

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

ss 6(1)(a) and 6(1)(c) *Misuse of Drugs Act*

**From 1 January 2021**

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

att	attempt
agg	aggravating
conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
imp	imprisonment
MDL	motor drivers licence
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
methyl	methylamphetamine
OMG	outlaw motorcycle gang
PCJ	pervert the course of justice
PG	plead guilty
poss	possession
SIO	suspended imprisonment order
susp	suspended
SW	search warrant
TES	total effective sentence
UCO	undercover officer
VRO	violence restraining order
wiss	with intent to sell or supply

## Weight of methyl/amphetamine: above 65 grams

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
22.	<p><i>Le v The State of Western Australia</i></p> <p><b>[2022] WASCA 163</b></p> <p>Delivered 08/12/2022</p>	<p>41 yrs time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>Extensive criminal history.</p> <p>Born WA; parents refugees; two older siblings; father suffered trauma as a result of experiences in Vietnam; domestic violence; parents worked long hrs; often left to fend for himself.</p> <p>Sexually abused as a child.</p> <p>Education disrupted by frequent moves; experienced bullying; difficulties making friends; began misbehaving high school; often truanted; repeated yr 11.</p> <p>Commenced, but did not complete, TAFE course.</p> <p>Employed family business when still at school; continued to work in the business for many yrs.</p> <p>One child from former relationship.</p> <p>Long history of illicit drug</p>	<p>Cts 1-4: Sold methyl 3.4 g - 14.27 g at 69%-77% purity.</p> <p>Ct 5: Sold methyl 83.7 g at 63% purity (trafficable quantity)</p> <p>Ct 6: Offer to sell methyl 56 g (trafficable quantity).</p> <p>Ct 7: Poss methyl wiss 31.91 g (trafficable quantity).</p> <p>Ct 8: Poss unlawfully obtained property (\$7,580 cash).</p> <p>Ct 9: Poss methyl wiss 7.13 g.</p> <p>Le sold a quantity of methyl to an UCO in exchange for \$900. Analysis found the drug weighed 3.4 g and at 77% purity (ct 1).</p> <p>Two days later Le sold the UCO 3.44 g of methyl at 76% purity for \$900 (ct 2).</p> <p>About a fortnight later Le offered the UCO 56 g of methyl. At an arranged meeting Le said he could only supply 28 g of the drug. Lee supplied the UCO with a parcel of drugs for which he was paid \$5,500. Analysis found the methyl weighed 13.5 g and at 74% purity (ct 3).</p> <p>The following day Le met the UCO and supplied the UCO with a further 14.27 g of methyl at a purity of 69%. There was no payment, as this quantity was the balance for the 28 g promised the day before (ct 4).</p> <p>A few days later Le arranged to meet the</p>	<p>Cts 1 &amp; 2: 15 mths imp (conc).</p> <p>Cts 3 &amp; 4: 2 yrs imp (conc).</p> <p>Ct 5: 4 yrs 6 mths imp.</p> <p>Ct 6: 3 yrs imp (cum).</p> <p>Ct 7: 2 yrs 6 mths imp (conc).</p> <p>Ct 8: 9 mths imp (conc).</p> <p>Ct 9: 20 mths imp (conc).</p> <p>TES 7 yrs 6 mths imp.</p> <p>The sentencing judge found the appellant committed the offences for financial gain; his conduct was repeated and persistent and the offences were committed within a short time after being released from prison.</p> <p>Remorseful; desire to overcome drug dependency; past attempts at rehabilitation unsuccessful.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned totality principle.</p> <p>At [87] The total offending in this case was clearly very serious. On six separate occasions the appellant either sold or offered to sell methyl including trafficable amounts on two occasions. ... When his car was searched ..., the police located another trafficable amount of methyl as well as over \$7,000 reasonably suspected to have been unlawfully obtained. ... A further quantity of methyl was found when the appellant's house was searched. ...</p> <p>At [88] The appellant had numerous previous convictions for possessing drugs with intent to sell or supply. He had only been released from a lengthy prison sentence for similar drug offending five months prior to the current offending. ...</p> <p>At [94] It has not been established that the TES ... breached the first limb of the</p>

		<p>use; commenced using alcohol and marijuana aged 13 yrs; methyl and ecstasy aged 19 yrs; daily user of heroin.</p>	<p>UCO again. On this occasion Le arrived with another man. It was arranged the other man would provide the UCO with methyl on behalf of Le. The man then supplied the UCO with a quantity of methyl for which he paid \$16,500 cash (ct 5).</p> <p>Some days later Le offered to sell the UCO 56 g of methyl for \$11,000. This offer was made via messages sent using WhatsApp (ct 6).</p> <p>The next day, Le was apprehended. A search of his vehicle located a clipseal bag containing 75.5 g of methyl. A further search of the vehicle also revealed a pouch, containing about 1.75 g of methyl secreted behind a panel. Also found was a set of digital scales and numerous unused clipseal bags. A clipseal bag containing 1.75 g of methyl and more unused clipseal bags was also located in the roof lining. Two mobile phones were also found. The phones contained messages indicating his involvement in the sale of prohibited drugs (ct 7).</p> <p>Le was searched and cash totalling \$1,650 was found in one of his pockets. A further \$480 was found in his wallet and in the car a further \$5,450 was found (ct 8).</p> <p>The home at which Le was residing was also searched. A clipseal bag containing 7.13 g of methyl was found (ct 9).</p>		<p>totality principle. In particular, it has not been established that the TES failed to bear a proper relationship to the overall criminality involved in all of the offences, viewed in their entirety, having regard to all relevant facts and circumstances (including those referable to the appellant personally), all relevant sentencing factors, and sentences imposed in comparable cases.</p>
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<p>21.</p>	<p><b><i>Den Ridder v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 113</b></p> <p>Delivered 26/08/2022</p>	<p>36 yrs at time offending. 39 yrs at time sentencing.</p> <p>Convicted after PG (18% discount). Convicted after very late PG (cts 3, 6 &amp; 9) (8% discount).</p> <p>Formidable criminal history; prior terms of imp.</p> <p>Three siblings; fairly stable upbringing; at times subjected to violence and threats of violence.</p> <p>Stealing and fighting from aged 14 yrs; involved local gangs aged 15 yrs; left home due to his behaviour.</p> <p>Family supportive.</p> <p>Two significant relationships; two sons; both children removed from mother's care due to neglect and his incarceration; daughter and stepdaughter to current relationship.</p> <p>Commenced using methyl aged 14 yrs; methyl addiction problematic aged 19 yrs; commenced selling drugs to fund his addiction.</p>	<p>Ct 1: Sold methyl 28 g (trafficable quantity). Ct 2: Conspired to sell methyl 1.75 g. Cts 3; 5; 6; 7; 8 &amp; 11: Supplied methyl. Ct 4: Sold cannabis 28 g. Cts 9 &amp; 10: Offered to sell/supply methyl (trafficable quantity). Ct 13: Poss unlawfully obtain property (\$6,260.70 cash).</p> <p>The offending took place over a period of about five wks.</p> <p>All offences were committed while Den Ridder was on bail for firearm offences.</p> <p>Den Ridder agreed to supply an associate with methyl. He met the associate and supplied him with 28 g of the drug for \$5,000 (ct 1).</p> <p>On another occasion Den Ridder arranged for a Mr Davidson to supply a female associate with 1.75 g of methyl in exchange for \$600 (ct 2). On the same day he supplied an associate with 27.2 g of methyl with a purity of 81% (ct 3). Again on the same day, he offered to supply a female associate with a half-ounce of cannabis for \$150. When she asked whether she could instead obtain an ounce of cannabis he agreed and supplied her with the drug (ct 4).</p> <p>On another occasion Den Ridder agreed and supplied an associate with 3.5 g of methyl (ct 5).</p>	<p>Ct 1: 4 yrs imp (conc). Ct 2: 9 mths imp (conc). Ct 3: 4 yrs imp (conc). Ct 4: 3 mths imp (conc). Ct 5: 18 mths imp (cum). Ct 6: 3 yrs imp (conc). Ct 7: 2 yrs imp (conc). Ct 8: 2 yrs imp (cum).. Ct 9: 4 yrs 6 mths imp. Ct 10: 5 yrs imp (cum). Ct 11: 2 yrs 3 mths imp (conc). Ct 13: 10 mths imp (conc).</p> <p>Not genuinely remorseful; no insight into his offending.</p>	<p>Dismissed (leave refused). Appeal concerned length of sentence ct 10 and totality principle.</p> <p>At [45] In the present case, the appellant offered to sell or supply 42 g [ct 10] of methyl, against the background that he was a dealer in methyl who had access to substantial quantities of the drug and that he dealt in the drug for profit. There is no reason to doubt that he had the capacity to source the drug and that he intended to fulfil the offer. The seriousness of the offence is aggravated by the fact that he was on bail at the time of the offence.</p> <p>At [48] ... having regard to all of the relevant facts and circumstances and the sentencing principles to be applied, it is not reasonably arguable that the sentence on count 10 ... was unreasonable or plainly unjust and was therefore manifestly excessive.</p> <p>At [51] ... The quantities of methyl involved in the commission of cts 1, 3, 6, 8, 10 and 11 were reasonably significant and showed that the appellant had ready access to such quantities, and that his</p>
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			<p>The following day Den Ridder spoke with a male associate, who later attended his home and purchased 13.4 g of methyl at 79% pure (ct 6).</p> <p>On further occasions Den Ridder received a series of calls from two associates and agreed to provide them with quantities of methyl. He supplied one associate with 7.12 g of the drug (ct 7) and the other 14 g (ct 8).</p> <p>On another occasion Den Ridder spoke via mobile telephone to an associate. Den Ridder asked if he wanted ‘a big one’, being an ounce of methyl. The associated replied, ‘Yes, the usual’ (ct 9). On the same day, following a series of telephone calls he agreed to supply an associate with 42 g of methyl (ct 10).</p> <p>On another occasion Den Ridder received another series of calls from an associate in which he agreed to supply the associate with 14 g of methyl. The associate attended his home and obtained 13.7 g of the drug (ct 11).</p> <p>A SW was executed at Den Ridder’s home and \$6,260.70 in cash was located and seized (ct 13).</p>		<p>offers to sell or supply methyl were serious and able to be fulfilled. It cannot be overlooked that [he] was subject to the higher max penalty of life imp in respect of cts 1, 9 and 10.</p> <p>At [53] ... the TES imposed upon the appellant bore a proper relationship to the overall criminality involved in all of the offences the appellant committed, viewed in their entirety and having regard to all relevant facts and circumstances, ...</p>
20.	<p><b><i>Giangiulio v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 77</b></p> <p>Delivered</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Long criminal history; serious drug offending; prior</p>	<p>Ct 1: Poss methyl wiss 2 kg at 74%-76% purity.</p> <p>Ct 2: Poss cannabis wiss 3.48 kg.</p> <p>The co-offender Liadow arranged to supply an UCO with methyl. When the UCO attended Liadow’s home to</p>	<p>Ct 1: 9 yrs imp (cum).</p> <p>Ct 2: 2 yrs imp (cum).</p> <p>TES 11 yrs imp.</p> <p>EFP.</p>	<p>Dismissed (leave refused – totality principle).</p> <p>Appeal concerned parity and totality principles.</p> <p>At [81] ... we consider that the</p>

	01/07/2022	<p>sentences of imp.</p> <p>Single; two sons; grandchild; close relationship with his family.</p> <p>Left school yr 10; completed trade apprenticeship.</p> <p>Many yrs employed building industry; work-place injury 2003; delivery driver at time sentencing; very good work ethic.</p> <p>Suffers anxiety, stress, depression, high blood pressure; some deafness; dyslexic.</p> <p>Long history of illicit drug use; cannabis and methyl; not used since his arrest.</p>	<p>collect a large quantity of the drug Giangiulio entered the room. He was carrying a bag, which he placed near the entrance, before leaving.</p> <p>Liadow informed the UCO that Giangiulio was his courier. Liadow handed the shopping bag containing 2 kg of methyl to the UCO on credit for \$306,000.</p> <p>Later that same day a SW was executed at Liadow's residence.</p> <p>On the same day a SW was also executed at Giangiulio's home. Four cardboard boxes, containing 3.48 kg of cannabis in large clipseal or vacuum sealed bags were found.</p> <p>During his interview Giangiulio maintained his right to silence.</p>	<p>Co-offender Liadow sentenced to 11 yrs imp. EFP (ct 1).</p> <p>Appellant sentenced on basis he was Liadow's courier.</p> <p>The sentencing judge found that while the appellant acted as courier this did not detract from his involvement in a significant way in a criminal enterprise; although not 'the profit taker' he was paid several thousand dollars and he knew of the existence of the methyl and was prepared to deliver it.</p> <p>The sentencing judge found the appellant was in poss of a significant quantity of cannabis wiss; although he was unable to find the appellant intended to sell the cannabis for a commercial return the cannabis was packaged for the purposes of supply and he was prepared to be involved in the sale or supply of the cannabis.</p> <p>Remorseful; steps taken towards rehabilitation.</p>	<p>absence of materially greater disparity in favour of the appellant between Mr Liadow's sentence for ct 1 and the appellant's sentence for ct 1 did not infringe the parity principle or the principle of equal justice. ...</p> <p>At [82] ... The appellant's offending on ct 2 was very serious. That offending was separate and discrete from his offending on ct 1. The appellant's offending on ct 2 involved the poss of a very substantial quantity of cannabis with the intention of selling or supplying the drug so that it was disseminated into the community. The appellant's offending on ct 2 required additional punishment. ...</p> <p>At [103] We are satisfied, ... that her Honour, in arriving at the TES ..., made a qualitative and discretionary judgment to wholly accumulate the individual sentences for cts 1 and 2. ...</p>
19.	<p><i>IIO v The State of Western Australia</i></p> <p>[2022] WASCA 38</p> <p>Delivered 01/04/2022</p>	<p>20s at time offending.</p> <p>Convicted after early PG (25% discount).</p> <p>Modest criminal history.</p> <p>Came to Australia as a child.</p>	<p><u>Indictment A</u></p> <p>Cts 1-4: Sold/supplied MDMA 129.79 g at 79% &amp; 85% purity.</p> <p>Ct 5: Poss cocaine wiss 2.7 g at 35% purity.</p> <p><u>Indictment B</u></p> <p>Ct 1: Poss unlawfully obtained</p>	<p><u>Indictment A</u></p> <p>Ct 1: 6 mths imp (conc).</p> <p>Ct 2: 2 yrs imp (cum).</p> <p>Ct 3: 3 yrs 3 mths imp (cum).</p> <p>Ct 4: 3 yrs imp (conc).</p> <p>Ct 5: 6 mths imp (conc).</p> <p><u>Indictment B</u></p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [23] The appellant's offending was a serious example of its type. He was</p>

		<p>Supportive family and friends.</p> <p>Educated to yr 10; completed apprenticeship; employed; made redundant early 2020.</p> <p>History of drug use.</p>	<p>property (\$1,640 cash). Cts 2-3: Poss MDMA wiss 12.41 g at 64% and 76% purity and 69% purity.</p> <p><u>Indictment A</u> On four separate occasions, IIO sold MDMA to an UCO for \$350; \$1,700; \$3,500 and \$2,650 respectively (cts 1-4).</p> <p>A SW was executed at IIO's home. He was found in poss of a quantity of cocaine (ct 5). He had previously offered the UCO a free sample of cocaine.</p> <p><u>Indictment B</u> About a mth prior to the offence the subject of ct 5 on Ind A, a vehicle driven by IIO was stopped by police. In the vehicle and on his person police located \$1,640 in cash (ct 1) and two clip-seal bags containing a total of 3.52 g of MDMA powder (cts 2). IIO told police that \$300 - \$400 of the cash belonged to him and the rest was from friends to whom he intended to provide drugs.</p> <p>At an address where IIO had just delivered drugs police located a clip-seal bag containing 31 capsules, containing a total of 7.9 g of MDMA. A further five capsules containing 0.99 g of MDMA were also found (ct 3).</p>	<p>Ct 1: 6 mths imp (conc). Ct 2: 6 mths imp (conc). Ct 3: 1 yrs imp (conc).</p> <p>TES 5 yrs 3 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant a mid-level street dealer; the offences were not isolated incidents, but part of an ongoing drug dealing enterprise for commercial gain to fund his cocaine addiction and to pay off drug debts.</p> <p>The sentencing judge found immediate imp the only appropriate sentencing option.</p> <p>Demonstrated remorse and insight into his offending; progress made towards rehabilitation; positive character references; low risk of reoffending.</p>	<p>engaged in a commercial operation in selling ounces of MDMA, of a high purity, over six wks.</p> <p>At [24] In order to properly reflect the appellant's overall criminality, some accumulation of the individual sentences that were imposed was required. To have imposed conc sentences for each of cts 1 – 5 on Ind A and cts 1 – 3 on Ind B would have resulted in the imposition of a TES which would not have properly reflected the appellant's overall criminality.</p> <p>At [25] ... a TES of 5 yrs 3 mths imp was within the discretionary range properly open to the sentencing judge, even if it may be regarded as being towards the upper end of that range.</p>
18.	<p><i>Celani v The State of Western Australia</i></p> <p>[2021] WASCA 215</p>	<p>25 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p>	<p>Cts 1; 11; 17 &amp; 18: Offer to sell cannabis 3.6212 kg. Cts 2-6; 8-10; 12-16; 19-31 &amp; 33-35: Offer to sell methyl 93.145 g. Ct 7: Offer to sell cocaine 28 g.</p>	<p>Cts 1-3; 8 &amp; 10: 12 mths imp (conc). Ct 4 &amp; 18: 20 mths imp (conc). Cts 5-6 &amp; 21: 14 mths imp (conc).</p>	<p>Dismissed - leave refused.</p> <p>Appeal concerned plea discount and totality principle (individual sentences not</p>

	<p>Delivered 16/12/2021</p>	<p>Prior criminal history; largely consistent with his drug addiction.</p> <p>Parents separated when aged 12 yrs; witnessed domestic violence.</p> <p>Supportive family.</p> <p>Educated to yr 10; completed apprenticeship; later trained and worked in plastic fabrication.</p> <p>Cannabis use from aged 12 yrs; methyl from aged 16 yrs; regular user of methyl; heavy user at time of offending.</p>	<p>Ct 32: Offer to sell heroin 1.75 g.</p> <p>Celani was travelling in a motor vehicle when it was stopped by police. His mobile telephone was seized and an examination of the text messages stored on the phone revealed he had made offers to sell prohibited drugs to 32 contacts listed in his phone. Each ct related to one named contact, a small number of contacts the subject of more than one ct as he offered to sell them more than one kind of prohibited drug. In total he made a 120 separate offers to his various customers.</p> <p>Many of the cts were committed over a period of time.</p>	<p>Ct 7: 36 mths imp (head). Ct 9; 11; 13-14; 17; 22; 24-25 &amp; 28-31: 6 mths imp (conc). Cts 12; 34 &amp; 35: 9 mths imp (conc). Ct 15: 18 mths imp (conc). Ct 16; 19 &amp; 23: 24 mths imp (conc). Cts 20 &amp; 26: 10 mths imp (cum). Ct 27: 15 mths imp (conc). Ct 32: 6 mths imp (cum). Ct 33: 10 mths imp (conc). TES 5 yrs 2 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant's offending serious and aggravated by its repeated and persistent nature and that he committed the offences in order to fund his drug habit.</p> <p>Remorseful; positive steps taken towards rehabilitation; 2 yrs clear of drug use; no further offending.</p>	<p>challenged).</p> <p>At [44] ... Having regard to the fact that the text messages which founded the charges were on the appellant's mobile telephone and their content involved clear offers to sell prohibited drugs, his Honour's characterisation of the case as being 'very strong' was well open. ... the sentencing judge was entitled to take into account the strength of the case against the appellant in assessing the appropriate discount under s 9AA of the <i>Sentencing Act</i>. In these circumstances, and having regard to when the pleas were entered, we are satisfied that a 15% discount was not unreasonable or plainly unjust. It was not manifestly inadequate.</p> <p>At [55] ... the appellant was involved, during the commission of the offences, in a commercial enterprise in which he sold prohibited drugs. The offers that he made were in respect of four different prohibited drugs, ... He was engaged in this business for the purpose of funding his own methyl habit. It was not suggested that the appellant did not have the capacity or intention to fulfil</p>
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					<p>the offers.</p> <p>At [56] It is clear the appellant had a large coterie of customers, and it was not suggested that he did not have access to the prohibited drugs he offered to sell. While it was not said that all of the offers resulted in actual sales, it was not claimed the offers were unfulfilled.</p> <p>At [60] ... it is not reasonably arguable that the TES ... infringed the first limb of the totality principle. ...</p>
17.	<p><b><i>ATH v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 149</b></p> <p>Delivered 24/08/2021</p>	<p>36 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history.</p> <p>Raised stable household until aged 11 yrs; parents separated; mother's new relationship marred by domestic abuse; sexually abused by mother's new partner; relationship with mother broke down; subsequently lived with her father and then her aunt.</p> <p>Three children; separated from their father 5 yrs prior to sentencing; one child diagnosed ADHD, another with autism; another suffered abuse.</p>	<p>1 x Poss methyl 977 g at 75-77% purity.</p> <p>ATH drove her co-offender, M, from a rural location to a Perth suburb for M to take delivery of a quantity of methyl. The length of the return journey was about 1,000 km.</p> <p>M hid the package in the roof cavity of ATH's vehicle.</p> <p>The same day they made the return journey. ATH initially drove and then M took over the driving. M was driving when he was stopped by police. ATH's vehicle was confiscated because M did not have a valid MDL.</p> <p>The vehicle was searched and the drugs were located in the roof cavity.</p>	<p>7 yrs imp.</p> <p>EFP.</p> <p><u>Co-offender M</u> PG (20% discount) 6 yrs imp.</p> <p>The trial judge found the appellant's role was similar to that of a courier; she agreed to drive M to Perth in the knowledge M was intending to take poss of a significant quantity of methyl; she gave M permission to hide the methyl in the roof cavity of her vehicle; she intended to supply the drugs to M upon their return by permitting M to retrieve the drugs from her vehicle and it was a reasonable inference that she stood to gain a benefit by</p>	<p>Dismissed - leave refused.</p> <p>Appeal concerned parity principle.</p> <p>At [31] The facts and circumstances of the offending by the appellant and M reveal that M had a higher level of culpability than the appellant. However, the appellant's role was still important. The fact that [she] did not know that she was transporting as much as a kg of methyl (in circumstances where she knew the quantity was significant) carries, at best, very limited weight in assessing her culpability. ...</p> <p>At [36] We are satisfied, after evaluating and weighing all</p>

		<p>Father supportive; cares for her children whilst in custody.</p> <p>New relationship marred by domestic abuse; hospitalised on one occasion; partner arrested and threatened to kill her.</p> <p>Employed number of roles; receiving unemployment benefits at time offending.</p> <p>Suffered stress after death of her sister in MV accident.</p> <p>Medicated for depression and anxiety; att suicide about two mths after offending; sought and participated in counselling.</p> <p>Commenced using methyl 2018; drug use quickly escalated; drug rehabilitation undertaken.</p>		<p>driving M to and from the rural location in one day.</p> <p>The trial judge found the facts and circumstances of the appellant's offending were less serious than those of M; she acted, in essence, under M's instructions and the extent to which she was to benefit from the offending was much less than that of M; however M, unlike the appellant, had the benefit of three important mitigating factors; an early PG; cooperation and assistance; remorse.</p> <p>No demonstrated remorse; genuine attempts made at rehabilitation and to abstain from illicit drugs.</p>	<p>relevant sentencing factors, in the context of the facts and circumstances of the offending by the appellant and M, and after taking into account the similarities and differences between their offending and their personal circumstances and antecedents, that the sentence imposed on the appellant ... did not infringe the parity principle or the principle of equal justice.</p>
16.	<p><b><i>Jacomb v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 81</b></p> <p>Delivered 11/05/2021</p>	<p>36 yrs at time sentencing.</p> <p><u>Ind 1437</u> Convicted after very late PG (10% discount).</p> <p><u>Ind 2201</u> Convicted after PG (20% discount).</p> <p>Prior criminal history.</p> <p>Born New Zealand; moved to</p>	<p><u>Ind 1437</u> Cts 1-4; 7-17 &amp; 19: Offer to sell methyl. Cts 5 &amp; 6: Poss firearm. Ct 18: Conspiracy to sell methyl 280 g. Ct 20: Poss methyl 2.25 g.</p> <p><u>Ind 2201</u> 1 x Poss of methyl wiss 8.55 g at 49%-81% purity).</p> <p><u>Ind 1437 (2016 offences)</u></p>	<p><u>Ind 1437</u> Cts 1-2; 4; 8; 10; 12-14 &amp; 19: 6mths imp (conc). Cts 3; 7; 11; 16 &amp; 20: 9 mths imp (conc). Ct 5: 1 yr imp (cum). Cts 6; 9 &amp; 17: 2 yrs imp (conc). Ct 15: 2 yrs 6 mths imp. (cum). Ct 18: 4 yrs imp (head).</p> <p><u>Ind 2201</u> 1 yr imp (cum with sentence on</p>	<p>Allowed.</p> <p>Appeal concerned error in law (failure to give credit for time spent in custody) and totality principle.</p> <p>Resentenced:</p> <p><u>Ind 1437 (10% discount)</u> Cts 1; 2 &amp; 4: 6 mths imp (conc).</p>

		<p>Australia in 2002.</p> <p>Completed yr 10 high school.</p> <p>Consistent work history until 2015; not engaged in any legitimate employment on loss of one of his legs resulting from being shot.</p> <p>Long-term relationship; four children aged 1-14 yrs; important role in the rearing of his deceased sister's children.</p> <p>Drug abuser; drug use escalated following the shooting incident; commenced dealing drugs at a high level.</p>	<p>Over a period of about three mths Jacomb made a number of offers to sell or supply prohibited drugs. The total amount of methyl he offered to sell or supply was 126.125 g and, including the conspiracy and possession charges, 416.175 g of methyl.</p> <p>On one occasion Jacomb agreed to provide a half-ball (1.75 g) of methyl (ct 1). That same day he agreed to supply another associate with another half-ball of methyl (ct 2). The next day he offered an associate a ball (3.5 g) of methyl. A week later he agreed to provide an associate with a quarter-ball (0.875 g) of methyl for \$400 (ct 4).</p> <p>Two days later a series of messages indicated Jacomb was intending to provide a person with firearms. As a result his vehicle was stopped and searched. An altered rifle (ct 5) and a homemade submachine gun (ct 6) were located in his vehicle. He was arrested and released to bail.</p> <p>After his release on bail Jacomb continued to deal in methyl. Over the following weeks he agreed to supply 3.5 g for \$750; a half-ball (1.75 g) and 28 g of the drug (cts 7-9).</p> <p>After appearing in the Magistrates Court in relation to the firearm offences Jacomb's bail was extended. Again, he continued to deal in methyl while on bail.</p>	<p>Ind 1437).</p> <p>TES 8 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant's offending was not isolated; it involved the ongoing supply of methyl; he was a significant dealer at a high level with the ability to source large quantities; the dealing was of a commercial nature; he had the ability and willingness to provide firearms to others, enhancing the risk to people in the community and he had also modified the firearms.</p> <p>The appellant committed offences while on bail on two occasions and the 2019 offending while on bail awaiting trial for the 2016 offences; the sentencing judge expressly decided against backdating the sentence to give credit for 273 days in custody, the period from when the appellant returned to custody until the day before his conviction.</p> <p>Expressions of responsibility and remorse not accepted by sentencing judge; courses undertaken while in custody; past opportunities to achieve rehabilitation unsatisfactory.</p>	<p>Cts 3 &amp; 7: 9 mths imp (conc). Ct 5: 1 yrs imp (cum). Ct 6: 2 yrs imp (conc). Cts 8; 10; 12-14 &amp; 19: 7 mths imp (conc). Ct 9: 2 yrs 6 mths imp (cum). Cts 11; 16 &amp; 20: 10 mths imp (conc). Ct 15: 3 yrs imp (conc). Ct 17: 2 yrs 6 mths imp (conc). Ct 18: 4 yrs imp (head).</p> <p><u>Ind 2201 (20% discount)</u> 6 mths imp.</p> <p>TES 8 yrs imp.</p> <p>EFP.</p> <p>At [89] In our respectful opinion, the sentencing judge's reasons for declining to give credit for the 273 days in custody reveal an error of principle, ...</p> <p>At [101] The appellant's offending had a number of serious features.</p> <p>At [102] The appellant's offending the subject of the 2016 offences revealed that he was conducting an ongoing drug dealing business, including dealing in drugs in substantial quantities, over a period of about nine wks. He was engaged in that enterprise for commercial reasons. To the</p>
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		<p>On receiving a call from an associate asking for a half-ball (1.75 g) of methyl Jacomb informed the associate he could supply 1g of the drug (ct 10) and the further 0.75 g at a later date.</p> <p>On other occasions Jacomb agreed to supply a ball of methyl (3.5 g) for \$1,000; 1.75 g for \$550; 1.75 g; 1 g; 42 g; 3.5 g and 28 g respectively of methyl (cts 11-17).</p> <p>On another occasion Jacomb received a call from an associate indicating he had \$40,000-\$60,000 to spend and was seeking 10 ounces (280 g) of methyl. He then conspired to source the methyl (ct 18).</p> <p>On another occasions Jacomb agreed to supply an associate with a half-ball (1.75 g) of methyl (ct 19).</p> <p>A SW was executed at Jacomb's home. A clipseal bag containing 2.25 g of methyl was located near where he was sitting (ct 20).</p> <p><u>Ind 2201 (2019 offence)</u></p> <p>This offence was committed while Jacomb was on bail awaiting trial for the 2016 offences.</p> <p>A SW was executed at Jacomb's home. Four clipseal bags; two digital scales and some unused clipseal bags were located. The clipseal bags contained 0.26 g; 3.49 g (49% purity); 2.77 g (81% purity) and 2.03 g (78% purity) of methyl.</p>	<p>Prospect of deportation once sentence of imp served.</p>	<p>extent that he was dealing in drugs for the purpose of paying his own drug debts, that purpose is nevertheless a commercial one. ...</p> <p>At [103] Further, cts 5 and 6, the firearms offences, were themselves serious and, as the judge rightly observed, called for a degree of accumulation. The appellant was unlawfully in poss of two weapons that he had modified to enhance their use, and he was intending to pass them onto another person.</p> <p>At [104]-[105] ... cts 7 – 20 were aggravated by the fact that they were committed while the appellant was on bail. ... The ... offending the subject of the 2019 offence was also aggravated by his committing the offence while on bail for the 2016 offences. ...</p>
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			<p>Jacomb's mobile phone also contained messages relating to the sale and supply of prohibited drugs and a 'tick list' of sales.</p> <p>When interviewed Jacomb denied dealing in drugs.</p>		
15.	<p><b><i>KJL v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 65</b></p> <p>Delivered 22/04/2021</p>	<p>30 yrs at time offending. 32 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No prior criminal history.</p> <p>Born in New Zealand; close to parents and sister; all very supportive.</p> <p>Completed high school.</p> <p>Regularly employed until aged 26 yrs; considered he would make more money selling drugs than he would in an 'ordinary' job; drug dealing his principal source of income.</p> <p>Engaged in both paid and volunteer employment at time sentencing.</p> <p>No children.</p> <p>User and dealer in illicit drugs many yrs, particularly methyl.</p>	<p>Ct 1: Att poss methyl wiss 113 g at 78% purity. Ct 2: Att poss methyl wiss 27.5 g at 79% purity. Ct 3: Poss amphetamine wiss 60.84 g at 4% purity. Ct 4: Poss psilocin wiss 10.4 g at 0.2% purity. Ct 5: Att poss MDMA wiss 991 g at 79% purity.</p> <p><u>Ct 1</u> A package, sent from the US and addressed to a parcel locker in West Perth, was examined at a Melbourne facility. It was found to contain methyl concealed in shoes. The drug was substituted with an inert substance.</p> <p>KJL was captured on CCTV collecting the package from the parcel locker. The same package was later located at his home. The approx value of the methyl, if sold in ounce lots at the time it was seized, was between \$18,000 and \$24,000.</p> <p><u>Ct 2</u> Some wks later another package, sent from the US and addressed to the same parcel locker, was examined. It contained a quantity of methyl, which</p>	<p>Ct 1: 2 yrs imp (cum). Ct 2: 2 yrs imp (conc). Ct 3: 3 yrs imp (conc). Ct 4: 12 mths imp (conc). Ct 5: 8 yrs 6 mths imp (cum). TES 10 yrs 6 mths imp. EFP.</p> <p>The sentencing judge found the appellant was at the mid to high-level (but not at the highest level) of the drug hierarchy.</p> <p>The sentencing judge found the offending involved a significant variety of drugs in significant quantities; the drugs the subject of cts 1, 2 and 5 very high purity; the appellant had att to possess MDMA which was to be distributed into the wider community; the offending involved a significant element of planning and sophistication utilising the dark web to purchase illicit drugs online at a cheap price to increase profit; the offending occurred in the context that he had been commercially dealing in illicit</p>	<p>Dismissed – leave refused (totality principle).</p> <p>Appeal concerned length of sentence ct 5 and totality principle.</p> <p>At [50] The objective criminality involved in ct 5 was very serious.</p> <p>At [53] Ct 5 was committed in the context that, for a period of yrs, the appellant had eschewed legitimate paid work for what he considered an easier and more lucrative business as a drug dealer. From this business, he derived a comfortable standard of living. As such, the appellant's culpability was substantially greater than that of a mere courier or warehouse of prohibited drugs. The appellant's business placed him at a level far higher than a street-level drug dealer. The offending is precisely the kind of commercial drug dealing that must attract a sentence which deters others from</p>

		<p>Diagnosed with ADHD.</p>	<p>was substituted with an inert substance before being delivered. KJL was seen retrieving the package and was arrested. The methyl, if sold as an ounce, was at the time valued at between \$4,500 and \$6,000. On his mobile phone police found messages related to the sourcing of drugs through the mail.</p> <p><u>Ct 3</u> A search of KJL's home located a package containing four separate packages of a brown paste. Analysis showed the paste was amphetamine.</p> <p><u>Ct 4</u> Also located in KJL's home were 15 capsules containing a powder. Subsequent analysis found they contained psilocin, a synthetic hallucinogenic analogous to that found in magic mushrooms.</p> <p>Also located during the search of his home were scales, empty clipseal bags, small amounts of methyl, cocaine, MDMA and cannabis, along with used drug paraphernalia, knuckledusters and an expandable baton. Items consistent with the packaging of drugs for sale, including a heat vacuum-sealing machine; vacuum-seal bags and cloth and latex gloves were also found.</p> <p>A laptop computer seized contained a Tor browser, used to access the dark web, along with evidence of cryptocurrency transactions.</p>	<p>drugs over a significant period of time as part of a regular business and that drug dealing was funding his 'very comfortable' lifestyle; the offences were committed not only to enable him to stockpile illicit drugs for his own use, but also for profit.</p> <p>Low risk of reoffending; genuinely remorseful; steps taken to rehabilitate himself; undertaken counselling and abstinent from illicit drug use since his arrest.</p>	<p>behaving in the same way.</p> <p>At [54] ... The offending engaged in by the appellant involved a high level of sophistication. The commission of ct 5 required the appellant to source from overseas a large quantity of high purity MDMA. To do so, he used the anonymity of the dark web ... [and] he leased the secure parcel locker ... in a false name.</p> <p>At [65] ... the overall criminality revealed in the five offences committed by the appellant involved a high degree of culpability. While ct 5 was undoubtedly the most serious of the offences, cts 1, 2 3 and 4 were also serious.</p> <p>At [66] ... the appellant established and conducted a lucrative commercial business as a drug dealer. He dealt in significant quantities of various illicit drugs. Rather than obtaining an income legitimately, [he] made the conscious and deliberate choice to make his living as a drug dealer. The offending was sophisticated and involved the importation into Australia from the US, via the postal system, of his stock-in-trade. In these circumstances, the</p>
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			<p><u>Ct 5</u> Several days after KJL's arrest another package from the US, addressed to a parcel locker in Cloverdale was examined at a Sydney facility. It contained MDMA powder, concealed inside boxing equipment. The parcel locker address was identical to packaging discovered at his home. The value of the MDMA was approx \$50,000 if sold by the kg, and approx \$141,000 if sold in ounce lots.</p> <p>Text messages at the time of his arrest revealed KJL was actively inquiring about the purchase of 84 g of cocaine and that a kg of MDMA (the subject of ct 5) was on its way.</p>		<p>offending could hardly be described as isolated or a short-term aberration. ...</p> <p>At [68] In order to properly reflect the appellant's overall criminality, some accumulation of the individual sentences that were imposed was required. To have imposed conc sentences for each of cts 1 to 4 would have resulted in the imposition of a TES which would not have properly reflected the appellant's overall criminality.</p>
14.	<p><b><i>Ramachandran v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 54</b></p> <p>Delivered 31/03/2021</p>	<p>30 yrs at time offending. 31 yrs at time sentencing.</p> <p>Convicted after early PG (22% discount).</p> <p>No prior criminal history.</p> <p>Born and raised in Sri Lanka; upbringing marred by armed conflict resulting from Tamil Tiger movement.</p> <p>Came to Australia to financially assist his family; lived and treated poorly by an uncle in NSW.</p> <p>Commenced but did not complete TAFE studies.</p> <p>History of employment as a</p>	<p>Ct 1: Poss methyl wiss 32.572 kg at 57%-81% purity. Ct 2: Poss MDMA wiss 4.954 kg at 65% and 75% purity.</p> <p>A SW was executed at a home rented by Ramachandran. Inside the house 20 large clipseal bags containing a crystalline substance were found, stacked against a wall and obvious to anyone walking into the room.</p> <p>A further quantity of the crystalline substance was found in clipseal bags in a suitcase.</p> <p>A second suitcase contained plastic containers, boxed and loose clipseal bags, a food-saver machine, rolls of vacuum-seal bags, digital scales, masks, a sieve and a salad spinner.</p>	<p>Ct 1: 19 yrs 10 mths imp (conc). Ct 2: 8 yrs imp (conc).</p> <p>TES 19 yrs 10 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the enormous quantity of drugs showed the appellant was involved in a criminal enterprise of the highest order; the impact on the community and the harm these drugs would have caused would have been immense; he was also in a position of trust and was running a safe house for the drugs; he and his co-accused were responsible for not just storing the drugs but repackaging them for further distribution to others.</p>	<p>Allowed.</p> <p>Appeal concerned error in finding (characterisation of appellant's involvement in the offending); length of individual sentence ct 1 and totality principle.</p> <p>Resentenced:</p> <p>Ct 1: 16 yrs imp (conc). Ct 2: 8 yrs imp (conc).</p> <p>EFP.</p> <p>At [34]-[35] ... the appellant had a significant role in the enterprise as a whole, which involved storing and repackaging a large quantity of drugs which were to be passed</p>

		<p>factory worker.</p> <p>Ran away from his uncle aged 18 yrs; taken in by the co-accused who uncle engaged to track him down; felt a sense of obligation and friendship to the co-accused.</p> <p>Financial responsibilities to his family; increasing on the death of his father in 2015.</p> <p>Arranged marriage 2019; wife in Sri Lanka; hoped to bring her to Australia.</p> <p>No history of illicit drug use; no family or friends in WA.</p>	<p>In a backpack a number of cryovac bags were located, some of which had been torn and contained a crystalline residue, consistent with having been opened and the drugs repackaged.</p> <p>A receipt for items purchased by Ramachandran was also found. His DNA was also located inside gloves located in the house.</p> <p>Ramachandran falsely told the homeowner he intended to reside at the property with his wife. He in fact lived at another property with his co-accused.</p> <p>Two days after the SW was executed Ramachandran attended the property and discovered the drugs were missing. He returned to the house later the same day with the co-accused. Both men searched the house before leaving and returning in the evening. They were later arrested.</p> <p>Ramachandran admitted taking and removing bags from the house at the request of the co-accused, however he denied knowing the bags contained drugs.</p>	<p>The sentencing judge found the appellant's criminal culpability very high regardless of the position he held within the network, he was still a vital part of the operation, protecting those holding other positions in the network, both higher up and on the same level.</p>	<p>on to others. ... the appellant and his co-offender were jointly responsible for the storage and repackaging of the drugs which they were to pass on to others.</p> <p>At [61] The appellant in this case participated in a commercial operation involving a very large quantity of methyl, which represents the largest quantity of methyl in a State sentence considered by this court other than the 315 kg involved in <i>Ng</i>. The quantity of drugs involved increases the potential harm which would have resulted from their distribution into the community, and so is a very significant agg factor. The appellant's involvement in the offending was not fleeting, and he performed the important task of leasing the property used to warehouse the drugs. He was given access to the property in a manner which demonstrated the high degree of trust placed in him by the organisers of the operation. He participated in the operation for commercial gain, although the amount of that gain is unknown.</p> <p>At [62] However, the appellant's involvement in the operation was apparently at a</p>
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					<p>relatively low level in the criminal syndicate which imported the drugs for the purpose of selling them. There is no evidence to suggest that he was involved in the planning, organisation or funding of the operation. Nor was there any evidence that the appellant exercised any authority over others involved in the syndicate, was conducting his own business or was to share in the profits to be generated from the sale of the drugs.</p> <p>At [65] ... While the quantity of methyl involved was very large, there was no evidence that the appellant's involvement in the operation was other than as a paid worker. ... Without [the plea discount] the sentence would have exceeded 25 yrs imp. The individual sentence stands well above the sentence imposed or upheld in any previous decisions of this court, other than the 20 yr individual sentence imposed after trial on Quaid in <i>Zanon</i>... In our view, bearing in mind the PG, that disconformity is too large to be explained by the increased seriousness with which the offence is regarded in light of the increased maximum. ...</p>
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<p>13.</p>	<p><b><i>Chuang v The State of Western Australia</i></b> <b>[2021] WASCA 49</b>  Delivered 19/03/2021  Co-offender of:  <b><i>Law v The Queen</i></b> <b>[2019] WASCA 81</b></p>	<p>43 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; prior sentence of imp for selling methyl.</p> <p>Born Taiwan; lived in Australia over 20 yrs.</p> <p>Hairdresser by trade.</p> <p>Three children.</p>	<p>1 x Offer to sell methyl 3 kg.</p> <p>Chuang and the co-accused, Mr Law, and a person in Hong Kong, were engaged in a drug distribution enterprise.</p> <p>On the direction of the person in Hong Kong, Chuang and Mr Law offered to sell 3 kg of methyl to a Mr Lofts for \$155,000.</p> <p>Chuang and Mr Law did not intend to provide Mr Lofts with the actual drug, rather they intended to ‘rip off’ Mr Lofts by providing him with rock sugar, processed in such a way that it looked like methyl, in exchange for the \$155,000 cash.</p> <p>Chuang’s role in the offence was to create and package the fake methyl, to deliver it to Mr Law and to collect the \$155,000 paid by Mr Lofts.</p> <p>The purported sale of the methyl was arranged to take place in the vicinity of a shopping centre. Chuang packaged the rock sugar into a bag and drove to the shopping centre carpark where he met and gave Mr Law the bag. Mr Law carried the bag to Mr Lofts, who was parked nearby. In exchange for the methyl, Mr Lofts handed over \$154,950 in cash.</p> <p>Mr Lofts and Mr Law were apprehended a short time later.</p> <p>Later that evening Chuang was</p>	<p>9 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant and Mr Law were criminal partners in the enterprise.</p> <p>The sentencing judge found the appellant had the capacity to deliver actual methyl; the offending was premeditated and calculated; he was motivated by financial gain.</p> <p>Remorseful.</p>	<p>Dismissed – leave refused.</p> <p>Appeal concerned error of fact (appellant’s capacity to fulfil the drug order); disparity with sentence of co-offender (Mr Law) and length of sentence.</p> <p>At [156] ... the appellant was part of a syndicate, comprising of Mr Law and [the person] in Hong Kong, which was importing methyl into WA. Viewed in this light, it was open to his Honour to find that the appellant had the capacity to fulfil the order.</p> <p>At [162] There were two factors which required Mr Law to receive, as he did, a more lenient sentence than the appellant ... When one has regard to these factors, the disparity in the sentences imposed for the common offence is accounted for, and thus there has been no infringement of the parity principle. ...</p> <p>At [172] ... while the criminality may be less than in a case where there is a genuine plan to supply drugs, drug ‘rip-offs’ are objectively serious. Part of the reason lies in the circumstances that, unlike most cases of fraud or false pretences, the victim of a drug</p>
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			arrested. During a search of his home a heat-sealing machine and unopened bags of rock sugar were found.		<p>‘rip-off’ is unlikely to report the matter to police. As a result, subject to any act of violent retribution which commonly follows such an event, the offender is likely to escape scot-free. There is a significant community interest in not allowing the drug trade to be used for fraudulent activities of this kind and also in deterring the kind of violent response which such conduct can very readily provoke. Others who may be tempted to engage in similar conduct must be dissuaded from engaging in such criminal activity.</p> <p>At [175] ... In our opinion, the sentence was an appropriate exercise of the sentencing discretion. It was not unreasonable or plainly unjust. ...</p>
12.	<p><i>Nickson v The State of Western Australia</i></p> <p><b>[2021] WASCA 40</b></p> <p>Delivered 05/03/2021</p>	<p>58 yrs at time sentencing.</p> <p>Convicted after PG (Ind 2154 10% discount and Ind 990 20% discount).</p> <p>Extensive prior criminal history; previous convictions for drug related offences.</p> <p>Born New Zealand; unremarkable childhood; came to Australia aged 30 yrs; close with his mother and sister; father deceased.</p>	<p><u>Ind 2154</u> Ct 1: Poss methyl wiss 69.5 g.</p> <p><u>Ind 990</u> Ct 1: Poss methyl wiss 505.59 g at 4% and 77% -80%. Ct 2: Poss dexamphetamine wiss 2.95 g. Ct 3: Poss cannabis wiss 105.5 g. Cts 4-6: Poss unlawfully obtained property. (\$8,745 cash; jewellery and \$700 cash).</p> <p><u>Ind 2154</u> A SW was executed at Nickson’s</p>	<p><u>Ind 2154</u> Ct 1: 3 yrs 6 mths imp (cum).</p> <p><u>Ind 990</u> Ct 1: 7 yrs 6 mths imp (cum). Ct 2: 18 mths imp (conc). Ct 3: 12 mths imp (conc). Ct 4: 12 mths imp (conc). Ct 5: 12 mths imp (conc). Ct 6: 12 mths imp (conc).</p> <p>TES 11 yrs imp.</p> <p>EFP.</p>	<p>Dismissed – leave refused.</p> <p>Appeal concerned totality principle.</p> <p>At [52] It was a significant agg factor that the appellant’s offending in relation to [Ind 990] occurred while he was on bail for the offence charged in [Ind 2154]. Also, it was a significant agg factor in relation to the offences involving methyl that the appellant was dealing</p>

		<p>Educated to yr 10; completed trade apprenticeship; employed consistently until 2007.</p> <p>Marriage of 17 yrs ended 2006.</p>	<p>home. A package, containing five clip seal bags, was located in a freezer. Each clipseal bag contained quantities of methyl, weighting a total of 69.5 g.</p> <p>In Nickson's bedroom three sets of digital scales, a small quantity of methyl, numerous clipseal bags, various weapons, a mobile telephone and \$6,000 cash was found.</p> <p>A further \$2,000 cash was also found in a shed, along with a quantity of the cutting agent MSM.</p> <p>Nickson was charged and released on bail.</p> <p><u>Ind 990</u> Some mths later Nickson was inside a unit when it was searched by police. The property was fortified with chains and pieces of property. Police were forced to dismantle the barricade to gain entry.</p> <p>Inside the unit three separate quantities of methyl were found in three separate locations. In a cupboard in clipseal bags a total of 194.9 g of methyl with a purity of between 77% and 80% was found. In another part of the cupboard clipseal bags containing a total of 12.69 g of methyl with a purity of 4% was found. In the shower area police also located a clipseal bag containing 298 g of methyl with a purity of 77% (ct 1).</p> <p>Another clipseal bag found in the unit</p>	<p>The sentencing judge found it was an agg factor that the offences the subject of Ind 990 were committed while the appellant was on bail for the offence charged in Ind 2154 and that all the offences were committed in the context of the appellant conducting an ongoing drug dealing business for commercial gain.</p> <p>The sentencing judge found the appellant had been selling illicit drugs since 2007 to fund his personal illicit drug use; he was within the mid to high level user/dealer range.</p> <p>Some demonstrated remorse; steps taken to rehabilitate himself and drug programmes undertaken while in custody.</p>	<p>commercially in that drug. Further, the seriousness of the appellant's drug dealing offences was underscored by his poss of a variety of weapons. ...</p> <p>At [53] ... we are satisfied that it was necessary, in order properly to mark the seriousness of the appellant's overall offending, for the individual sentences for the ct on [Ind 2154] and for ct 1 on [Ind 990] to be served cumulatively. The offences charged in those cts involved separate and distinct offending.</p> <p>At [55] The TES bears a proper relationship to the overall criminality involved in all of the offences, viewed in their entirety, and having regard to all relevant circumstances, ...</p>
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			<p>contained 13 tablets, being 2.95 g of dexamphetamine (ct 2).</p> <p>Also located were two cipseal bags containing cannabis, with a total weight of 105.5 g (ct 3).</p> <p>In various locations within the unit a total of \$8,745 in cash was found (ct 4) and inside a safe were various items of jewellery with an estimated value of \$10,000 (ct 5).</p> <p>Data from a mobile telephone located in the unit revealed Nickson had been offered jewellery in exchange for the discharge of outstanding debts. Digital scales, numerous cipseal bags, stun guns and an electrical shotgun were also located in the unit.</p> <p>A SW was then executed at another premises. A caravan, over which Nickson had control, was searched and found to contain \$700 cash, scales and a stun gun (ct 6).</p>		
11.	<p><b><i>Trainor v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 36</b></p> <p>Delivered 26/02/2021</p>	<p>53 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No relevant prior criminal history.</p> <p>Born in UK; came to Australia aged 7 yrs.</p> <p>Married; wife significant health problems.</p>	<p>Ct 1: Poss methyl wiss 3892.96 g at 74%-81% purity.</p> <p>Ct 2: Poss unlawfully obtained property (\$16,655 cash).</p> <p>Police observed Trainor enter a home and a short time later leave the premises carrying a small bag.</p> <p>Later that day a SW was executed at Trainor's home. During the search a bag matching the description of the bag he was seen carrying from the house was located in his bedroom. The</p>	<p>Ct 1: 14 yrs imp (conc).</p> <p>Ct 2: 16 mths imp (conc).</p> <p>TES 14 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the offending 'very serious'; the quantity and purity of the drugs involved were indicative of the seriousness of the offence and the large sum of money in the appellant's possession indicated</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence ct 1.</p> <p>At [52] While the appellant's offending is by no means in the most serious category of offences of this kind, his offence was undoubtedly very serious. The appellant's offence involved a very substantial quantity of methyl of a very high level of purity.</p>

		<p>Consistent employment history; previously working well-paid position; new work significantly lower remuneration; good work ethos; history of volunteer work.</p> <p>Experiencing financial pressures at time offending.</p>	<p>bag contained three packages of methyl weighing 999 g, 998 g and 1 kg with a purity between 80% - 81%.</p> <p>Also in Trainor's bedroom was a bag containing a further package of methyl, weighing 836 g of 81% purity, and two clipseal bags. The clipseal bags contained 58.4 g of 74% purity and 0.48 g of methyl.</p> <p>Methyl crystal residue and methyl shards weighing 0.22 g and 0.23 g, along with 0.3 g of methyl, were also found in a box.</p> <p>In a cryovac bag 0.3 g of methyl and 2.09 g of dimethyl sulfone (MSM) were located.</p> <p>Trainor directed police to a safe containing \$15,000 in cash. He was also found to have \$1,655 cash in his wallet.</p> <p>Trainor admitted the drugs belonged to him and that he was going to pass them on to another person.</p>	<p>those with whom he was working placed a high level of trust in him.</p> <p>The sentencing judge found the appellant had possession of the drugs for the purpose of passing them on further down the chain of distribution; the seriousness of the offending was significantly aggravated by the fact he was involved in the offending for commercial gain.</p> <p>Cooperative; showed police the locations of the drugs; made admissions as to his possession of the drugs.</p>	<p>Those with whom he was working placed a high level of trust in him. He played an important role in the drug operation of which his offence was a part. As this court observed in <i>Musulin</i>, those who securely store large quantities of drugs for others play a role in the distribution networks not substantially less important than those who actually distribute the drugs to dealers or those who sell them to the ultimate users.</p> <p>At [53] ... We are not persuaded that the sentence of 14 yrs imp imposed by the sentencing judge in respect of ct 1 was unreasonable or plainly unjust. ...</p>
10.	<p><b><i>Blasco v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 26</b></p> <p>Delivered 12/02/2021</p>	<p>39 yrs at time sentencing.</p> <p>Convicted after PG (22% discount).</p> <p>Extensive criminal history; prior drug convictions.</p> <p>Chaotic and dysfunctional upbringing.</p> <p>Expelled yr 9; never returned</p>	<p>Ct 1: Sold/supplied methoxphenidine.</p> <p>Cts 2-4: Offer to sell methyl 1 g; 14 g &amp; 14 g.</p> <p>Ct 5: Offer to sell cannabis 0.1–0.4 g.</p> <p>Ct 6: Offer to sell methyl 28 g.</p> <p>Ct 7: Poss methyl wiss 45.18 g at 72%-81% purity.</p> <p>Ct 8: Poss methoxphenidine wiss 72.9 g.</p> <p>Blasco's mobile telephone was lawfully monitored. The offending</p>	<p>Ct 1: 12 mths imp (conc).</p> <p>Ct 2: 12 mths imp (conc).</p> <p>Ct 3: 3 yrs imp (cum).</p> <p>Ct 4: 3 yrs imp (conc).</p> <p>Ct 5: 2 mths imp (conc).</p> <p>Ct 6: 4 yrs imp (conc).</p> <p>Ct 7: 5 yrs imp (cum).</p> <p>Ct 8: 3 yrs imp (conc).</p> <p>TES 8 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences not challenged.</p> <p>At [58] The appellant committed a series of serious drug offences over the course of a number of months. The offences were not isolated events but reflected the reality</p>

		<p>to school.</p> <p>Worked short period; otherwise no substantial employment history.</p> <p>Three adult children; supportive current partner and mother of his fourth child born while in custody.</p> <p>Commenced using drugs aged 15 yrs; methyl use from age 17 yrs; relapsed into drug use at time offending; accumulated a drug debt to an OMG; commenced selling drugs in order to repay the debt.</p>	<p>occurred over the course of a number of months.</p> <p>Blasco telephoned a woman and offered to supply her with an unknown quantity methoxphenidine in tablet form. He agreed to meet the woman to complete the transaction (ct 1).</p> <p>During a text message conversation Blasco offered an unknown male 1 g of methyl for \$400. They arranged to meet to complete the transaction (ct 2).</p> <p>During a text message conversation with a woman, Blasco offered to sell her 14g of methy. They arranged to meet and completed the transaction (ct 3).</p> <p>Through text messages Blasco offered to supply a man with a 'family pack'. A reference to four balls of methyl, each being 3.5 g. The man collected the drugs from Blasco's home (ct 4).</p> <p>Blasco received a text message from a woman requesting cannabis. He offered her a cone and then made arrangements for the woman to collect the drug (ct 5).</p> <p>During a telephone call from the same man the subject of ct 4 Blasco agreed to supply him with a 28 g of methyl for \$5,600 (ct 6).</p>	<p>Drug trafficker declaration made.</p> <p>The sentencing judge found the appellant was involved in a very significant and substantial ongoing drug distribution for commercial gain, in the context of an OMG; the offending was in the low to mid-level of criminality.</p> <p>Appellant sought and participated in counselling while in custody; high risk of reoffending.</p>	<p>that the appellant was a participant in a substantial business of distributing prohibited drugs. While he dealt in those drugs for the purpose of paying his own drug debts, that purpose was nevertheless a commercial one.</p> <p>At [60] ... Given the ongoing nature of the appellant's conduct, some accumulation was necessary in order to properly reflect the overall seriousness of the offending and the totality of the criminality involved. ...</p> <p>At [65] ... the TES imposed on the appellant fell within the emerging range of sentences customarily imposed for this type of offending, since the passing of the 2017 <i>Amendment Act</i>. It was not unreasonable or plainly unjust.</p>
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		<p>Blasco and an associate travelled to Perth to collect drugs. After meeting a male in Perth, his car was stopped by police. A search of his vehicle located a total of 45.18 g of methyl divided into clip seal bags (ct 7).</p> <p>The vehicle was seized and a further search revealed 258 tablet containing methoxphenidine, weighing 72.9 g (ct 8).</p>		
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### Weight of methyl/amphetamine: 3 – 65 grams

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
9.	<p><i>The State of Western Australia v Stocker</i></p> <p><b>[2022] WASCA 178</b></p> <p>Delivered 17/11/2022</p>	<p>Age at time of offending and sentencing not available.</p> <p>Convicted after early PG (cts 1 &amp; 2 - 20% discount).</p> <p>Convicted after very early PG (cts 3 &amp; 4 - 25% discount).</p> <p>No prior criminal history.</p> <p>Raised close-knit, loving and supportive family environment; parents and siblings remain supportive.</p> <p>Completed yr 12; trade apprenticeship.</p> <p>Commenced working father's business aged 25 yr; operational manager by aged</p>	<p>Ct 1: Poss methyl wiss 26.01 g at 35-72% purity.</p> <p>Ct 2: Poss unlawfully obtained property (\$107,270 cash).</p> <p>Ct 3: Poss methyl wiss 28.13 g at 81% purity (trafficable quantity).</p> <p>Ct 4: Poss unlawfully obtained property (\$10,595 cash).</p> <p>Stocker was engaged in the business of dealing in methyl.</p> <p>A SW was executed at Stocker's home. At the time he was not at home, although a co-accused was present.</p> <p>On the kitchen bench in a glove, police found two clipseal bags and a plastic wrapper containing quantities of methyl. In addition, two clipseal bags were found on the bench.</p>	<p>Ct 1: 3 yrs imp (conc).</p> <p>Ct 2: 2 yrs imp (conc).</p> <p>Ct 3: 3 yrs 6 mths imp (conc).</p> <p>Ct 4: 1 yrs imp (conc).</p> <p>Individual sentences for cts 1 and 2 cum upon conc individual sentences for cts 3 and 4.</p> <p>TES partly susp; upon serving 20 mths imp balance (3 yrs 4 mths imp) susp period of 2 yrs.</p> <p>The sentencing judge found the offending 'very serious'; the offending was not isolated; over a period of at least six mths and, in</p>	<p>Allowed.</p> <p>Appeal concerned error in sentencing (partial conc and partial susp imp infringed s 88(4) <i>Sentencing Act 1995</i>); type of individual sentences ct 1 and 3 and totality principle.</p> <p>Resentenced (20% discounts cts 1 &amp; 2 and 25% discounts cts 3 &amp; 4):</p> <p>Ct 1: 3 yrs imp (cum).</p> <p>Ct 2: 2 yrs imp (conc).</p> <p>Ct 3: 3 yrs 6 mths imp (cum).</p> <p>Ct 4: 12 mths imp (conc).</p> <p>TES 6 yrs 6 mths imp. EFP.</p>



		<p>29 yrs; did well financially; able to build own home; made redundant 2020.</p> <p>Turbulent and dysfunctional relationship; until partner's tragic death 2019.</p> <p>Commenced another relationship; partner a methyl user.</p> <p>Introduced to cannabis aged 14 yrs; methyl use from aged 25 yrs; methyl use increased following partner's death; \$1,000 a day habit time offending; prior attempt made to address methyl addiction.</p>	<p>Stockers DNA profile was found on the surfaces of the glove, the plastic wrapper and a clipseal bag (ct 1).</p> <p>Bags containing \$107,270 in cash were also found in a bedroom. Stockers DNA profile was found on a satchel in which the bulk of the cash (\$74,960) was found (ct 2).</p> <p>Items consistent with being engaged in the business of drug dealing, including multiple electronic scales, tick lists, clipseal bags and disposable gloves, were also found.</p> <p>Stocker was arrested and released on bail.</p> <p>Stocker was on bail when police again attended his home. He arrived when police were still present and found in poss of 25.8 g of methyl in a bumbag he was carrying. Also discovered in the bumbag were three clipseal bags containing 0.99 g, 0.18 g and 1.16 g of methyl (ct 3).</p> <p>A search of his bedroom located \$10,000 in cash and a further \$595 in cash in the bumbag (ct 4).</p> <p>Two mobile CIPHR phones were also found in the house.</p>	<p>all likelihood, much longer the respondent was conducting a drug-dealing business in which he was the principal and the amount of money he possessed suggested the business was 'very lucrative.</p> <p>Genuinely remorseful; participated in training course and drug intervention program in custody; low risk of reoffending if drug problem addressed.</p>	<p>At [188] ... There is no dispute that the respondent's overall offending was very serious. It involved dealing in methyl over a relatively extended period of time, in part, at least, for profit. ... the presence of in excess of \$100,000 in cash, ... indicates that the respondent's drug dealing derived a substantial commercial gain. Cts 3 and 4 were committed some five mths after cts 1 and 2 and ... when ... on bail for cts 1 and 2.</p> <p>At [193] ... Having evaluated the respondent's overall criminality ... and having regard to the respondent's personal circumstances, which are favourable, and the other mitigating factors ... and all relevant sentencing considerations and principles, it was not open to the primary judge to order partial concurrency of the sentences. While some concurrency was required ... having regard to the totality principle, the orders for partial concurrency as between ct 1 ... and ct 3 ... resulted in an overall term of imp which was not</p>
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					commensurate with the overall seriousness of the offences committed by the respondent ...
8.	<p><b><i>FZA v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 124</b></p> <p>Delivered 23/09/2022</p>	<p>38 yrs at time offending. 39 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Prior criminal history.</p> <p>Raised WA; close to parents and family.</p> <p>Completed yr 10.</p> <p>Good work history; employed retail sector and pharmacy technical; victim of two armed robberies while working in a pharmacy; engaged in sex work to alleviate financial difficulties.</p> <p>Twice married.</p> <p>Suffers back and neck pain since motor vehicle accident.</p> <p>Commenced methyl using to cope with physical and emotional pain of sex work.</p>	<p>Ct 1: Poss methyl wiss 28.9 g at 62% purity (trafficable quantity). Ct 2: Poss methyl wiss 13.46 g at 64%-71% purity. Ct 3: Poss methyl wiss 2.87 g. Ct 4: Poss unlawfully obtain property (\$11,750 cash).</p> <p>A SW was executed at the house occupied by FZA and the co-offender A.</p> <p>FZA and A were in the bedroom. A CCTV home security system was operating through a television in the room.</p> <p>During the search a package wrapped in paper towels and electrical tape containing methyl was located (ct 1).</p> <p>In a storage box eight clipseal bags containing methyl were also found. The weights of the methyl in the bags varied between 1.62 g and 1.72 g (ct 2).</p> <p>In a draw 17 clipseal bags of methyl, containing between 0.08 g and 0.5 g of the drug, were also found.</p> <p>A total of \$11,750 cash was located.</p> <p>At various places in the bedroom items commonly associated with the sale of prohibited drugs, including unusual clipseal bags, several sets of electronic scales, glass smoking implements and handwritten 'tick</p>	<p>Ct 1: 4 yrs imp (cum). Ct 2: 14 mths imp (conc). Ct 3: 9 mths imp (conc). Ct 4: 6 mths imp (cum). TES 4 yrs 6 mths imp. EFP.</p> <p><u>Co-offender A</u> Also charged with poss of the methyl subject of ct 1 - the 'common offence'. Sentenced to 4 yrs 4 mths imp with a TES of 5 yrs 2 mths imp. EFP.</p> <p>The sentencing judge found the appellant's involvement in the commercial distribution of methyl as mid-level.</p> <p>Remorseful; insight into her drug addiction; offending closely tied to drug dependency; completed drug and alcohol course while in custody; motivated to continue rehabilitation; reasonable risk of re-offending if addiction not addressed.</p>	<p>Allowed – parity principle.</p> <p>Appeal concerned error (discount for past cooperation) and parity principle.</p> <p>Resentenced (25% discount):</p> <p>Ct 1: 3 yrs 6 mths imp (cum). Ct 2: 15 mths imp (conc). Ct 3: 6 mths imp (cum). Ct 4: 4 mths imp (conc).</p> <p>TES 4 yrs imp. EFP.</p> <p>At [47] ... As the appellant's cooperation was limited to past cooperation and did not include an undertaking to give future assistance, her Honour was not obliged to comply with s 8(5) of the <i>Sentencing Act</i>.</p> <p>At [73] It is clear that the common offence was the most serious of the offences committed by the appellant and A and, ... we consider that the appellant and A were equally involved in the commission of the common</p>

			lists', were also found.		<p>offence.</p> <p>At [82] When all relevant facts and circumstances are evaluated, ... a disparity of 8 mths imp in the TES is, in our view, markedly insufficient to reflect the differences between the appellant and A which favoured the appellant. ...</p> <p>At [87] The offences committed by the appellant were undoubtedly serious. ... The appellant was part of a reasonably sophisticated commercial drug distribution operation. ...</p>
7.	<p><b><i>Wade v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 68</b></p> <p>Delivered 21/06/2022</p>	<p>31 yrs. at time sentencing.</p> <p>Convicted after PG (20% discount ct 1 &amp; 25% discount ct 2).</p> <p>Significant prior criminal history; prior drug offending.</p> <p>Dysfunctional childhood; very young when father committed suicide; mother subsequently lived unsettled nomadic lifestyle; lived between mother's care and foster care from aged 6 mths.</p> <p>Living my himself aged 13 yrs.</p> <p>Left school yr 8.</p>	<p>Ct 1: Poss methyl wiss 9.71 g.</p> <p>Ct 2: Poss unlawfully obtained property (\$112,750 cash).</p> <p>A SW was executed at Wade's home. During the search \$2,000 cash and 2.99 g of methyl was located in the lounge room.</p> <p>A further 0.43 g of methyl was found in another room.</p> <p>Also located, buried under pavers in the backyard inside a large container, was 6.29 g of methyl and \$110,750 in cash stored in cryovac packages.</p> <p>An encrypted cypher mobile phone was also found, along with smoking implements, a cryovac machine and associated packaging.</p>	<p>Ct 1: 2 yrs 3 mths imp (cum).</p> <p>Ct 2: 15 mths imp (cum).</p> <p>TES 3 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that a term of imp was the only appropriate disposition; not sentenced on the basis that the money was the proceeds of his own sale of methyl.</p>	<p>Dismissed – on papers- leave refused.</p> <p>Appeal concerned length of sentence ct 1 and totality principle.</p> <p>At [16]-[17] There is no merit in the appellant's contention that the sentence of ... imp in respect of ct 1 was manifestly excessive. The individual sentence represents only 9% of the available max term of imp. ... Further, the sentence imposed on the appellant is broadly consistent with customary sentencing standards for drug offences of the present kind. ...</p>

		<p>Completed trade apprenticeship and certificate in business management.</p> <p>Good employment history.</p> <p>Stable 3 yrs relationship.</p> <p>Sporadic methyl use from young age; at times using 1.7 g per day.</p>	<p>Wade admitted the items, other than the mobile phone, were his. He was going to use some of the 9.71 g of methyl, share some with other people and sell some. He was 'warehousing' the money found in the backyard, which was destined for other people.</p>		<p>At [19] ... While the offences were detected at the same time, the poss of the methyl concerned a separate criminal activity to the poss of the cash. The appellant was in poss of the methyl for the purpose of using and distributing the drug. He was sentenced on the basis that the money buried in his backyard was not his and was not the product of his drug dealing. Rather, the appellant was storing money reasonably suspected of being the result of drug distribution by other persons. The amount being stored was over \$110,000. Given the qualitatively different nature and order of the criminality involved in the two offences, at least some accumulation of the sentences was appropriate.</p>
6.	<p><b><i>ENW v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 213</b></p> <p>Delivered 15/12/2021</p>	<p>35 yrs at time offending. 38 yrs at time sentencing.</p> <p>Prior criminal history; numerous drug offences; no previous sentences of imp.</p> <p>Convicted after PG (10% discount) (25% discount for assistance provided).</p> <p>Childhood adversely affected by trauma.</p>	<p>1 x Poss methyl wiss 22.44 g at 74% purity.</p> <p>Police executed a SW at ENW and her partner's home.</p> <p>When police arrived ENW's partner told her there was a bag of methyl in the bedroom, but he was uncertain as to its exact location. ENW att to find the bag to assist him to hide it more securely.</p> <p>During the search police located the bag, containing 20.8 g of methyl. A second</p>	<p>12 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was 'momentarily' in joint possession with her partner of the big bag of methyl; she aware her partner was engaged in dealing drugs and, while she was not involved in aiding him in</p>	<p>Allowed.</p> <p>Appeal concerned type of sentence.</p> <p>Resentenced:</p> <p>15 mths imp, conditionally susp 12 mths.</p> <p>At [68] ... a term of imp to be served immediately was not the only appropriate</p>

		<p>Exposed to a number of tragic events as an adult.</p> <p>Completed high school; some TAFE studies.</p> <p>Employed in hospitality until birth of first child in her early 20s; son now aged 17 yrs.</p> <p>Second child to current partner born 2021; care of her baby while in custody; imp significant impact on her children and elderly parents.</p> <p>History of drug use; not used methyl since becoming pregnant September 2020.</p>	<p>clipseal bag containing 0.64 g of methyl was also found.</p> <p>Two digital scales and clipseal bags with a white residue were also found.</p> <p>Forensic analysis of the clipseal bag containing the 20.8 g returned a DNA match to ENW's partner. ENW's DNA was not found on the bag.</p> <p>ENW falsely informed police the drugs were hers.</p>	<p>his drug dealings, she permitted him to use her mobile telephone from time to time in connection with his drug dealing business and she benefited from his drug dealing by receiving from time to time small quantities of methyl for her own use.</p> <p>The sentencing judge found it was not appropriate to suspend the term of imp.</p> <p>Remorseful; accepting of responsibility for her offending; engaged in and positive response to counselling.</p>	<p>sentencing option in relation to the appellant and the offence she committed; and ... the appellant's case is, as a matter of fact, exceptional.</p> <p>At [69]-[72] ... the appellant's joint possession with her partner of the big bag of methyl was fleeting. She did not at any time have physical possession of the drugs. Her unfulfilled intention, for less than one minute, was to take control of the drugs and hide them from the police. ... before the police arrived at the appellant's home to execute the SW, the appellant was unaware of the existence of the big bag of methyl. ... the appellant's offending was very unusual having regard to what she did and what she did not do in relation to the big bag of methyl, including the very short period of her offending conduct and the very short period that she was aware of the existence of the drugs. ... Further, it appears that [she] was not aware of the full extent of her partner's drug dealing. ...</p>
5.	<p><i>Croxford v The State of Western Australia</i></p> <p><b>[2021] WASCA 159</b></p>	<p>43 yrs at time offending. 44 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p>	<p>1 x Poss methyl wiss 4.04 g.</p> <p>Croxford was a passenger in a motor vehicle stopped by police. The vehicle and its occupants, including Croxford, were</p>	<p>9 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found</p>	<p>Allowed.</p> <p>Appeal concerned error of fact (sentenced on erroneous basis low-level dealer for</p>

	<p>Delivered 06/09/2021</p>	<p>Criminal history; prior drug offending.</p> <p>History of childhood trauma and abuse; under psychiatric care and treatment at various times from aged 12 yrs; multiple periods of hospitalisation.</p> <p>Resides alone, shares care of her teenage son; able to live independently with considerable assistance from her parents; parents remain supportive; provided with some assistance by NDIS.</p> <p>Some time in the workforce; recent yrs in receipt of a disability pension.</p> <p>Diagnosed with ADHD and Borderline Personality Disorder; 1998 acquired brain injury resulting from overdose; number of medical conditions including depression and asthma; experiences debilitating pain and stiffness as a result of rheumatoid arthritis.</p> <p>Lengthy history of illicit drug use commencing at early age; including heroin and methyl.</p>	<p>searched.</p> <p>A water bottle with a hidden compartment, scales and a large quantity of clipseal bags were found in the vehicle. These items belonged to the driver.</p> <p>Also located was \$25,800 in cash in the possession of another occupant of the vehicle.</p> <p>Croxford and the other occupants of the vehicle were conveyed to a police station. There, Croxford gave police three clipseal bags she had concealed down the front of her pants. The bags contained 4.04 g of methyl.</p> <p>Croxford told police she used methyl as a medication for her arthritis and was stocking up on the drug because it was very hard to get.</p> <p>Later examination of Croxford's mobile tablet showed messages that revealed, in the period leading up to the offence, she was engaged in low-level drug dealing.</p>	<p>the offending so serious that only a term of imp was warranted; the offending could not be viewed as an uncharacteristic aberration.</p> <p>The sentencing judge accepted imp would be more difficult for the appellant due to her physical and mental impairments.</p> <p>Some remorse and acceptance of responsibility for the offending; undertaken rehabilitation.</p>	<p>profit).</p> <p>Resentenced (25% discount):</p> <p>8 mths imp. EFP.</p> <p>At [50] ... While by no means as serious as many other cases of its type, the appellant's offending conduct was serious. It is clear from the Facebook messages which were downloaded from the appellant's mobile tablet that she was involved in the sale or supply of small quantities of methyl to others over a period of time. In other words, the offending was not an isolated occurrence. ...</p> <p>At [51] ... Her low-level drug dealing was not motivated by the desire to make a profit. Of the 4.04 g she possessed, 3.1 g was being temporarily held by her ... The balance would have been partly used by the appellant and partly sold at cost price to friends. ... Her mental disabilities reduced her moral culpability. ... The appellant's mental and physical disabilities, including brain damage, have consequences which make imp more difficult to her.</p>
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<p>4.</p>	<p><b><i>Turner v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 132</b></p> <p>Delivered 28/07/2021</p>	<p>27 yrs at time offending. 28 yrs at time sentencing.</p> <p>Convicted after very late PG (5% discount) – TOI to resolve dispute as to appellant’s intent to sell or supply.</p> <p>Criminal history; no prior drug offences.</p> <p>Parents separated when aged 18 yrs.</p> <p>Completed yr 10 high school.</p> <p>Became father aged 17 yrs; separated from son’s mother shortly after his birth.</p> <p>Consistent work history; gardener and handyman.</p> <p>Regular user of illicit drugs; taking and sharing drugs with friends a normal way of life.</p>	<p>Ct 1: Poss MDMA wiss 8.57g at 85% purity. Ct 2: Poss cannabis wiss 362.45 g. Ct 3: Poss methyl wiss 4.96g at 80% purity.</p> <p>Turner was stopped by police driving a vehicle. His 10-yr-old son was a passenger in the vehicle.</p> <p>A search of the vehicle located four vacuum sealed bags containing 41.88g; 280g; 26.4g and 14.07g of cannabis.</p> <p>In a further vacuum sealed bag 8.57g of MDMA was located.</p> <p>In a clip seal bag 4.96g of methyl was found.</p>	<p>Ct 1: 18 mths imp (cum). Ct 2: 2 yrs 8 mths imp (conc). Ct 3: 3 yrs 6 mths imp (cum).</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found at the TOI that the appellant was a mid-level user/dealer; while some of the drugs were for his personal use, he intended to sell or supply the majority of the drugs.</p> <p>The sentencing judge found immediate imp was the only appropriate sentence.</p> <p>Not remorseful; some credit given for limited cooperation.</p>	<p>Allowed (length of sentence ct 2).</p> <p>Appeal concerned length of individual sentences and totality principle.</p> <p>Resentenced (5% discount):</p> <p>Ct 1: 12 mths imp (cum). Ct 2: 10 mths imp (conc). Ct 3: 2 yrs 10 mths imp (cum).</p> <p>TES 3 yrs 10 mths imp.</p> <p>EFP.</p> <p>At [23]-[24] ... The element of commerciality involved in the offending was limited. ... However, the offending was not fleeting, unplanned or out of character. The appellant engaged in a course of distributing three different types of prohibited drug. While he dealt with drug users known to him, he did so regularly and to some extent for commercial gain. It was an aggravating feature of the offending that the appellant’s 10-yr-old son was present in the vehicle [he] used to transport the prohibited drugs.</p> <p>At [27] ... the sentence ... imposed ... for the cannabis</p>
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3.	<p><b><i>Pearman v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 106</b></p> <p>Delivered 22/06/2021</p>	<p>34 yrs at time sentencing.</p> <p>Late PG (10% discount).</p> <p>Modest criminal history.</p> <p>Born UK; emigrated to Australia with parents aged 17 yrs.</p> <p>Challenging childhood; domestic violence; poor maternal attachment; bullying and physical and emotional and sexual victimisation; emotionally vulnerable.</p> <p>Estranged from family.</p> <p>Completed equivalent of yr 10 high school.</p> <p>Employed various low-level positions; ability to work affected by drug use.</p> <p>Two sons; aged 13yrs and 10 yrs; no or limited contact with her children.</p>	<p>Ct 1: Poss methyl wiss 13.38 g.</p> <p>Ct 2: Poss unlawfully obtained property (\$2,280 cash).</p> <p>In the early hrs of the morning police stopped and searched a motor vehicle, of which Pearman was the only occupant.</p> <p>Methyl was located in two clip-seal bags in Pearman's purse. Also located was \$2,280 in cash.</p> <p>In the vehicle police also found empty clip-seal bags, electronic scales, measuring straws, a 'tick list' and a mobile phone with messages evidencing the sale of illicit drugs.</p> <p>Pearman had been selling drugs for a number of months in order to fund her own drug habit.</p>	<p>Ct 1: 2 yrs 4 mths imp (conc).</p> <p>Ct 2: 6 mths imp (conc).</p> <p>TES 2 yrs 4 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the offending was not isolated, but rather was part of an ongoing course of selling methyl for profit.</p> <p>Accepting of responsibility; remorseful; wished to mend her ways.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of sentence.</p> <p>At [12] Given the general sentencing principles as to the appropriate type of sentences for serious drug offence ... the conclusion that a term of immediate imp was the only appropriate sentence was inevitable in the present case. Nor can it reasonably be argued that the length of the sentence imposed in this case was not broadly consistent with customary sentencing standards for offending of this kind.</p> <p>At [19] ... The sentence imposed ... is a moderate sentence, ... In all of the circumstances of this case, it is not reasonably arguable that a sentence of less than 2 yrs 4 mths' immediate imp</p>



		<p>Illicit drug use.</p> <p>Chronic mental health challenges.</p>			would be commensurate with the seriousness of the drug offence of which the appellant was convicted.
2.	<p><b><i>O'Malley v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 8</b></p> <p>Delivered 14/01/2021</p>	<p>35 yrs time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Lengthy criminal history; prior convictions for drug offending.</p> <p>Completed yr 10 high school; Certificate 3 in Warehousing and Distribution.</p> <p>Employed as a mechanic and spray-painter; more recently his own automotive and bodywork business.</p> <p>Child from prior relationship; current partner young daughter and expecting a baby early 2021.</p> <p>History of illicit drug use; cannabis use early teens; methyl in his twenties; using methyl daily in his thirties.</p> <p>Suffers coeliac disease; treated with diet; otherwise in good physical health.</p>	<p>1 x Poss methyl wiss 26.49 g at 78% purity.</p> <p>O'Malley drove from Geraldton to Perth and purchased a quantity of methyl for \$4,800.</p> <p>The methyl was jointly purchased by him and two others.</p> <p>On the return journey O'Malley was stopped by police. A search located 2.6 g of methyl contained within two small bags in his pants and 23.8 g of the drug in the boot of his car.</p> <p>A search of O'Malley's home located smoking implements, digital scales, unused cipseal bags and one cipseal bag with methyl in it.</p> <p>O'Malley claimed the methyl discovered was for his personal use.</p>	<p>3 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant's offending was 'really to sustain his drug habit'; by the appellant's own admission he intended to distribute two lots of methyl (approx 8.3 g) to each of his co-purchases; he was to make a profit measured more in terms of the actual drug itself than in dollar notes by getting a one-third share of the drug at a heavily discounted price.</p> <p>Steps taken towards rehabilitation; alcohol and drug counselling; self-reporting to a psychologist.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of sentence.</p> <p>At [31] ... The offence involved planning and organisation. It cannot be overlooked that the appellant intended to supply to each of his co-purchases approx 8.3 g of methyl. There remained a real risk that the drugs supplied to the co-purchasers would be further supplied into the community. Even if the methyl was to be used by the co-purchasers themselves, the drug's deleterious effect posed a significant risk to the health of the co-purchases and potentially a risk to the public, given the negative effect methyl has on the behaviour of many who consume it.</p> <p>At [32] Moreover, it cannot be said that the appellant did not obtain some commercial benefit for what he did. The appellant ... profited in the sense that he got his one-third portion of the methyl at</p>

					a heavily discounted price, even allowing for the expense of travelling to and from Perth.
1.	<p><b><i>Cochrane v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 5</b></p> <p>Delivered 08/01/2021</p>	<p>40 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Long criminal history; prior conviction for poss methyl wiss.</p> <p>Difficult childhood; subjected to physical and emotional abuse; transient lifestyle; parents entrenched in alcohol and illicit substance use and violence.</p> <p>Supportive family and partner.</p> <p>Educated to yr 11.</p> <p>Good work history; labouring employment various industries.</p> <p>Number of significant relationships; 19 yr-old daughter first marriage; baby with current partner.</p> <p>Long history of substance abuse; cannabis aged 11 yrs; alcohol 13 yrs; ecstasy and LSD from aged 14 yrs; regular user of methyl past 20 yrs.</p>	<p>1 x Poss methyl wiss 47.13 g at 71%-79% purity.</p> <p>Cochrane flew from Perth to Geraldton. He was arrested in the airport terminal. When searched he reached down the front of his jeans and produced a bag, which he tried to put into his mouth.</p> <p>A later examination of the bag revealed it contained methyl, cannabis and dexamphetamine.</p> <p>The methyl was separated into four clip seal bags.</p>	<p>5 yrs 6 mths imp.</p> <p>EFP.</p> <p>Drug trafficker declaration made.</p> <p>The sentencing judge characterise the appellant as a courier who was to receive a relatively small portion of the drugs for personal use and who facilitated the distribution of drugs into a community already severely affected by methyl use.</p> <p>Remorseful; willingness to change; efforts taken towards rehabilitation in custody.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and error of law (max penalty life imp - ind did not include the words 'and the offence involved a trafficable quantity of methyl').</p> <p>At [7] ... in our view, the appellant was charged and convicted of committing the crime [in circumstances which involved a trafficable quantity of methyl] ... and so was liable to a max penalty of life imp.</p> <p>At [152]-[153] ... having regard to the increase in the penalty and the limited assistance from comparable cases, in our view it cannot be inferred that the learned sentencing judge was in error in the present case. ... The appellant committed a serious drug offence. ... the major sentencing considerations for offences of this type are general and personal deterrence. Any involvement in the illegal trade in methyl, ... is offending which calls for</p>

					terms of imp that will achieve that necessary deterrence.
<i>Transitional Provisions Repealed (14/01/2009)</i>					
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