007] WASCA 62</p> <p>Delivered 1/03/2007</p>	<p>41 yrs at sentencing.</p> <p>Convicted after trial.</p> <p>No relevant prior criminal record.</p> <p>Harsh early life; honourable discharge from armed services; good employment history.</p> <p>History alcohol abuse and illicit drug use.</p>	<p>Victim was appellant's step-daughter (she believed him to be her real father). Victim aged 5-7 yrs.</p> <p>Very serious instances of repeated sexual offending.</p> <p>4 x Sex pen u13 s 320(2) <i>Criminal Code</i>.  1 x Indec deal u13 s 320(4) <i>Criminal Code</i>.  1 x Indec record u16 s 320(6) <i>Criminal Code</i>.</p> <p><u>Cts 1 &amp; 2 – Sex pen:</u>  Victim 5-6 yrs. Appellant took victim into bedroom, told her to lie on tummy and out bottom in air. Appellant then penetrated anus with penis, causing victim pain. On same day, appellant told victim to suck his penis and she did so until he ejaculated in her mouth.</p> <p><u>Ct 3 – Sex pen:</u>  Victim 7 yrs. Appellant penetrated vagina with penis for several minutes as victim was kneeling in the bath.</p> <p><u>Ct 4 - Sex pen:</u>  Victim 7 yrs. Appellant placed sheet on floor, masturbated himself until erect and then penetrated victim's anus with his penis.</p> <p><u>Ct 5 – Indecent deal:</u>  Appellant made victim watch pornographic movie.</p> <p><u>Ct 6 – Indecent record:</u>  Indecent recording of victim found on appellant's computer.</p> <p>Held in sentencing and affirmed on appeal, that charges were representative of course conduct over period time.</p>	<p>TES 10 yrs imp.</p> <p>EFP.</p>	<p>Dismissed – aggregate term at bottom of range.</p>

24.	<p><i>C v The State of Western Australia</i></p> <p>[2006] WASCA 261</p> <p>Delivered 1/12/2006</p>	<p>50-51yrs at time offending. 53 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No relevant prior criminal record.</p> <p>Interstate truck driver. Disturbed childhood; father died and he was abused by step-father.</p> <p>Divorced; 2 adult sons.</p>	<p>Victim was appellant's de facto daughter. Offending period approx 18 mths – 3 separate incidents. Victim aged 12-13 yrs.</p> <p>Ct 1: Indecent deal child (max 10 yrs imp). Ct 2: Sex pen child (max 20 yrs imp). Ct 3: Indecent deal child (max 7 yrs imp). Ct 4: Incite/encourage child engage in sexual behaviour (max 14 yrs imp).</p> <p><u>Cts 1 &amp; 2:</u> Victim 12 yrs. Victim lying on her mother's bed in singlet and boxer shorts watching TV. Appellant lying next to her. Appellant placed his hands inside victim's pants and rubbed her vagina (ct 1). Appellant then digitally penetrated victim's vagina (ct 2). Offending lasted approx 10 minutes and stopped when victim's brother entered the bedroom.</p> <p><u>Ct 3:</u> Victim 13 yrs. Offending took place on family holiday to Lancelin. Victim was returning in the dark to the hut the family were staying in when she fell over. Appellant was nearby and has got on top of her and pinned her to the ground. Appellant said "I want to suck your tit", pulled down her bathers, exposing her breast, and tried to suck her breast. Victim struggled and pushed him away.</p> <p><u>Ct 4 &amp; 5:</u> Victim 13 yrs. Victim was preparing for trip to Sydney for ice skating championship and needed spending money. Appellant offered her \$50 if she let him touch her breasts. Victim said no. Appellant told her to think about it.</p>	<p>TES 5 yrs 6 mths.</p> <p>EFP.</p> <p>Ct 1: 2 yrs imp. Ct 2: 3 yrs imp. Ct 3: 2 yrs imp. Ct 4: 2 yrs 6 mths imp.</p> <p>Denied offending and stated victim made allegations up in the hope of breaking up his relationship with her mother and of reuniting her natural parents (unsupported by evidence).</p>	<p>Allowed.</p> <p><u>Sentences on appeal:</u> Ct 1: 18 mths imp. Ct 2: 2 yrs 6 mths imp. Ct 3: 18 mths imp. Ct 4: 18 mths imp.</p> <p>TES 4 yrs. EFP after 2 yrs.</p> <p>At [14] trend towards firming sentences for intra-familial sexual assault or abuse as there exists now a greater understanding of the impact such offending has on the victim.</p> <p>Sentencing judge made an express error stating TES equivalent to 7 yrs 3 mths pre-transitional (actually 8 yrs 3 mths imp pre-transitional).</p>

23.	<p><i>M v The State of Western Australia</i></p> <p>[2006] WASCA 256</p> <p>Delivered 28/11/2006</p>	<p>37 yrs at time offending.</p> <p>Convicted after early PG – claimed not to remember some of charges.</p> <p>Leading up to offending, appellant’s wife (victim’s mother) in Graylands and appellant drinking heavily and using cannabis as coping mechanism while he was sole carer for 4 children (all with intellectual impairments).</p>	<p>Victim was appellant’s step-daughter. Offending period approx 2 mths (counts representative of course conduct over that period involving sexual offences every second night). Victim 12 yrs and had degree of intellectual disability.</p> <p>7 x Indecent deal de facto child u16. 15 x Sex pen de facto child u16. 3 x Procure de facto child u16 engage in sexual behaviour.</p> <p><u>Cts 1-4:</u> Appellant made victim rub his penis, applied baby oil to her vagina, made victim insert vibrator in vagina while he inserted vibrator into his anus. Appellant then masturbated in front of victim until ejaculating.</p> <p>Other counts involved digital penetration of vagina, making victim penetrate own vagina with fingers and vibrator, penile penetration of victim’s vagina, cunnilingus and fellatio. Appellant also showed victim pornographic film.</p>	<p>TES 10 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>NB: Individual sentences not challenged only totality of sentence.</p>
22.	<p><i>H v The State of Western Australia</i></p> <p>[2006] WASCA 53</p> <p>Delivered 4/04/2006</p>	<p>26 yrs at time offending. 55 yrs at time sentencing.</p> <p>PG counts 11, 12, 14, 15, 19 &amp; 20. Convicted after trial of all but 2 remaining counts.</p> <p>No prior criminal record.</p>	<p>Victim was appellant’s step-daughter. 21 yrs between cessation offending and charges.</p> <p>4 x Indec deal child u14. 2 x Indec assault. 12 x Indec deal. 1 x Sex pen without consent.</p> <p><u>Ct 1 – s 183 Criminal Code:</u></p>	<p>TES 10 yrs imp.</p> <p>EFP.</p> <p>Ct 1: 1 yr 4 mths imp.</p>	<p>Allowed.</p> <p>TES reduced to 8 yrs imp.</p> <p>EFP.</p>

		<p>Victim 6-7 yrs. Appellant put mouth over victim's vaginal area while she was wearing a leotard.  <u>Ct 2 – s 183 Criminal Code:</u>  Appellant put victim's hand on his penis to masturbate him.</p> <p><u>Ct 3 – s 183 Criminal Code:</u>  Victim 7-8 yrs. Victim in toilet when appellant entered, pushed legs apart and exposed vagina.  <u>Cts 4 &amp; 5 – s 183 Criminal Code:</u>  Victim 7-8 yrs. Appellant licked victim's vagina and made her suck his penis.  <u>Ct 6 – s 328 Criminal Code:</u>  Victim 10-12 yrs. Appellant rubbed penis on victim's vagina.  <u>Ct 7 – s 328 Criminal Code:</u>  Victim 1-12 yrs. Appellant rubbed penis on victim's vagina.  <u>Cs 8 &amp; 9 – s 183 Criminal Code:</u>  Victim 11-12 yrs. Appellant licked victim's vagina and put his tongue inside vagina.  <u>Cts 11, 12 &amp; 13 – s 183 Criminal Code:</u>  Appellant placed tongue in victim's vagina, digitally penetrated vagina and penetrated vagina with bottle opener.  <u>Cts 14 &amp; 15 – s 183 Criminal Code:</u>  Appellant digitally penetrated victim's vagina and placed his erect penis on her face.  <u>Ct 16 – s 183 Criminal Code:</u>  Appellant kissed victim, placing his tongue in her mouth.  <u>Ct 18 – s 183 Criminal Code:</u>  Appellant made victim masturbate him.  <u>Ct 19 – s 328 Criminal Code:</u>  Appellant digitally penetrated victim's vagina.  <u>Cts 20 &amp; 21 – s 328 &amp; s 325/326 Criminal Code:</u></p>	<p>Ct 2: 2 yrs imp.</p> <p>Ct 3: 2 yrs imp.</p> <p>Ct 4: 2 yrs 8 mths imp.  Ct 5: 2 yrs 8 mths imp.</p> <p>Ct 6: 2 yrs imp.</p> <p>Ct 7: 2 yrs imp.</p> <p>Ct 8: 2 yrs 8 mths imp.  Ct 9: 2 yrs 8 mths imp.</p> <p>Ct 11: 2 yrs imp.  Ct 12: 2 yrs imp.  Ct 13: 2 yrs 8 mths imp.</p> <p>Ct 14: 2 yrs imp.  Ct 15: 2 yrs imp.</p> <p>Ct 16: 6 mths imp.</p> <p>Ct 18: 2 yrs imp.</p> <p>Ct 19: 2 yrs imp.</p> <p>Ct 20: 2 yrs imp.</p>	
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			Appellant licked victim's vagina and engaged in penile penetration of vagina.	Ct 21: 5 yrs 4 mths imp.	
21.	<b><i>GHS v The State of Western Australia</i></b>  [2006] WASCA 42  Delivered 15/03/2006	<u>CACR 3 of 2005</u> Convicted after trial 7 cts, acquitted 5 cts.  <u>CCA 134 of 2004</u> Convicted after trial 7 cts, acquitted 3 cts.	Two appeals considered at once – 2 indictments, 2 sets offences, 2 separate sentences on different dates , different victims.  Victims sisters and appellant's step-daughters. Offending period victim 1 approx 9 yrs – charges laid approx 8 yrs after offending stopped.  <u>CACR 3 of 2005:</u> <u>Ct 1 – 3 x Indecent deal u14 s 183 Criminal Code; Incite u14 to indec deal with him; Rape s 315 Criminal Code:</u> Victim 1, 12 yrs. Offences occurred on victim's 12 <sup>th</sup> birthday in 1985. Appellant took victim into his bedroom where he fondled her breasts (ct 1) and rubbed her vagina (ct 2). Both these occurred over top of clothing. Appellant then took penis out of pants, placed victim's hand on it (ct 3) and inserted his fingers in her vagina (ct 4). Appellant then inserted penis in vagina and engaged in intercourse until ejaculation (ct 6). Told victim 1 he had vasectomy and she would not get pregnant. <u>Ct 11 &amp; 12 – Sex pen u16 s 324E Criminal Code:</u> Victim 1, 14 yrs. Victim's mother in hospital following operation. Appellant went into victim's bedroom, removed her underwear and engaged in cunnilingus (ct 11) and penile penetration of vagina (ct 12).  <u>CCA 134 of 2004:</u>	TES 16 yrs imp (both indictments).  <u>CACR 3 of 2005</u> TES 8 yrs imp.  Ct 1: 2 yrs imp. Ct 2: 2 yrs imp. Ct 3: 2 yrs imp. Ct 4: 2 yrs imp. Ct 6: 4 yrs imp.  Ct 11: 3 yrs 4 mths imp. Ct 12: 4 yrs imp.  <u>CCA 134 of 2004</u>	<u>CACR 3 of 2005</u> Dismissed.  <u>CCA 134 of 2004</u> Allowed.  TES reduced to 6 yrs imp.  TES reduced to 14 yrs imp (both indictments).

		<p><u>Ct 2 – Indecent deal u14 s 183 Criminal Code:</u> Victim 2. Victim’s mother away. Appellant went into victim’s room, put his hand in her pants and rubbed clitoris (ct 2).</p> <p><u>Ct 3 &amp; 4 –Indecent deal u16 s 189 Criminal Code:</u> Victim 2. Appellant woke victim and began to fondle breasts (ct 3), then inserted finger into vagina (ct 4). Victim’s nipples became erect and appellant said she must be enjoying it.</p> <p><u>Cts 7 &amp; 8 – Indecent deal u16 s 189 Criminal Code:</u> <u>Sex pen u16 s 324E Criminal Code::</u> Victim 2. Appellant told victim she should learn how to ‘whack someone off’ and made her masturbate him (ct 7). Appellant then forced her legs apart, rolled on top of her and had sexual intercourse until ejaculation (ct 8). Victim protested, expressed fear about pregnancy and appellant said not to worry as he had had a vasectomy. Victim virgin at time offending.</p> <p><u>Ct 9 – Indecent deal s 324 Criminal Code:</u> Victim 2. Appellant grabbed victim’s head, pushed it down and tried to force her to perform fellatio. Victim resisted too much and act remained incomplete.</p> <p><u>Ct 10 – Sex pen s 324D Criminal Code:</u> Victim 2. Arranged visit to casino and asked victim to come. Appellant gave victim large amounts alcohol, took her back to his hotel room and forced her to engage in sexual intercourse. Appellant’s drunkenness only reason did not ejaculate. Counts represent continued pattern sex abuse where victim silence is gained through threats. Offending occurred in same period appellant abusing younger sister (victim 1).</p>	<p>TES 8 yrs imp. Ct 2: 2 yrs 8 mths.</p> <p>Ct 3: 16 mths imp. Ct 4: 16 mths imp.</p> <p>Ct 7: 16 mths imp. Ct 8: 8 yrs imp.</p> <p>Ct 9: 12 mths imp.</p> <p>Ct 10: 6 yrs imp.</p>	
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<p><b>20.</b></p>	<p><i>PDS v The State of Western Australia</i></p> <p><b>[2006] WASCA 20</b></p> <p>Delivered 10/02/2006</p>	<p>40 yrs at sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal record.</p> <p>Childhood involved domestic violence.</p>	<p>Victim was appellant's de facto daughter. Offending period 4 yrs. Victim aged 12-16 yrs (18 yrs at trial).</p> <p><u>Ct 1: Sex pen child u16:</u> After some persuasion, victim agreed to have sex with appellant. Appellant penetrated vagina with penis in cubby house.</p> <p><u>Cts 2 &amp; 3: Sex pen child u16:</u> Appellant asked victim to have anal sex – inserted his finger in her anus (ct 2) and then penetrated it with his penis (ct 3). Victim remembers bleeding next time she went to toilet.</p> <p><u>Ct 4: Sex pen child u16:</u> Appellant asked victim to perform oral sex on him. Victim complied and appellant ejaculated in victim's mouth.</p> <p><u>Cts 5 &amp; 6: Sex pen child u16:</u> Appellant performed oral sex on victim (ct 5) and made her perform oral sex on him (ct 6). Victim suffered nervous breakdown and was admitted to hospital as involuntary patient. Following her release, she reported incidents to police.</p> <p>Offences part of series uncharged sexual offending.</p>	<p>TES 12 yrs imp.</p> <p>No remorse.</p> <p>Ct 1: 5 yrs imp.</p> <p>Ct 2: 3 yrs imp. Ct 3: 4 yrs imp.</p> <p>Ct 4: 3 yrs imp.</p> <p>Ct 5: 3 yrs imp. Ct 6: 3 yrs imp.</p>	<p>Dismissed – TES severe but in range.</p> <p>NB: individual sentences not challenged only totality.</p>
<p><b>19.</b></p>	<p><i>VIM v The State of Western Australia</i></p> <p><b>[2005] WASCA 233</b></p> <p>Delivered</p>	<p>26 – 34 yrs at time offending. 50 yrs at time sentencing.</p> <p>Convicted after trial 31 counts, directed acquittal 3 counts and jury acquittal 10 counts.</p>	<p>2 victims, L &amp; J (sisters) – both appellant's step-daughters (both called him 'dad' and used his surname – had limited contact with natural father after parent's divorce when they were 8 and 3 yrs). Offending period approx 8 yrs in total. L 14-18 yrs and J 14-18 yrs at time offending (L 37 yrs and J 33 yrs at time trial). Offending stopped when victims moved out of family home.</p>	<p>TES 6 yrs imp.</p> <p>EFP.</p> <p>Maintained innocence. No remorse.</p>	<p>Allowed.</p> <p><u>Sentences on appeal:</u> 6 yrs imp each ct rape. 2 yrs imp each indecent assault.</p> <p>TES increased to 10yrs.</p>

	1/12/2005	<p>No prior convictions.</p> <p>Built successful insurance business; community involvement.</p>	<p>11 x Rape s 325 <i>Criminal Code</i>.  10 x Indecent assault s 328 <i>Criminal Code</i>.  3 x Indecent assault s 324B <i>Criminal Code</i>.  7 x Sex pen without consent s324D <i>Criminal Code</i>.</p> <p>Offences representative counts of continuing and abusive sexual relationship in relation to both victims.</p>	<p>Individual sentences ranged between 12 mths – 52 mths imp.</p>	<p>EFP.</p> <p>At [298] examined 25 cases between 1999-2005 of multiple sex offences against children that involved PG.</p> <p>At [294] prolonged instances offending attract some cumulation in total sentence to reflect severity impact on victim(s) and recognise offender's choice to repeatedly commit serious offences.</p> <p>At [295] some cumulation sentence also be expected where there is more than one victim.</p> <p>At [288]-[293] firming up sentences child sex offences as courts now have better understanding long term effects this type offending has on victim.</p> <p>At [297] firming up of sentences to enact legislative intent in altering penalties for sex offences.</p>
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<p><b>18.</b></p>	<p><i>TJD v The State of Western Australia</i></p> <p><b>[2004] WASCA 310</b></p> <p>Delivered 22/12/2004</p>	<p>35-37 yrs at time offending.</p> <p>Convicted after late PG on indictment 1 (entered 4 days prior to pre-recording).</p> <p>Convicted after early PG indictment 2.</p> <p>Victim proven and deprived sexual abuse - son of appellant in "<i>D</i>" v <i>The Queen</i> [2003] WASCA 33.</p> <p>Steroid use had reduced size of appellant's genitals.</p>	<p>Victims were appellant's daughters. Victims aged 9 and 11 yrs.</p> <p><u>Indictment 1:</u> Victim 1, 9 yrs. Ct 1: Sex pen child u 16 yrs (penile pen mouth). Ct 2: Sex pen child u 16 yrs (penile pen mouth). Ct 3: Sex pen child u 16 yrs (penile pen mouth). Ct 4: Sex pen child u 16 yrs (penile pen mouth). Offending occurred during access visits (appellant divorce from victim's mother) and involved high degree perversion and depravity – victim blindfolded and appellant ejaculated in victim's mouth.</p> <p><u>Indictment 2:</u> Victim 2, 11 yrs. Ct 1: Indecent deal lineal child u 16 yrs (directing indecent gestures at child). Ct 2: Indecent record lineal child u 16 yrs. Victim1, 9 yrs. Appellant took a series photos with victim 1 while he was dressed in speedo bathers with a large object in them, making it appear he had a very large penis. Ct 3: Indecent deal lineal child u 16 yrs (directing indecent gestures at child). Ct 4: Indecent record lineal child u 16 yrs. Ct 5: Indecent deal lineal child u 16 yrs (directing indecent gestures at child). Ct 6: Indecent record lineal child u 16 yrs. Appellant again photographed himself and victim 2 in variety sexually suggestive poses while dressed in same manner.</p>	<p>TES 7 yrs imp.</p> <p>EFP after 5 yrs imp.</p> <p>Ct 1: 2 yrs imp. Ct 2: 2 yrs 4 mths imp. Ct 3: 2 yrs 4 mths imp. Ct 4: 1 yrs 4 mths imp.</p> <p>Ct 1: 8 mths imp. Ct 2: 8 mths imp. Ct 3: 8 mths imp. Ct 4: 8 mths imp. Ct 5: 8 mths imp. Ct 6: 8 mths imp.</p>	<p>Dismissed.</p>
<p><b>17.</b></p>	<p><i>The State of Western Australia v JPR</i></p>	<p>61 yrs at time sentencing.</p> <p>Convicted after trial.</p>	<p>Both victims respondent's foster daughters. Victim 2 aged 10 yrs. Offending period over 10 yrs (1969-1980). 24 yrs between end of offending and</p>	<p>TES 6 yrs 4 mths imp (both indictments).</p>	<p>Allowed.</p> <p>Sentences on indictment 2</p>

	<p><b>[2004] WASCA 183</b></p> <p>Delivered 1/06/2004</p>	<p>Well respected community member.</p> <p>Serious health problems – angina; heart disease; bowel obstruction requiring surgery; diabetes; hypertension.</p>	<p>sentencing. Offending ended when victims able to leave home.</p> <p><u>Indictment 1:</u>  Ct 1: Indecent dealing child u 13 yrs.  Ct 2: Carnal knowledge child u 13 yrs.  Ct 3: Indecent deal child u 14 yrs.</p> <p><u>Indictment 2:</u>  Ct 1: Carnal knowledge child u 13 yrs.  Ct 2: Carnal knowledge child u 13 yrs.  Ct 3: Carnal knowledge child u 13 yrs.  Charges representative of course of conduct.</p>	<p>No remorse.</p> <p>Ct 1: 2 yrs imp.  Ct 2: 3 yrs 4 mths.  Ct 3: 2 yrs imp.  TES 5 yrs 4 mths imp.</p> <p>Ct 1: 1 yr imp.  Ct 2: 1 yr imp.  Ct 3: 1 yr imp.  TES 1 yr imp cum TES indictment 1.</p>	<p>increased to 2 yrs 8 mths each ct.</p> <p>TES increased to 8 yrs imp (both indictments).</p> <p>EFP after 6 yrs imp.</p> <p>NB: double jeopardy applied to State appeals.</p>
<p><b>16.</b></p>	<p><b><i>Rogers v The Queen</i></b></p> <p><b>[2004] WASCA 47</b></p> <p>Delivered 2/07/2004</p>	<p>37 yrs at time offending.</p> <p>Convicted after negotiated PG (3 cts on indictment dropped in exchange PG on cts 4 &amp; 5).</p> <p>No relevant prior criminal record.</p>	<p>Victim appellant's step-daughter. Offending period approx 13 mths. Victim aged 8 yrs.</p> <p>Counts representative of sexual relationship lasting approx 12 mths.</p> <p>Ct 4: Sex pen de facto child u 16 yrs (penile pen vagina).  Ct 5: Sex pen de facto child u 16 yrs (penile pen vagina).</p> <p>Victim's mother in hospital at time offending – she was regularly hospitalised during that period due to illness and appellant had sole care of victim and her siblings.</p> <p><u>Ct 4:</u> appellant home with victim and one of the victim's brothers. Appellant locked victim's brother out of the house and called victim into his bedroom. Victim lay down on bed next to appellant and appellant removed her underwear and rolled her onto her side. Appellant inserted his penis into her</p>	<p>TES 8 yrs imp.</p> <p>Ct 4: 8 yrs imp.</p> <p>Ct 5: 8 yrs imp.</p> <p>Attempted to avoid blame.</p>	<p>Dismissed.</p> <p>At [90] repeated sexual offending over period of time places offender's culpability at the higher level on the scale.</p> <p>At [94]-[95] greater awareness in last decade of immense damage done to children as a result sexual abuse/assault as seen a firming up of sentences for that type offending.</p> <p>At [98] generally, owing to age disparity between offender and victim it is of no import that there is an</p>

			<p>vagina.</p> <p><u>Ct 5</u>: victim's siblings at school and victim kept home by appellant. Appellant again called victim into his bedroom. Victim lay down on bed next to appellant and appellant removed her underwear and rolled her onto her side. Appellant inserted his penis into her vagina.</p> <p>Told victim on both occasions that it was their "little secret" and not to tell anyone.</p>		absence of threats or physical violence.
15.	<p><i>LSC v The Queen</i></p> <p>[2003] WASCA 303</p> <p>Delivered 5/12/2003</p>	<p>30 yrs at time offending. 38 yrs at time sentencing. (victim 17 yrs at sentencing).</p> <p>Convicted after fast-track PG.</p> <p>No prior criminal record.</p> <p>Willing to participate in treatment – relieved when offending disclosed by daughter; wanted to stop offending but felt powerless to do so; agreed to transfer half his property to victim to ameliorate damage inflicted.</p> <p>Sexually abused as a child; completely shunned by family as result offending.</p>	<p>Victim was appellant's daughter. Offending period 8 yrs. Victim aged 9-17 yrs.</p> <p>At [87] Gross and prolonged breach of trust over extended period of time involving high degree perversion and deviance.</p> <p>Ct 1: Indecent dealing (touch vagina).  Ct 2: Indecent dealing (touch bottom).  Ct 3: Indecent dealing (rub penis on bottom).  Ct 4: Indecent dealing (touch bottom).  Ct 5: Sex pen (digital pen anus).  Ct 6: Indecent dealing (ejaculating on back).  Ct 7: Sex pen (digital pen anus).  Ct 8: Sex pen (vibrator pen anus).  Ct 9: Sex pen (penile pen anus).  Ct 10: Sex pen (lollies in anus).  Ct 11: Indecent dealing (masturbating on the child).  Ct 12: Sex pen (lollies in anus).  Ct 13: Indecent dealing (masturbating in front of child).  Ct 14: Sex pen (cunnilingus).  Ct 15: Sex pen (penile pen mouth).  Ct 16: Sex pen (penile pen vagina).</p>	<p>TES 19 yrs imp.</p> <p>EFP.</p> <p>Genuine remorse; unlikely to re-offend.</p> <p>Ct 1: 30 mths imp.  Ct 2: 30 mths imp.  Ct 3: 30 mths imp.  Ct 4: 30 mths imp.  Ct 5: 6 yrs imp.  Ct 6: 3 yrs imp.  Ct 7: 6 yrs imp.  Ct 8: 8 yrs imp.  Ct 9: 9 ½ yrs imp.  Ct 10: 6 yrs imp.  Ct 11: 3 yrs imp.  Ct 12: 6 yrs imp.  Ct 13: 3 yrs imp.</p> <p>Ct 14: 5 yrs imp.  Ct 15: 5 yrs imp.  Ct 16: 8 yrs imp.</p>	<p>Allowed.</p> <p>TES reduced to 16 ½ yrs imp.</p> <p><u>Sentences on appeal:</u></p> <p>Ct 1: 16 mths imp.  Ct 2: 16 mths imp.  Ct 3: 16 mths imp.  Ct 4: 16 mths imp.  Ct 5: 32 mths imp.  Ct 6: 16 mths imp.  Ct 7: 32 mths imp.  Ct 8: 32 mths imp.  Ct 9: 4 yrs imp.  Ct 10: 32 mths imp.  Ct 11: 16 mths imp.  Ct 12: 32 mths imp.  Ct 13: 16 mths imp.</p> <p>Ct 14: 32 mths imp.  Ct 15: 32 mths imp.  Ct 16: 4 yrs imp.</p>

		Married at 20 yrs old; 2 children (son as well as victim).	<p>Ct 17: Sex pen (penile pen anus).  Ct 18: Indecent record child.  Ct 19: Indecent deal (shave child's pubic hair).  Ct 20: Sex pen (cunnilingus).  Ct 21: Sex pen (penile pen anus).  Ct 22: Indecent deal (rub penis between child's legs).  Ct 23: Sex pen (penile pen vagina).  Ct 24: Sex pen (penile pen vagina).  Ct 25: Sex pen (penile pen vagina).  Ct 26: Sex pen (penile pen vagina).  Ct 27: Indecent dealing (touch breasts).  Ct 28: Indecent dealing (touch breasts).  Ct 29: Indecent dealing (touch vagina).  Ct 30: Sex pen (cunnilingus).  Ct 31: Sex pen (penile pen vagina).  Ct 32: Sex pen (penile pen vagina).  Ct 33: Sex pen (hose into anus).  Ct 34: Sex pen (penile pen anus).  Ct 35: Indecent dealing (masturbating).</p>	<p>Ct 17: 9 ½ yrs imp.  Ct 18: 3 yrs imp.  Ct 19: 3 yrs imp.  Ct 20: 5 yrs imp.  Ct 21: 9 ½ yrs imp.  Ct 22: 8 yrs imp.  Ct 23: 8 yrs imp.  Ct 24: 8 yrs imp.  Ct 25: 8 yrs imp.  Ct 26: 8 yrs imp.  Ct 27: 3 yrs imp.  Ct 28: 12 mths imp.  Ct 29: 12 mths imp.  Ct 30: 3 yrs imp.  Ct 31: 4 yrs imp.  Ct 32: 4 yrs imp.  Ct 33: 4 yrs imp.  Ct 34: 6 yrs imp.  Ct 35: 12 mths imp.</p>	<p>Ct 17: 4 yrs imp.  Ct 18: 16 mths imp.  Ct 19: 16 mths imp.  Ct 20: 32 mths imp.  Ct 21: 4 yrs imp.  Ct 22: 16 mths imp.  Ct 23: 16 mths imp.  Ct 24: 16 mths imp.  Ct 25: 16 mths imp.  Ct 26: 16 mths imp.  Ct 27: 16 mths imp.  Ct 28: 12 mths imp.  Ct 29: 12 mths imp.  Ct 30: 2 yrs imp.  Ct 31: 3 yrs imp.  Ct 32: 3 yrs imp.  Ct 33: 2 yrs imp.  Ct 34: 3 yrs imp.  Ct 35: 12 mths imp.</p> <p>Sentencing judge did not apply totality principle as per <i>Pearce v The Queen</i> (1998) 194 CLR 610.</p>
14.	<p><b><i>Webb v The Queen</i></b>  [2003] WASCA 266  Delivered 6/11/2003</p>	<p>38 yrs at time offending.  Convicted after fast-track PG – co-operated with police (appellant's voluntary disclosure during police interview lead to cts 2, 3, 4 &amp; 7 being charged).</p>	<p>Victim appellant's step-daughter (victim called appellant 'dad'). Offending period approx 4 mths. Victim aged 14 yrs.  Ct 1: Indecent deal de facto child u 16 yrs (touched breasts).  Ct 2: Indecent deal de facto child u 16 yrs (touched vagina).  Ct 3: Indecent deal de facto child u 16 yrs (touched vagina).</p>	<p>TES 8 yrs imp.  EFP.  Extremely remorseful; voluntarily vacated family home and advised wife and children via solicitor</p>	Dismissed.

		<p>No relevant prior criminal record.</p> <p>Willing to engage in treatment.</p> <p>Good antecedents, education and employment history.</p>	<p>Ct 4: Indecent deal de facto child u 16 yrs (touched vagina, breasts and legs).  Ct 5: Sex pen de facto child u 16 yrs (digital pen vagina).  Ct 6: Sex pen de facto child u 16 yrs (cunnilingus).  Ct 7: Indecent dealing (masturbating in front of child to ejaculation).</p> <p><u>Ct 1:</u> victim concerned about her weight and appellant asked victim to let him measure her. Appellant took victim to his office and asked her to take her skirt off – measured her waist, hips and inner thighs. Victim lifted top and bra at appellant’s request so he could measure her breasts (touching her breasts in the process). Appellant asked victim to pull underwear down, victim refused. Appellant asked victim if he could see her vagina, victim refused. Victim re-dressed and left office.  <u>Ct 2:</u> victim’s mother not home. Appellant went into victim’s bedroom while she was in bed, sat on her bed and began talking to her. Appellant put hand inside her pyjama top and rubbed her breast over her singlet. Appellant then rubbed vaginal area through her pyjamas.  <u>Ct 3:</u> appellant drove victim from Albany to Perth so she could attend her grandfather’s funeral. In the car the appellant touched her vagina and rubbed her legs in an inappropriate manner.  <u>Ct 4:</u> appellant drove victim back to Perth after Albany and again touched her vagina, as well as rubbing her legs and touched her breasts. Victim tried to keep her legs closed but appellant became rough with her and forced her legs apart while the victim was shouting at him. They later stopped at roadhouse and appellant said it had just been an</p>	<p>they could return; asked to be remanded in custody; medium-low risk re-offending.</p> <p>Ct 1: 2 yrs imp.</p> <p>Ct 2: 2 yrs imp.</p> <p>Ct 3: 2 yrs imp.</p> <p>Ct 4: 2 yrs imp.</p>	
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			<p>exercise so that the victim would know what to do if the situation arose in a stranger's car. Appellant also said he would do the same thing for victim's younger sister.</p> <p><u>Ct 5:</u> Victim was in bed and appellant entered her room. Appellant placed hands in her underwear and digitally penetrated her.</p> <p><u>Ct 6:</u> Victim's mother away overnight. Appellant entered victim's bedroom and sat on edge of bed. Appellant asked victim if he could touch her and then taste her. Victim said no. Appellant straddled victim (his bottom facing her face), pinned her arms down with his knees, forcibly removed her underwear and briefly performed oral sex. Victim screaming and struggling.</p> <p><u>Ct 7:</u> Appellant entered victim's bedroom when she was in bed and rubbed her vagina outside her clothing. Appellant then exposed penis, placed it on her leg and masturbated until ejaculating on her leg and underwear. Appellant then left and victim washed and changed clothes before going to sleep. Following day, appellant asked victim how she felt about what he had done and offered her money, a ring and a computer if she let him do it again. Victim refused and appellant thanked her and acknowledge she was not a prostitute.</p>	<p>Ct 5: 6 yrs imp.</p> <p>Ct 6: 6 yrs imp.</p> <p>Ct 7: 2 yrs imp.</p>	
<b><i>Transitional Provisions Enacted (31/08/2003)</i></b>					
13.	<p><b><i>R v Chilvers</i></b></p> <p><b>[2003] WASCA 87</b></p> <p>Delivered</p>	<p>42 yrs at sentencing.</p> <p>Excellent work record; good citizen.</p> <p>Attending Safecare, as were</p>	<p>Victims were appellant's de facto daughters.</p> <p><u>Indictment 1:</u> all relate to victim 1.</p> <p>Ct 1: Indecent deal de facto child u 16 yrs (touch vagina on outside underwear).</p> <p>Ct 2 &amp; 3: Indecent deal de facto child u 16 yrs (run</p>	<p>TES 3 yrs imp susp 2 yrs and ISO 2 yrs.</p> <p>Ct 1: 18 mths imp susp 2 yrs.</p> <p>Ct 2 &amp; 3: ISO 2yrs.</p>	<p>Dismissed.</p> <p>Crucial component in appeal was 6 mths delay in appeal being heard – favourable report from</p>

	28/04/2003	victims and de facto wife; good group participant; making progress.	hands over legs and up hips and inside bather bottoms; attempting to kiss victim and insert tongue in her mouth). <u>Indictment 2:</u> all relate to victim 2. Ct 1: Sex pen de facto child u 16 yrs (digital pen vagina). Ct 2: Indecent deal de facto child u 16 yrs. Ct 3: Sex pen de facto child u 16 yrs.	Ct 1: 18 mths imp susp 2 yrs. Ct 2 & 3: ISO 2yrs.	Safecare as to benefits of program for appellant and victims.  NB: double jeopardy applied to State appeals.
12.	<b><i>Merino v The Queen</i></b> <b>[2003] WASCA 18</b>  Delivered 17/02/2003	40 yrs at time sentencing.  Convicted after early PG.  No relevant prior criminal record.  Troubled background; emigrated from El Salvador in 1992; separated and reconciled with wife on numerous occasions.  Alcohol abuse issues – vague and unwilling to discuss offending claiming too drunk to remember any of it.	Victim was appellant’s daughter. Offending period approx 4 yrs. Victim aged 7-11 yrs.  Ct 1: Indecent dealing. Ct 2: Sex pen. Ct 3: Sex pen. Ct 4: Sex pen. Ct 5: Indecent dealing. Ct 6: Att sex pen.  <u>Cts 1 &amp; 2:</u> victim aged 7 yrs. Appellant masturbated in front of victim whilst she was lying next to him on the bed. Appellant then got on top of victim, removed her clothing and penetrated her vagina with his penis. Appellant told victim not be afraid as it was something she was going to do with her boyfriend.  <u>Ct 3:</u> Victim aged 7 yrs and offending occurred several weeks after cts 1 & 2. Appellant entered victim’s bedroom, exposed his erect penis, picked her up, put her on the bed and forced his penis into	TES 12 yrs imp. Equivalent to 8 yrs imp after implementation of transitional provisions.  No remorse or insight.  Ct 1: 2 yrs imp. Ct 2: 10 yrs imp. Ct 3: 10 yrs imp. Ct 4: 12 yrs imp. Ct 5: 3 yrs imp. Ct 6: 5 yrs imp.	Dismissed.  <i>At [13] ‘the law demands the protection of young children from offending of this kind, with the result that the dominant sentencing considerations will be punishment and general and personal deterrence.’</i>

			<p>her vagina. Victim crying, struggling and screaming.</p> <p><u>Ct 4:</u> victim aged 11 yrs and offending occurred approx 4 yrs after cts 1, 2 &amp; 3. Appellant, victim and her 13 yr old brother watching pornographic movies. Victim and her brother engaged in sexual intercourse while appellant watched. Appellant then told victim he was going to have sex with her. Victim refused. Appellant forcibly penetrated vagina with penis while son watched. Appellant told daughter it was a secret between the three of them.</p> <p><u>Cts 5 &amp; 6:</u> victim aged 11 yrs and offending occurred approx 11 mths after ct 4. Appellant put pornographic movie on, victim asked him to turn it off and went to leave the room. Appellant followed her, grabbed her from behind and pulled her to him. Appellant then lay on top of her. Victim crying, screaming and struggling.</p>		
11.	<p><b><i>B v The Queen</i></b></p> <p><b>[2002] WASCA 236</b></p> <p>Delivered 28/08/2002</p>	<p>Convicted after PG.</p> <p>No relevant prior criminal record.</p> <p>Victim sexual abuse.</p>	<p>Appellant father of 4 victims (twin girls, one boy and a younger girl). Victims aged 3-6 yrs.</p> <p>4 x Sexual relationship child u 16 yrs s 321A(3) <i>Criminal Code</i> (max penalty 20 yrs imp).</p> <p>Offending one of the worst cases ever seen by courts and child abuse specialist (including staff at PMH). At [31] <i>'I know of no case involving such concentrated and depraved abuse by a father of his infant children'</i>.</p> <p>Included repeated incidents of digital and penile sex pen of vagina and anus, victims being forced to perform fellatio on appellant (including swallowing ejaculate).</p>	<p>TES 20 yrs imp.</p> <p>Equivalent to 13 yrs 4 mths imp after implementation of transitional provisions.</p>	Dismissed.



			Victim's mother left home with children but appellant obtained family court order returning the children to his custody. During period of offending, the appellant was at home looking after the victim and receiving social security payments for doing so.		
10.	<b>R v G</b>  [2001] WASCA 160  Delivered 23/05/2011	30 yrs at time sentencing.  Convicted after trial.  No prior criminal record.  Unable to recall offending – possibly due to alcohol and drug abuse.  Sexually abused as child; became pregnant at 17 yrs to co-offender; never been employed; subjected to physical and sexual abuse by husband; completely dominated by husband.  Depression (treated by medication) at time offending.	Appellant victim's mother. Co-offender victim's father (4 x sex pen; 2 x indecent deal; TES 13 yrs imp). Victim aged 8-10 yrs.  1 x Indecent deal child u 16 (engaged in sexual intercourse with co-offender on front of victim). 1 x Sex pen child u 16 (present on the room when co-offender engaged in penile pen of victim's vagina). 1 x Sex pen child u 16 (while co-offender was away from home, inserted dildo into victim's vagina).  Offending came to light after respondent was deposed during course family court proceedings after father took children on visit to South Australia without respondent's knowledge and respondent became concerned– alleged co-offender began abusing victim when she was a few months old. As result respondent's admissions, children removed from home and placed in the care of the State.	TES 6 yrs imp. Equivalent to 4 yrs imp after implementation of transitional provisions.  EFP.  1 yr imp.  6 yrs imp.  3 yrs imp.  Remorse; relief that children were safe from further harm and had chance at normal upbringing even if it was without her.	Dismissed – lenient but not so as to manifest error.  At [45] ' <i>...abhorrence of the offending and the seriousness of such cases must be marked by condign punishment.</i> '
9.	<b>Boudville v The Queen</b>	48 yrs at time sentencing.  Convicted after trial.	Victim appellant's de facto daughter (victim called him 'dad' and viewed him as her father). Offending period approx 3 yrs. Victim aged 12-15 yrs	TES 11 yrs imp. Equivalent to 7 yrs 4 mths imp after	Dismissed.

<p>[2001] WASCA 133</p> <p>Delivered 26/04/2001</p>	<p>No relevant prior criminal record.</p> <p>Left school at 16 yrs to do electrical apprenticeship; good employment history until motor vehicle accident.</p> <p>Divorced previously with 2 sons from that marriage; emigrated to Australia with family 20 yrs old; family supportive after offending revealed.</p> <p>At sentencing appellant invalid pensioner – memory loss, blackouts, headaches, asthma</p>	<p>Ct 1: Indecent deal de facto child u 16 yrs. Cts 3, 4, 5, 6, 7, 8 &amp; 11: Sex pen de facto child u 16 yrs.</p> <p><u>Ct 1:</u> Victim aged 12 or 13 yrs. Appellant, victim, victim’s mother and victim’ brother attended swap meet as sellers. Arrived at approx 4am to get a good position. Victim, victim’s younger brother and mother asleep in car. Victim awoke to find appellant’s hand fondling her breasts under her clothing. Victim pushed appellant’s hand away but appellant persisted and placed hand in her underwear and touched her vagina. Victim turned over and appellant stopped.</p> <p><u>Ct 3:</u> Victim’s mother at bingo. Appellant called victim into his bedroom, telling her he had a surprise for her. Victim entered room and appellant took his clothes off and told victim to do the same. Victim complied and lay on the bed. Appellant lubricated penis and engaged in sexual intercourse, ejaculating on the victim’s stomach.</p> <p><u>Ct 4:</u> Victim’s mother at bingo. Appellant called victim into his bedroom. Both undressed and victim lay on bed. Appellant placed pillows under victim’s buttocks, lubricated his penis and engaged in sexual intercourse – ejaculated on victim’s stomach.</p> <p><u>Ct 5:</u> Appellant called victim into his bedroom. Both undressed and victim lay on bed. Appellant placed pillows under victim’s buttocks, lubricated his penis</p>	<p>implementation of transitional provisions.</p> <p>EFP.</p> <p>No remorse.</p>	
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			<p>and engaged in sexual intercourse – ejaculated on victim’s stomach.</p> <p><u>Ct 6:</u> Several weeks earlier appellant brought victim singlet top and G-string underwear. Appellant asked victim to put underwear on. Appellant made victim lay on bed, removed victim’s underwear and engaged in sexual intercourse.</p> <p><u>Ct 7:</u> Victim’s mother not at home. Victim concerned she may be pregnant as result appellant’s behaviour as her period was late. Appellant called victim into his bedroom, told her to lay on the bed and engaged in sexual intercourse.</p> <p><u>Ct 8:</u> Appellant’s birthday. Victim said she had no money to buy appellant present. Appellant suggested she have sex with him a present. Sexual intercourse occurred when victim’s mother not home.</p> <p><u>Ct 11:</u> Victim 16 yrs. Victim’s mother at bingo. Appellant called victim into his bedroom. Both undressed and victim lay on bed. Appellant placed pillows under victim’s buttocks, lubricated his penis and engaged in sexual intercourse – ejaculated on victim’s stomach.</p>		
8.	<p><b><i>King v The Queen</i></b></p> <p><b>[2001] WASCA 103</b></p> <p>Delivered 21/03/2001</p>	<p>49 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No relevant prior criminal record.</p> <p>Second wife pregnant at</p>	<p>Victim appellant’s daughter. Offending period approx 2 yrs. Victim aged 8-10 yrs (14 yrs at time trial).</p>	<p>TES 10 yrs imp. Equivalent to 6 yrs 8 mths imp after implementation of transitional provisions.</p> <p>EFP.</p>	Dismissed.

		<p>time trial and sentencing; suffered from anxiety and hypertension (possibly linked to trial).</p>	<p>Ct 3: Indecent deal lineal child u 16 yrs.  Ct 4: Indecent deal lineal child u 16 yrs.  Ct 5: Indecent deal lineal child u 16 yrs.  Ct 6: Indecent deal lineal child u 16 yrs.  Ct 7: Indecent deal lineal child u 16 yrs.  Ct 8: Sex pen lineal child u 16 yrs (digital pen vagina).  Ct 9: Indecent deal lineal child u 16 yrs.  Ct 10: Indecent deal lineal child u 16 yrs.  Ct 11: Indecent deal lineal child u 16 yrs.  Ct 12: Threat to kill.  Ct 13: Sex pen lineal child u 16 yrs (penile pen vagina).</p> <p><u>Cts 3 &amp; 4:</u>  Victim left in appellant's care by mother following their separation. Appellant kissed victim, inserting his tongue in her mouth, and stroked her upper legs and vaginal area.</p> <p><u>Cts 5 &amp; 6:</u>  Victim staying with appellant during access visit. Appellant entered shower while victim showering and masturbated in front of victim. Appellant rubbed ejaculate on child's chest and stomach.</p> <p><u>Cts 7-11:</u>  Victim 9 yrs and staying at appellant's house shortly after Christmas. Appellant entered shower while victim was showering and felt victim's breasts (ct 7). Appellant then inserted two fingers into her vagina (ct 8). Removed fingers and rubbed them on victim's face (ct 9). Appellant then touched child's breasts and began to masturbate. Appellant placed victim's hand on his penis and forced her to</p>	<p>Ct 3: 1 yr imp.  Ct 4: 18 mths imp.  Ct 5: 18 mths imp.  Ct 6: 2 yrs imp.  Ct 7: 18 mths imp.  Ct 8: 3 yrs imp.  Ct 9: 18 mths imp.  Ct 10: 2 yrs 6 mths imp.  Ct 11: 18 mths imp.  Ct 12: 3 yrs imp.  Ct 13: 7 yrs imp.</p>	
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			<p>masturbate him (ct 10). Appellant ejaculated and rubbed semen on victim's chest and stomach (ct 11).</p> <p><u>Ct 12 &amp; 13:</u> Victim turned 10 day prior and was in care of appellant during access visit. Appellant entered victim's bedroom armed with a knife. Appellant put blade to victim's throat and threatened to kill her if she made a noise. Appellant ordered victim to undress and then lay on top of her. Appellant spread victim's legs, held her hands behind her back and engaged in sexual intercourse.</p>		
7.	<p><b><i>Bell v The Queen</i></b></p> <p><b>[2001] WASCA 40</b></p> <p>Delivered 22/02/2001</p>	<p>58 yrs at sentencing.</p> <p>Convicted after trial.</p> <p>Minor prior criminal record.</p> <p>Good work history.</p>	<p>Victim appellant's son. Offending period 1974-1975 (26-27 yrs between offending and conviction). Victim aged 7-8 yrs.</p> <p>Cts 1-5: Indecent dealing child u 14 yrs s 183 <i>Criminal Code</i> (max penalty 7 yrs imp).</p> <p><u>Cts 1, 2 &amp; 3:</u> Victim 7 yrs. Appellant and son showered together. Afterwards, the appellant took victim into his bedroom and sat him on bed, saying they were going to play a special game. Appellant then played with victim's penis and asked if he liked it (ct 1). Appellant then placed victim's penis in his mouth and performed oral sex (victim was not stimulated) (ct 2). Appellant then demonstrated how victim should perform oral sex on him and placed erect penis in victim's mouth. Appellant forced victim to perform oral sex until ejaculating in victim's mouth (ct 3). Appellant told victim semen was 'protein' and 'good for him' so he should swallow it. Appellant then told victim it was their 'little secret'</p>	<p>TES 5 yrs imp. Equivalent to 3 yrs 4 mths imp after implementation of transitional provisions.</p> <p>EFP.</p> <p>Lack of remorse; denied offending.</p>	<p>Dismissed.</p> <p>Discussion in detail as to role of delay between time offending and sentencing and role of rehabilitation during that period in sentencing.</p>

			<p>and not to tell anyone.</p> <p><u>Ct 4 &amp; 5:</u>          Occurred several months after cts 1-3. Appellant arrived home intoxicated and argued with wife about his plan to take victim camping, despite the late time and winter cold. Appellant got victim out of bed, dressed him and drove off at speed in an erratic manner. Appellant drove to City Beach and took victim into dunes with a sleeping bag. Appellant laid sleeping bag out and removed his pants and the victim's pants. Appellant kissed victim on mouth, inserting his tongue into the victim's mouth (ct 4). Appellant forced victim to perform oral sex on him, again insisting he swallow the semen (ct 5). Appellant told victim it was a manly and natural thing to do and the Greek soldiers used to do it. Appellant then slept for a short while before returning home with the victim.</p> <p>Appellant claimed offending stopped when he was rebuffed by victim (approx 13 yrs old).</p>		
6.	<p><b><i>R v Legget</i></b></p> <p><b>[2000] WASCA 327</b></p> <p>Delivered 3/11/2003</p>	<p>49 yrs at time sentencing.</p> <p>Convicted after PG.</p>	<p>Victim appellant's step-daughter. Offending period 1981-1983. Victim aged 11-12 yrs. 19 yrs between offending and sentencing.</p> <p>Cts 1-6, 9 &amp; 10: Indecent deal child u 13 yrs s 189(2) <i>Criminal Code</i> (max penalty 7 yrs imp).          Ct 7 &amp; 8: Carnal knowledge s 185 <i>Criminal Code</i> (max penalty 20 yrs imp).</p> <p>Four separate incidents of offending.</p> <p><u>Incident 1:</u></p>	<p>TES 4 yrs imp.          Equivalent to 2 yrs 8 mths imp after implementation of transitional provisions.</p> <p>Cts 1-6, 9 &amp; 10: 1 yr imp each ct.          Ct 7 &amp; 8: 2 yrs imp each ct.</p> <p>Minimised offending; tried to blame victim;</p>	<p>Allowed.</p> <p>TES increased to 6 yrs 4 mths imp.</p> <p>EFP.</p> <p>At [35]-[37] discussion as to significance of gap between offending and sentencing.</p>

			<p>Victim 11 yrs. Victim at respondent's workshop after school. Victim, after having had sex education at school and being too embarrassed to ask her what masturbation meant, asked respondent what masturbation meant. Respondent became aroused explaining and placed victim's hand on his erect penis under his clothing. Respondent held victim's hand and made her stroke his penis.</p> <p><u>Incident 2:</u> Victim 11 yrs. Victim's mother was out and respondent entered victim's bedroom. Respondent told victim to lie on her back, pushed her knees up, took off her underwear and performed cunnilingus on her while touching her breasts. Respondent then pulled victim up and told her to suck his penis. Victim complied for a short while until she felt sick and began to gag. Respondent instructed victim how to masturbate him and victim did so until ejaculation.</p> <p><u>Incident 3:</u> Victim 12 yrs. Respondent entered victim's bedroom and engaged in sexual intercourse despite victim's protestations that it hurt.</p> <p><u>Incident 4:</u> Victim 12 yrs. Victim and respondent in swimming pool and respondent asked victim to touch his penis. Victim went to comply and appellant pushed her head under the water to his groin. Victim put respondent's penis in her mouth and respondent pushed her up and down. Victim came up for air and respondent pushed her back down. As victim about to place penis in mouth again, respondent pushed her away. Victim resurfaced to see her mother walking into the pool area.</p>	<p>lack of insight.</p>	
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			Victim disclosed offending to mother at 29 yrs old. Respondent left family home but reunited with victim's mother after a few weeks.		
5.	<b><i>Chinnery v The Queen</i></b>  [2000] WASCA 295  Delivered 18/10/2000	32 yrs at time sentencing.  Convicted after fast track PG – made full admissions when knew offending would be disclosed.  Minor prior criminal record – no prior sexual offending.  Affected by cannabis and alcohol at time offending.	Victim appellant's de facto daughter. Victim 9 yrs.  1 x Sex pen de facto child u 16 yrs.  Appellant's relationship with victim's mother had broken down and victim was in appellant's sole care. Appellant has been at a neighbour's house. Returned home, entered victim's bedroom, removed victim's clothing and his own clothing. Appellant then engaged in sexual intercourse with victim – telling child during intercourse “this is what sex is all about”. Appellant decided to engage in the conduct, notwithstanding that he knew it to be legally and morally wrong, as he believed it would not be discovered.  In months prior to offending, appellant had inappropriately touched and kissed victim.	TES 8 yrs imp. Equivalent to 5 yrs 4 mths imp after implementation of transitional provisions.  EFP.  Remorseful but not true remorse (likely re-offend if intoxicated and believed safe to do so); sought counselling for himself and victim; sought alcohol and drug treatment.	Allowed.  TES reduced to 6 yrs imp.  EFP.  At [19] abuse of trust aggravating feature of offending which required substantial punishment as per <i>Woods v The Queen</i> (1995) 14 WAR 341.  At [28] ‘... <i>personal antecedents, as I think existed hers, such as relatively good antecedents, contrition, an apparently serious attempt to achieve the offender's rehabilitation and the like, have diminished mitigatory power.</i> ’
4.	<b><i>CA v The Queen</i></b>  [2000] WASCA 176  Delivered 30/06/2000	Convicted after trial.  Prior criminal record – agg assault (followed young girl along bush track and put his arm around her waist) and agg indecent assault (victim	Victim appellant's daughter. Offending period 6 yrs (1998-1994). Victim aged 5-11 yrs.  Ct 1: Carnal knowledge lineal child. Ct 2: Indecent deal child u 14 yrs (appellant made	TES 9 yrs imp. Equivalent to 6 yrs imp after implementation of transitional provisions.  Ct 1: 9 yrs imp. Ct 2: 4 yrs imp.	Allowed.  TES undisturbed.  <u>Sentences on appeal:</u> Ct 1: 7 yrs imp (9 yrs



		11 yr old neighbour).	victim masturbate him). Ct 3: Indecent deal child u 14 yrs (appellant pulled down victim's underwear). Ct 4: Indecent deal child u 14 yrs (appellant touched victim's breasts).	Ct 3: 18 mths imp. Ct 4: 1 yr imp.	manifestly excessive) Ct 2: 2 yrs imp (to allow for TES to remain 9 yrs)
3.	<b><i>D v The Queen</i></b> <b>[2000] WSACA 137</b>  Delivered 22/05/2000	40 yrs at time offending (victim 1). 52-58 yrs at time offending (victim 2). 56-58 yrs at time offending (victim 3).  Convicted after PG.  Depressive disorder.	3 victims – victims 1 & 2 appellant's daughters; victim 3 appellant's grand-daughter. Victim 1 15 yrs; victim 2 4-10yrs; victim 3 5-7 yrs.  Ct 1: Indecent assault (victim 1). Cts 2-7: Indecent deal lineal child u 16 yrs (victim 2). Ct s 8-11: Indecent deal lineal child u 16 yrs (victim 3).  In total offending consisted of 5 acts fondling; 3 acts fondling and masturbating in presence of victim; 1 act fondling and having victim masturbate him; one act looking at victim's genitalia and masturbating; one act looking at victim's genitalia. No acts of penetration or attempted penetration.  Gravely serious offending – prolonged period of time, numerous victims, persistent pattern of conduct.	TES 5 yrs imp. Equivalent to 3 yrs 4 mths imp after implementation of transitional provisions.  Remorse.  Ct 1: 1 yr imp. Cts 2-7: 2 yrs imp each ct. Cts 8-11: 2 yrs imp each ct.	Dismissed.
2.	<b><i>R v M</i></b> <b>[1999] WASCA</b>	40 yrs at time appeal.  No relevant prior criminal	Victim appellant's son. Victim 2-8 yrs.  1 x Sexual relationship lineal child u 16 yrs.	TES 3 yrs imp. Equivalent to 2 yrs imp after implementation of	State appeal allowed.  TES increased to 4 ½ yrs

	<p><b>53</b></p> <p>Delivered 15/06/1999</p>	<p>record.</p> <p>Wife intellectually handicapped (mother of victim and sibling; married 18 yrs); children removed from appellant and wife's care in 1995 – concerns as to neglect, unclean environment; inadequately food, clothing and supervision.</p>	<p>Appellant would squeeze and pull victim's penis and make victim perform fellatio on him. Appellant also physically abused victim.</p> <p>Offending disclosed after victim placed in foster care.</p>	<p>transitional provisions.</p> <p>EFP.</p> <p>No insight; externalised blame; high risk re-offending without treatment.</p>	<p>imp.</p> <p>NB: double jeopardy applied to State appeals – without that consideration appropriate TES 6 yrs imp.</p>
1.	<p><b><i>The Queen v Lippiatt</i></b></p> <p><b>Supreme Court Library No 980065</b></p> <p>Delivered 17/02/1998</p>	<p>30 yrs at time offending. 40 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Employed in public service at time offending; unexceptional upbringing.</p> <p>Suffering mental illness at time appeal that had developed after offending period – relevant to extent increase hardship in prison but not causally linked to offending or mitigatory in the sense that culpability is reduced.</p>	<p>Victim respondent's nephew (respondent's brother's son). Offending period Dec 1987 – Jan 1988. Victim 10-11 yrs.</p> <p>3 x Indecent deal child u 14 yrs (max penalty 7 yrs imp). 1 x Att sex pen child u 16 yrs (max penalty 7 yrs imp). 1 x Sex pen child u 16 yrs (max penalty 20 yrs imp).</p> <p>Offending occurred when victim staying with grandmother (respondent's mother) for school holiday period. Respondent lived with mother. Victim attempted to hang himself during period offending.</p>	<p>TES 4 yrs 3 mths (spent 3 mths in custody prior to sentence). Equivalent to 2 yrs 10 mths imp after implementation of transitional provisions.</p> <p>1 yr imp each ct.</p> <p>1 yrs imp.</p> <p>3 yrs imp.</p>	<p>Allowed.</p> <p>TES increased to 6 yrs imp.</p> <p><u>Sentences on appeal:</u> 1 yr imp each ct indecent deal. 3 yrs imp att sex pen. 5 yrs imp sex pen.</p> <p>EFP.</p>

			<p><u>Incident 1:</u> Respondent masturbated himself in front of victim then pulled victim's pants down and masturbated him. Immediately after, the respondent made victim stand up and face the chair. Respondent then rubbed his penis on the victim's bottom and attempted to penetrate victim's anus but could not.</p> <p><u>Incident 2:</u> Victim had just showered. Respondent entered bathroom, knelt in front of the victim, grabbed victim's buttocks and inserted victim's penis into his mouth. Respondent sucked victim's penis until he heard his mother's footsteps approaching.</p> <p><u>Incident 3:</u> Respondent was reading pornographic magazine and began to masturbate. Respondent approached victim, pulled his pants down and masturbated his penis. Respondent then bent victim over sofa and inserted his penis into the victim's anus, moving it in and out for some time.</p>		
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