

Possess methylamphetamine with intent to sell or supply (trafficable quantity)

ss 6(1)(a); 6(1)(c) and 34(1)(a) *Misuse of Drugs Act*

From 1 January 2021

Glossary:

att	attempt
conc	concurrent
cum	cumulative
ct	count
CBO	community based order
CSIO	conditionally suspended imp order
EFP	eligible for parole
immed	immediate
imp	imprisonment
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
methyl	methylamphetamine
OMG	outlaw motorcycle gang
PG	plead guilty
poss	possession
susp	suspended
SW	search warrant
TES	total effective sentence
UCO	undercover officer
wiss	with intent to sell or supply

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
21.	<p><i>Stipanich v The State of Western Australia</i></p> <p>[2023] WASCA 118</p> <p>Delivered 11/08/2023</p>	<p>41 yrs at time sentencing.</p> <p><u>IND 1926</u> Convicted after early PG (ct 1 20% discount) (ct 2 15% discount).</p> <p><u>IND 1878</u> Convicted after early PG (17.5% discount).</p> <p>Extensive criminal history.</p> <p>Dysfunctional and disadvantaged childhood; alcoholic mother; violent father; sexually abused.</p> <p>Educated to yr 10.</p> <p>10 yrs stable relationship; two teenage children from previous relationship.</p> <p>Commenced, but did not complete, an apprenticeship; employed in rigging and general construction.</p> <p>Struggled with drug addiction many yrs; using methyl at time of offending.</p>	<p><u>IND 1926</u> Ct 1: Poss methyl 6.78g. Ct 2: Poss unlawfully obtained property (\$75,170 cash).</p> <p><u>IND 1878</u> Ct 1: Poss methyl wiss 107.1g at 52% and 74% purity (trafficable quantity).</p> <p><u>IND 1926</u> In the early hrs of the morning Stipanich and his partner checked into a hotel.</p> <p>A hotel security camera recorded their movements.</p> <p>Stipanich was seen carrying a backpack.</p> <p>In the afternoon Stipanich and his partner left the hotel room. He was again seen carrying the backpack. They later returned to their room with the backpack.</p> <p>That evening Stipanich was arrested outside the hotel. A clipseal bag containing 6.78 g of MDMA was found in his pocket. The backpack was located in the hotel room and was found to contain 15 bundles of cash totalling \$75,170.</p> <p>In the room elastic bands matched those found on the bundles of cash. Digital scales, a smoking implement and a clipseal bag containing three oxazepam tablets were also located.</p> <p>Also found were two further bundles of cash, in the amounts of \$1,850 and \$850,</p>	<p><u>IND 1926</u> Ct 1: 8 mths imp (conc). Ct 2: 10 mths imp (cum).</p> <p><u>IND 1878</u> Ct 1: 7 yrs imp (cum).</p> <p>TES 7 yrs 10 mths imp. EFP.</p> <p>Sentenced on basis a mid-level user/dealer for profit.</p> <p>The sentencing judge found the offending serious; there was a significant quantity of methyl, well in excess of the trafficable quantity; the offending was committed for commercial purposes, but accepted the appellant was selling drugs partly to fund his own heavy drug use; the extent of the commerciality was reflected by the sum of \$75,170 found in his poss; the offending was not isolated or one-off and the offending must be considered in the context of and against a background that he was involved in drug dealing activities over an extended period of time.</p> <p>The sentencing judge also</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence ct 1 (IND 1878) and totality principle.</p> <p>At [36] ... the quantity of 107.1 g possessed by the appellant is nearly four times the trafficable quantity prescribed for methyl. Furthermore, it is important to bear in mind that the quantity possessed at the time of arrest must be seen in the context that the sentencing judge found that the appellant had been involved in commercial drug dealing over an extended period, a finding that is not challenged. The role of the appellant in the offending is also clearly important. He was not a mere courier or aider, who only came into poss of the drugs for a short time or for modest reward. He was, and accepted that he was, a mid-level commercial dealer.</p> <p>At [37] The third offence was also agg by the fact that it was committed when the appellant was on bail for the first two offences, one of which was also a drug</p>

			<p>and three mobile telephones.</p> <p>Stipanich claimed he could not remember the PINs to the mobile telephones.</p> <p>Stipanich's DNA was later found on the backpack and clipseal bag.</p> <p><u>IND 1878</u></p> <p>While Stipanich was on bail for the offences the subject of IND 1926, a search warrant was executed at his home. Inside an exercise roller, in a box wrapped in an elastic band, were clipseal bags containing three separate quantities of methyl.</p> <p>DNA consistent with that of Stipanich and his partner was detected on the outside of the box.</p> <p>Two sets of digital scales and two mobile telephones were also found. Stipanich declined to provide the PIN numbers for the mobile phones. When the contents of one of the mobile phones was able to be downloaded it revealed he had sent and received messages consistent with the sale of methyl.</p>	<p>took into account that the offending took place while the appellant was on parole and on bail.</p> <p>Courses undertaken while in prison; demonstrated commitment to rehabilitation.</p>	<p>offence. ...</p> <p>At [38] ... It can be misleading to view cases primarily from the perspective of the quantity of drugs involved without proper regard for the role of the offender and whether the offending was part of a course of conduct, as it was here.</p> <p>At [50] In the present case the appellant's role did not involve a one-off or single instance of criminality. As the sentencing judge properly noted, the appellant's role was one of involvement in commercial drug dealing over an extended period of time. He was a mid-level drug dealer, engaged in dealing for a profit as well as for the purpose of feeding his own habit. This places into proper context the quantity of the drugs involved. ...</p> <p>At [51] ... The sentence for the second offence was, if anything, a lenient sentence when regard is had to the amount of cash involved, the circumstances of the offending and the max penalty for that offence ... The relatively low sentence</p>
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					for that offence is accounted for by the fact that the sentencing judge reduced it for totality reasons. ... Nor can there be any sensible suggestion that a cum sentence for the second offence was inappropriate, given that it was serious independent offending conduct. ...
20.	<p><i>Humes v The State of Western Australia</i></p> <p>[2023] WASCA 110</p> <p>Delivered 17/07/2023</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Prior criminal history; no previous sentences of imp.</p> <p>Mother died when he was about 8 yr old; good childhood but generally very unstable; family moved constantly.</p> <p>Left school aged 17 yrs.</p> <p>Employed various labouring jobs; not worked since 2016-2017 as a result of injury; started own business prior to his incarceration.</p> <p>Married; one child; child from wife's previous relationship.</p> <p>Member of OMG since 2018.</p>	<p>Ct 1: Poss methyl wiss 166.3 g at 80-81% purity (trafficable quantity). Ct 2: Poss unlawfully obtain property.</p> <p>Humes drove his utility from Perth to Bunbury 'to assist with a job'. He did not know precisely what the job entailed until his arrival in Bunbury.</p> <p>At an address in Bunbury Humes met Mr L. Both Humes and Mr L then got into a vehicle and drove away.</p> <p>Sometime later the vehicle, being driven by Mr L, was stopped by police. Humes was seated in the front passenger seat. The vehicle was searched and \$15,030 in cash was located.</p> <p>Three clipseal bag were also found concealed in the front of Humes' underwear. The three packages weighed a total of 166.3 g of methyl (ct 1).</p> <p>Humes' utility was also searched and a further \$1,066 in cash was located in the vehicle (ct 2).</p>	<p>Ct 1: 6 yrs 2 mths imp (conc). Ct 2: 6 mths imp (conc).</p> <p>TES 6 yrs 2 mths imp.</p> <p>EFP.</p> <p>Appellant sentenced on the basis that the methyl had been in the front passenger seat footwell of the vehicle and he had put the drug in his underwear with the intention of returning it to Mr L.</p> <p>The sentencing judge found the offending serious; the appellant possessed six times the minimum trafficable quantity of methyl and characterised the quantity of the drug as 'significant'.</p> <p>The sentencing judge found the \$15,000 cash located in</p>	<p>Allowed – Quinlan J dissenting.</p> <p>Appeal concerned length of sentence ct 1.</p> <p>Resentenced ct 1 (20% discount):</p> <p>Ct 1: 5 yrs imp.</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>At [90] ... it appears that the appellant travelled from Perth to Bunbury to do 'a job' without knowing precisely what the job entailed. Given that he was paid \$1,066 for the job, it may be inferred that [he] was aware that the job entailed some kind of illegal conduct.</p> <p>At [91]-[92] ... Exactly how long the appellant was in</p>

		<p>Good physical health; mixed antisocial-borderline personality disorder; PTSD and disorders relating to alcohol and stimulate use.</p> <p>History of illicit substance abuse.</p>		<p>the car an aggravating feature; confirming the appellant was an essential part of a commercial drug dealing organisation.</p> <p>No demonstrated remorse; participated and engaged in drug counselling.</p>	<p>poss of the drug is not known. It is agreed that the appellant, in effect, hid the drug in his underwear, with the intention of giving it back to the driver of the vehicle, ... The appellant was aware that the drug would be distributed into the community, although he was not to be a part of that process. ... it therefore appears that [he] was in temporary possession of the drug for a short period of time. Nevertheless, as [he] acknowledges, he involved himself in a commercial drug trafficking operation of some scale, and did so for personal reward. Having regard to what is known about the circumstances, we accept the appellant's submission that he was at the low end of the commercial drug trafficking operation.</p> <p>At [94]-[104] Discussion of comparable cases.</p> <p>At [108] ... the appellant's poss of the methyl was brief, if not fleeting, and involved an intention to, in effect, return the methyl to the driver of the vehicle. Although it is true that the quantity of methyl involved</p>
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					was significant and [he] was paid for his actions, he was, at the end of the day, at a low level in the commercial drug trafficking enterprise. There is nothing to indicate that he was the owner of the methyl or that he was to be involved or have some continuing role in the actual sale of the drugs. ...
19.	<p><i>HSH v The State of Western Australia</i></p> <p>[2023] WASCA 113</p> <p>Delivered 14/07/2023</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after PG (10% discount).</p> <p>Prior criminal history; including drug offences, no previous convictions for dealing in drugs.</p> <p>Religious upbringing; supportive family.</p> <p>Number of intimate relationships; children and stepchildren.</p> <p>Long and varied working life.</p> <p>Left with chronic pain following significant injury early adulthood; lead to morphine and then methyl addiction; abstinent from drug use while in prison.</p>	<p>Ct 2: Poss methyl wiss 70.7 g at 77%-78% purity (trafficable quantity).</p> <p>HSH was a passenger in a vehicle stopped by police. In the boot of the vehicle a magnetic lock box was found, inside which were two clip seal bags. The first bag contained 55.7 g of methyl, with a purity of 77% and the second bag contained 15 g of methyl, with a purity of 78%.</p> <p>In HSH's pants two Post-it Notes with a series of names and numbers consistent with a 'tick list' were also found.</p> <p>At a location rented by HSH digital scales, iPads and a notebook containing several pages of notations consistent with tick lists were found.</p> <p>Telephone intercept data indicated HSH's involvement in the sale of prohibited drugs, including the use of encrypted communication applications.</p>	<p>Ct 2: 3 yrs 6 mths imp.</p> <p>EFPP.</p> <p>At time of sentencing serving a TES of 2 yrs 2 mths imp, and eligible for release to parole, in relation to two further offences on the same IND, namely:</p> <p>Ct 3: Poss methyl wiss (17.59 g).</p> <p>Ct 4: Failing to obey data access order.</p> <p>Ct 3: 20 mths imp (cum).</p> <p>Ct 4: 6 mths imp (cum).</p> <p>TES 5 yrs 5 mths 5 days imp.</p> <p>The sentencing judge found the appellant acted as a courier, delivering drugs to a purchaser for the purchase price of \$12,000; in return he was to be given</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence.</p> <p>At [92]-[99] Discussion of comparable cases.</p> <p>At [100] The appellant in this case committed a serious drug offence. As the authorities reveal, the major sentencing considerations for offences of this type are general and personal deterrence. The appellant's involvement in the illegal trade in methyl called for a term of imp that would achieve that necessary deterrence. The appellant's efforts and motivation towards rehabilitation were to his credit, but there was nothing exceptional about his personal circumstances.</p> <p>At [101] In all of the</p>

				<p>an eight-ball (3.5 g) of methyl; the seriousness of the offence was found in the quantity and the purity of the methyl, being just over two and a half times the trafficable quantity.</p> <p>The sentencing judge found the appellant a trusted person to the dealer; he was trusted with such a quantity of methyl and with the proceeds of the sale; he was also in the business of commercial drug dealing himself in quantities between a half-ball and an eight-ball (1.75 g to 3.5 g); the courier job was a means of sourcing material for his own commercial drug dealing; his drug dealing was not only to support his own drug use but to generate income generally.</p> <p>Genuinely remorseful; attempts made to rehabilitate himself from drug use; insight into his drug use.</p>	<p>circumstances, ..., there is no basis to conclude from the sentence imposed by the learned sentencing judge that her Honour's consideration of those matters involved any error. On the contrary, in our view, in the absence of the matters referred to in the Schedule, the appellant could have expected a significantly greater sentence than he received. The sentence was not plainly unjust or unreasonable.</p>
18.	<p><i>VRW v The State of Western Australia</i></p> <p>[2022] WASCA 177</p> <p>Delivered 30/12/2022</p>	<p>33 yrs at time offending. 34 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No criminal history.</p>	<p>Ct 1: Poss methyl wiss 3 kg (trafficable quantity). Ct 2: Poss unlawfully obtain property.</p> <p>VRW was the sole occupant of a vehicle stopped by police. A search of the vehicle revealed a bag containing methyl hidden in</p>	<p>Ct 1: 8 yrs imp (conc). Ct 2: 9 mths imp (conc).</p> <p>TES 8 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence ct 1.</p> <p>At [31] The appellant's offending was, ...</p>

		<p>Born outside Australia; moved to WA as an adult.</p> <p>Positive childhood; mother constant source of support.</p> <p>Consistent employment history.</p>	<p>the boot.</p> <p>The same day a search warrant was executed at VRW's home. There, police located \$1,085 in cash.</p> <p>VRW admitted he had been paid the cash for transporting drugs.</p> <p>Also located in the home were scales, gloves, a cryovac machine and cryovac bags, which he told police were items used to package cash.</p> <p>On the day of the offending VRW received messages on his telephone from a person identified as 'X'. These messages referred to both 'product' and 'coin'. X messaged VRW and offered him the sum of \$1,500 to take delivery of 'product' and to take it to three locations. He was provided with detailed instructions as to how to carry out this task. VRW carried out the directions that he had been given until he was apprehended by police and before he could effect the 'drop'.</p>	<p>Discount for cooperation on ct 1 of 1 yr 5 mths imp or about 15%.</p> <p>The sentencing judge found the offending the subject of ct 1 serious; it was not isolated, having regard to the appellant's admissions he had delivered drugs the previous day; the offending involved a degree of sophistication, using a CIPHR phone and code names and the offending was planned in such a way as to reduce the risk of detection.</p> <p>Genuinely remorseful; cooperative; low risk of reoffending.</p>	<p>serious. [He], having already been involved in the transportation of a significant quantity of a prohibited drug, voluntarily participated in the offending the subject of c 1 purely for financial gain, albeit a modest one.</p> <p>At [32] The appellant not only picked up the large quantity of methyl with the intention of delivering it to three different customers, but he was also prepared to accept payment for the sale of the prohibited drug and store the money temporarily on behalf of those higher in the drug hierarchy than him. The amount and the purity of the drug was high. Accordingly, the potential for harm to others in the community, once distributed, was great.</p>
17.	<p><i>Le v The State of Western Australia</i></p> <p>[2022] WASCA 163</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</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</p>	<p>Cts 1 & 2: 15 mths imp (conc).</p> <p>Cts 3 & 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</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</p>

		<p> 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 use; commenced using alcohol and marijuana aged 13 yrs; methyl and ecstasy aged 19 yrs; daily user of heroin.</p>	<p> 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 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 so 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</p>	<p> 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> 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 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>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 founds 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>		
16.	<p><i>The State of Western Australia v Stocker</i></p> <p>[2022] WASCA 178</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 & 2 - 20% discount). Convicted after very early PG (cts 3 & 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. Ct 2: Poss unlawfully obtained property (\$107,270 cash). Ct 3: Poss methyl wiss 28.13 g at 81% purity (trafficable quantity). 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). Ct 2: 2 yrs imp (conc). Ct 3: 3 yrs 6 mths imp (conc). 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 all likelihood, much longer</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 & 2 and 25% discounts cts 3 & 4):</p> <p>Ct 1: 3 yrs imp (cum). Ct 2: 2 yrs imp (conc). Ct 3: 3 yrs 6 mths imp (cum). 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>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 ...
15.	<p><i>The State of Western Australia v Radford</i></p> <p>[2022] WASCA 142</p> <p>Delivered 15/11/2022</p> <p>Co-offender:</p> <p><i>The State of Western Australia v Edwards</i></p> <p>[2022] WASCA 141</p> <p>Delivered 15/11/2022</p>	<p>52 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Very minor criminal history.</p> <p>One of three sons to parent's union; parents; siblings and long-term friend remain supportive.</p> <p>Left school yr 11.</p> <p>Solid work history; various fields; significant debts from a failed business.</p> <p>Volunteer fire fighter prior to incarceration.</p> <p>Single; no children.</p> <p>Some issues with methyl use.</p>	<p><u>Ind 517</u></p> <p>Ct 1: Poss methyl wiss 119 kg (trafficable quantity).</p> <p>Ct 2: Poss unlawfully obtained property (\$1,300 cash).</p> <p>Ct 3: Poss unlawfully obtained property (\$24,750 cash).</p> <p>Ct 4: Poss unlawfully obtained property (\$10,000 cash).</p> <p><u>Ind 1920</u></p> <p>Ct 1: Supplied methyl 14.6 kg.</p> <p>Ct 2: Dealt with money the proceeds of an offence (\$3.5 million).</p> <p><u>Ind 1920</u></p> <p>Radford was involved in packing approx. 14.6 kg of methyl and approx. \$3.5 million into cardboard boxes. The boxes were sealed with tape and he arranged for them to be delivered to a Mr Kreidie.</p> <p>A prime mover truck towing three trailers and being driven by Mr Kreidie was stopped by police. The truck and trailers were subjected to x-rays and it revealed a number of suspicious anomalies in the trailers. Among other cargo five cardboard boxes containing 14.6 kgs of methyl and large amounts of Australian cash were located.</p> <p>Radford's DNA profile was identified on one of the carboard boxes and a bag located</p>	<p><u>Ind 517</u></p> <p>Ct 1: 14 yrs imp.</p> <p>Ct 2: 1 yr's imp (conc).</p> <p>Ct 3: 3 yrs imp (cum).</p> <p>Ct 4: 2 yrs 6 mths imp (conc).</p> <p><u>Ind 1920</u></p> <p>Ct 1: 12 yrs imp (conc).</p> <p>Ct 2: 8 yrs imp (conc).</p> <p>TES 17 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge it a very serious instance of this type of offending and the offending agg by the weight and purity of the methyl; the large scale of the sophisticated, well-planned and well-resourced operation; the nature and level of the respondent's participation in the enterprise, which was an essential role in the continued operation of the criminal enterprise and that his role enabled those higher up in the drug distribution chain to make profits in a way that</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences ct 1 (Ind 517) ct 1 (Ind 1920) and totality principle.</p> <p>Resentenced:</p> <p><u>Ind 517</u></p> <p>Ct 1: 17 yrs imp (cum).</p> <p>Ct 2: 1 yr's imp (cum).</p> <p>Ct 3: 3 yrs imp (conc).</p> <p>Ct 4: 2 yrs 6 mths imp (conc).</p> <p><u>Ind 1920</u></p> <p>Ct 1: 14 yrs imp (conc).</p> <p>Ct 2: 8 yrs imp (conc).</p> <p>TES 18 yrs imp.</p> <p>EFP.</p> <p>At [31] In <i>The State of Western Australia v Edwards</i>, we have concluded that the individual sentence of 14 yrs imp imposed on Mr Edwards for selling or supply 119 kg of methyl to the respondent was manifestly inadequate. The same reasoning leads us to the</p>

			<p>inside the box.</p> <p><u>Ind 517</u> Radford met the co-accused Edwards at a truck bay. Edwards had driven a truck into WA from NSW. Edwards unloaded boxes from his truck and passed them to Radford, who loaded them into his van.</p> <p>Later that same day police attended Radford's home address and conducted a search of the van. Inside they located 11 cardboard boxes containing a total of 119.05 kg of methyl.</p> <p>Radford admitted hiring the van and putting the boxes in the van. He declined to make any comment as to any knowledge of the contents of the boxes.</p> <p>A search of Radford's residence located \$1,300 cash in a draw; \$24,750 in a robe and \$10,000 inside a gun safe.</p>	<p>escapes detection.</p> <p>The sentencing judge regarded the respondent and the co-offender Edwards as equally culpable in relation to the offending the subject of ct 1 on Ind 417.</p> <p>Very good prospects of rehabilitation.</p>	<p>conclusion that the sentence imposed the respondent in this matter for ct 1 on [Ind 517] was also manifestly inadequate. The criminality of both offenders was substantially the same, having regard to the nature of the offending and the similar personal circumstances of the two men. ...</p> <p>In [37] In the present case, the sentencing outcome for very serious offending of the kind in question requires correction in order to maintain public confidence in the proper administration of criminal justice. ...</p>
14.	<p><i>The State of Western Australia v Edwards</i></p> <p>[2022] WASCA 141</p> <p>Delivered 15/11/2022</p>	<p>41 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Prior criminal history NSW and QLD.</p> <p>Born NSW; good childhood; one of five children; parents separated when young; mother remarried; raised by mother and stepfather; good, hardworking parents; family in NSW supportive.</p>	<p>Ct 1: Sold/supplied methyl 119 kg (trafficable quantity).</p> <p>Ct 2: Sold/supplied methyl 43 kg (trafficable quantity).</p> <p>Ct 3: Poss unlawfully obtain property (\$4,503,630 cash).</p> <p>Edwards drove a truck, registered in NSW, into WA.</p> <p>Edwards stopped in a truck bay. A van, driven by the co-offender Radford arrived and parked next to the truck. Edwards entered the rear of the truck and handed Radford multiple boxes. Radford loaded the boxes into the van and then left the area.</p>	<p>Cts 1 & 2: 14 yrs imp (conc).</p> <p>Ct 3: 8 yrs imp (conc).</p> <p>TES 14 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge it a very serious instance of this type of offending; the offending agg by the fact the drugs would have caused enormous harm if distributed in the community; the large scale</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences cts 1 & 2 and totality principle.</p> <p>Resentenced (25% discount):</p> <p>Ct 1: 17 yrs imp (conc). Ct 2: 15 yrs imp (conc). Ct 3: 8 yrs imp (conc).</p> <p>TES 17 yrs imp.</p> <p>EFP.</p>

		<p>Completed yr 10 high school.</p> <p>Good work ethic; employed mostly in rural NSW and QLD; commenced working as a truck driver 2018; own business 2019.</p> <p>Single at time sentencing; no children.</p> <p>In good health; apart from suffering arthritis; very depressed by current situation.</p> <p>Social drinker; past cocaine use.</p>	<p>A second van arrived, driven by the co-accused Diamantopoulos. He also parked next to the truck. Multiple boxes were loaded into this van before Diamantopoulos left the area.</p> <p>Edwards was arrested at the truck bay. He was holding a mobile 'Ciphr' phone, a dedicated encryption communication device, costing approx \$2,500 - \$3,000 for six months' use.</p> <p>A search of the rear of the truck located five individually padlocked suitcases, found to contain \$4,503,630 in Australian cash.</p> <p>The first van was located at Radford's home. Inside 11 boxes, containing approx. 119 kg of methyl, were located.</p> <p>The second van was also located and four boxes, containing approx 43 kg of methyl, was found.</p> <p>A total of 162.74 kg of methyl was located in the two vans, with the purity of the drug between 77% and 84%.</p>	<p>of the sophisticated, well-planned and well-resourced operation illustrated the quantity of drugs and cash involved in the offending and the nature and level of the respondent's participating in the enterprise, which enabled those higher up in the drug distribution chain to make profits in a way that escaped detection.</p> <p>The sentencing judge found the respondent a very well trusted courier; and he was to be paid \$30,000 for his role in bringing the drugs into WA.</p> <p>Genuinely remorseful; accepting of responsibility for his offending.</p>	<p>At [44] ... the very large quantity of the drugs involved in this case is a significant agg feature of the offence. The quantity of drugs involved increases the potential harm which would have resulted from their distribution into the community. Those running the operation demonstrated a high degree of trust placed in the respondent. He knowingly involved himself in a large scale and well-organised drug distribution operation. [He] participated in the operation for significant commercial gain. His involvement in the offending was not fleeting, and he performed the important task in the criminal enterprise of transporting the drugs into WA and shielding the organisers of the drug operation from apprehension and punishment.</p> <p>At [45] It must also be recognised that the respondent's involvement in the operation was apparently at a relatively low level in the criminal syndicate. ...</p> <p>At [48] ... Having regard to ... the quantity of drugs involved; ... the respondent's</p>
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					role and position in the drug operation; ... the respondent's commercial motive for involvement in the operation; ... the mitigating factors; and ... all relevant sentencing principles, ... it was not open to the sentencing judge to regard a sentence of 14 yrs imp as commensurate with the seriousness of the offence charged in ct 1. ...
13.	<p><i>Siskopoulos v The State of Western Australia</i></p> <p>[2022] WASCA 138</p> <p>Delivered 28/10/2022</p>	<p>42 yrs at time offending. 45 yrs at time sentencing.</p> <p>Conviction after late PG (17% discount).</p> <p>No criminal history.</p> <p>Experienced trauma throughout his life.</p> <p>Married 21 yrs; daughter aged 20 yrs.</p> <p>Unemployed; assisted wife in her business.</p> <p>No assets; outstanding family debt of around \$100,000.</p>	<p>1 x Att poss methyl wiss (trafficable quantity).</p> <p>The co-offender Kezkiropoulos was in custody, serving a sentence of imp. Siskopoulos would visit him in prison.</p> <p>During these prison visits conversations between the Kezkiropoulos, and Siskopoulos were covertly recorded. They revealed a plan to acquire a large quantity of methyl through an Asian syndicate. It was arranged Kezkiropoulos would arrange the transaction and Siskopoulos would deal with the methyl. He expected to sell or supply large quantities, around 1 or more kgs, to various associates.</p> <p>An OCO spoke with Siskopoulos and they arranged to meet at a café. During the meeting Siskopoulos confirmed an order for 20 kg of methyl and arrangements were made for delivery the following day.</p> <p>Siskopoulos was given a \$5 note with a serial number and told to use that as a token</p>	<p>16 yrs imp.</p> <p>EFP.</p> <p>Co-offender Kezkiropoulos sentenced to 21 yrs imp. EFP.</p> <p>The sentencing judge sentenced the appellant on the basis that he intended to gain poss of 40 kg of methyl from the UCO and that he carried out a series of acts which were more than merely preparatory, with the result that he had att to commit the substantive offence.</p> <p>The sentencing judge found the quantity the subject of the attempt as 'vast', reflecting a large-scale, wholesale drug operation; the appellant and</p>	<p>Dismissed.</p> <p>Appeal concerned parity principle.</p> <p>At [46] ... Whilst all elements of the sentence imposed on Kezkiropoulos are relevant, the need to reflect principles of totality in his sentence represents an obvious reason why there is not a marked difference between the sentence imposed on him and the sentence imposed on the appellant for their common offending. The question of parity cannot overlook that the sentence of Kezkiropoulos was affected by totality, an issue which was not relevant to the appellant.</p> <p>At [51] The sentencing judge</p>

			<p>to validate his identity with the delivery driver. There was a delay with delivery and, during subsequent messages, Siskopoulos increased the amount of methyl ordered to 40 kg. When Siskopoulos became suspicious he stopped communicating.</p> <p>Siskopoulos was arrested and a search of his car revealed paperwork for the lease of a storage unit. He denied the storage unit was for storing drugs. A search of his home located notes containing the names and telephone numbers of associates, who he had referred to in the course of his recorded conversions. Also found was the \$5 note that the UCO had given to him.</p>	<p>Kezkiropoulos anticipated a profit in the order of between \$200,000 to \$400,000 and that they hoped it would be an ongoing, profitable operation; the appellant was an equal and active participant, undertaking significant and crucial steps in what was a joint venture and while his role was somewhat lesser, it was nevertheless significant.</p> <p>No genuine remorse.</p>	<p>appropriately recognised that the appellant and Kezkiropoulos were engaged in a joint venture, albeit that it was necessary to reflect the appellant's good record and lower level of culpability. ...</p> <p>At [52] It cannot be said that, in the proper exercise of her sentencing discretion, the sentencing judge failed to properly bring these matters to account when addressing the parity principle. It cannot be said that, when all considerations relevant to the sentences imposed on the co-offenders are brought to account, that the appellant's ... sentence reflects a failure to properly apply the parity principle, or that those principles required a shorter sentence.</p>
12.	<p>FZA v The State of Western Australia</p> <p>[2022] WASCA 124</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;</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>Ct 1: 4 yrs imp (cum). Ct 2: 14 mths imp (conc). Ct 3: 9 mths imp (conc). Ct 4: 6 mths imp (cum).</p> <p>TES 4 yrs 6 mths imp.</p> <p>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</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>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>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 lists', were also found.</p>	<p>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>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 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</p>
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					operation. ...
11.	<p><i>Den Ridder v The State of Western Australia</i></p> <p>[2022] WASCA 113</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 & 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 & 11: Supplied methyl. Ct 4: Sold cannabis 28 g. Cts 9 & 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).</p> <p>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,</p>

			<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>10 and 11 were reasonably significant and showed that the appellant had ready access to such quantities, and that his 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>
10.	<p><i>Walker v The State of Western Australia</i></p> <p>[2022] WASCA 100</p> <p>Delivered 08/08/2022</p>	<p>38 yrs at time offending. 40 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Prior criminal history.</p>	<p>Ct 6: Supplied methyl 83.3 g (trafficable quantity). Ct 9: Supplied methyl 373.6 g (trafficable quantity).</p> <p>An UCO communicated with the co-offender Alo using an encrypted messenger service known as Ciphr.</p>	<p>Ct 6: 5 yrs 6 mths imp (partially cum, to commence after having served 4 yrs 6 mths). Ct 9: 8 yrs 6 mths imp (cum).</p> <p>TES 10 yrs imp.</p>	<p>Dismissed - Buss P dissenting.</p> <p>Appeal concerned parity principle and length of sentence ct 9.</p> <p>At [71]-[72] ... the</p>

		<p>Dysfunctional upbringing; marred by parents drug use and domestic violence.</p> <p>Married ex-wife 15 yrs; two children.</p> <p>Suffered depression after disintegration of his marriage.</p> <p>History of association with OMC; held the position of sergeant at arms.</p>	<p>During these communications Alo arranged to sell the UCO a quantity of methyl. Walker met with Alo and supplied him with the drug (ct 6). The UCO gave Alo \$15,000 in exchange for the methyl.</p> <p>The methyl was seized and later analysis showed it weighed 83.3 g (at approx 53% purity).</p> <p>On another date Walker and another co-accused, Robinson, met at an address. The meeting was arranged by Walker in order to facilitate the sale of 10 ounces of methyl to Alo.</p> <p>That same day a SW was executed at the address. Walker and Robinson were located in the house and arrested. The search located a clip seal bag containing 82.9 g of methyl (65% to 67% purity); a wrapped package containing 10 smaller clip seal bags each containing 1 ounce of methyl, weighing a total of 277 g (at between 57% and 76% purity). In Walker's car a clip seal bag containing 13.7 g of methyl (at 65% purity) was also located (ct 9).</p>	<p>EFP.</p> <p>Co-offender Alo: Charged with seven offences on same indictment, two overlapping, albeit not identical, set of facts. TES 10 yrs imp. EFP.</p> <p>The sentencing judge found the appellant as equally culpable as his co-offender.</p> <p>The sentencing judge found the quantities of the drug to be very significant; his ability to fulfil at relatively short notice, 3 ounces and then 10 ounces of methyl, highlighted the level of his involvement in the hierarchy of the drug dealing community.</p> <p>The sentencing judge found the appellant had the capacity to source significant quantities of illicit drugs; he played a major role in the distribution of drugs and was high up in the chain of command in relation to the distribution of drugs within the community.</p> <p>Appellant undertaken all</p>	<p>individual sentence for ct 9 may properly be described as heavy and that the exercise of a sound sentencing discretion could have led to a lighter individual sentence. Nevertheless, ... in our view the sentence cannot properly be characterised as unreasonable or plainly unjust. ... to the extent that the individual sentence for ct 9 was heavy (albeit not manifestly excessive), it was in any event softened by the order that it be served partly conc with the sentence for ct 6 ...</p> <p>At [98]-[99] ... the lack of disparity in the TES imposed on each of the appellant and Mr Alo must be explained, if it can be, by the greater seriousness of ct 9 (committed by the appellant), compared to ct 7 (committed by Mr Alo) ... the additional quantities of methyl included in ct 9 compared to ct 7, readily justify the disparity of 1 yr imp for the individual sentences imposed in relation to those cts. ... the appellant's possession of an additional 93.6 g of methyl was a significant distinguishing feature of that offending.</p>
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				available programs; ceased all involvement with OMC gang at time sentencing.	
9.	<p><i>Watson v The State of Western Australia</i></p> <p>[2022] WASCA 80</p> <p>Delivered 06/07/2022</p>	<p>27 yrs at time offending. 28 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Prior criminal history.</p> <p>Family in New Zealand; imp more difficult because of absence of family support.</p> <p>Positive character references.</p> <p>No history of drug use.</p>	<p>Ct 1: Supplied methyl 3.999 kg at 68-72% purity. Ct 2: Poss unlawfully obtained property (\$5,987,220 cash).</p> <p>Watson and others were part of a significant drug and money laundering enterprise.</p> <p>Watson was observed entering bushland on foot carrying a backpack. A short time later he left the bushland, no longer in possession of the backpack. A male person then entered the same bushland and returned, carrying the backpack towards a vehicle. The vehicle was searched and the backpack, containing the methyl, was located.</p> <p>A forensic examination of the backpack provided a DNA match to Watson.</p> <p>Watson was also involved in packaging cash. At his home, he and two co-accused, White and O'Callaghan, vacuum sealed cash in plastic bags and packed it into six boxes, each box contained about \$1,000,000 cash.</p> <p>A SW was later executed at O'Callaghan's premises and the boxes were located. The cash was seized and substituted with paper. The boxes were resealed and left in place. A few days later O'Callaghan transported the cash to White's home.</p> <p>About two wks later O'Callaghan returned</p>	<p>Ct 1: 10 yrs imp (cum). Ct 2: 3 yrs imp (cum).</p> <p>TES 13 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant willingly participated in the commission of ct 1 for commercial reward (\$1,000), this offending was not an aberration or a one-off; although the reward was 'paltry' it did not excuse or reduce the seriousness of the offending and his conduct provided protection to the principals of the drug dealing enterprise.</p> <p>The sentencing judge found the appellant knew the cash the subject of ct 2 was the proceeds of the sale of prohibited drugs and he expected to receive a commercial benefit for his participation in the commission in the offence; although not 'a decision maker' he was an ambitious and enthusiastic supporter of the enterprise and 'more</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence and totality principle.</p> <p>At [56] The objective facts and circumstances of the appellant's offending on ct 1 were very serious. ...</p> <p>At [59] In our opinion, the sentence ... for ct 1 was commensurate with the seriousness of the appellant's offending It is not reasonably arguable that the offence is manifestly excessive.</p> <p>At [64] The objective facts and circumstances of the appellant's offending on ct 2 were very serious ...</p> <p>At [66] In our opinion, the sentence ... for ct 2 was commensurate with the seriousness of the appellant's offending.</p> <p>At [69] The TES bears a proper relationship to the overall criminality involved in both of the offences, viewed in their entirety, and</p>

			<p>to White's premises, collected the boxes, drove them to a carpark and unloaded them into the vehicle of another co-accused. This person then drove the boxes to his home. Several days later he drove the boxes to a place where they were transferred to a truck.</p> <p>On the same day a warrant was executed at Watson's home. A CIPHR encrypted mobile phone was located, along with boxes, strapping and clips identical to the boxes containing the cash.</p> <p>Watson admitted the mobile phone was his, that he had attended the park and dropped the backpack containing the methyl and that he was paid \$1,000 to supply the drug.</p> <p>CIPHR messages downloaded from Watson's phone and that of each co-accused revealed he was involved in arranging the distribution, sale and supply of prohibited drugs.</p>	<p>than a warehouseman' and 'more than a courier'; the amount of cash demonstrated the vast reach and magnitude of the enterprise and he was a person who people higher in the chain of hierarchy reposed a large degree of trust.</p>	<p>having regard to all relevant facts and circumstances, ...</p>
8.	<p><i>Ta v The State of Western Australia</i></p> <p>[2022] WASCA 49</p> <p>Delivered 05/05/2022</p>	<p>36 yrs at time offending. 38 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>No prior criminal history.</p> <p>Born Vietnam, migrated to Australia 2005.</p> <p>Educated in Vietnam to equivalent of yr 12.</p>	<p>Ct 1: Poss methyl wiss 2.875kg at 78-81% purity. Ct 2: Poss methyl wiss 245 g at 79% purity. Ct 4: Poss unlawfully obtained property (\$361,000 cash).</p> <p>Ta was a member of a syndicate transporting significant quantities of prohibited drugs from Victoria to WA. A unit, known as the Forrest Avenue unit, was used to store prohibited drugs and cash.</p> <p>Ta flew from Melbourne to Perth on 19 occasions in 2018. On each occasion she remained in Perth for a short period. She</p>	<p>Ct 1: 11 yrs imp (conc). Ct 2: 2 yrs 6 mths imp (cum). Ct 4: 3 yrs 6 mths imp (conc).</p> <p>TES 13 yrs 6 mths imp.</p> <p>EFP.</p> <p>The co-offender Mr Le was sentenced to a TES of 16 yrs 6 mths imp with EFP.</p> <p>The co-offender Mr Tran</p>	<p>Appeal allowed.</p> <p>Appeal concerned parity principle.</p> <p>Resentenced (15% discount):</p> <p>Ct 1: 11 yrs imp (cum). Ct 2: 5 yrs 6 mths imp (conc). Ct 4: 12 mths imp (cum).</p> <p>TES 12 yrs imp. EFP.</p>

		<p>Employed in a bakery on arrival in Australia; ceased working after birth of second child.</p> <p>Single at time sentencing; three children now cared for by an aunt; no contact with her children since her arrest.</p> <p>Struggled emotionally as a result of separation from her children.</p>	<p>leased seven hire cars, which were driven to WA, from various companies in Victoria.</p> <p>Over several days police intercepted telephone messages and conversations between Ta and the co-offenders Mr Le, Mr Tran and ELA that revealed they were planning to transport a significant quantity of drugs to Perth.</p> <p>Ta leased a vehicle in Melbourne and Mr Tran drove the vehicle from Melbourne to Perth. On the day Mr Tran's arrived in Perth Ta flew from Melbourne to Perth on a commercial airline flight. At an arranged meeting Mr Tan provided Ta with the keys to the vehicle he had driven from Melbourne.</p> <p>Ta drove the vehicle to the Forrest Avenue unit. On her arrival ELA opened the electronic gate to the unit complex. Ta alighted the vehicle and walked to the passenger side while ELA approached the driver's seat. At this point, she and ELA were arrested by police.</p> <p>A search of the vehicle located 12 cryovac bags containing a total of 2.875 kg of methyl concealed in the centre console (ct 1).</p> <p>A search of ELA located a satchel bag containing \$30,835 in cash, the keys to an electric gate fob for the unit and for another premises.</p> <p>A search of the Forrest Avenue unit located 245 g of methyl in a clip seal bag concealed</p>	<p>was sentenced to a TES of 11 yrs imp with EFP.</p> <p>The co-offender ELA was sentenced to a TES of 9 yrs 6 mths imp with EFP.</p> <p>The sentencing judge found the co-offender Mr Le central to the operation and more culpable than the appellant; however the appellant co-ordinated Mr Tran, who acted as a courier, to distance herself from the prohibited drugs.</p> <p>The sentencing judge found Mr Le, the appellant and Mr Tran were involved in the offending for personal gain.</p> <p>The sentencing judge found the overall offending very serious and the criminality high. It involved the dissemination of serious quantities of high-grade drugs into the community for substantial profit and it involved sophisticated systems for the purpose of avoiding detection.</p> <p>Appellant remorseful and accepting of responsibility.</p>	<p>At [65] ... the offending by the appellant and Mr Le reveals that Mr Le had, without doubt, a materially higher level of culpability than the appellant.</p> <p>At [66] ... Although the appellant coordinated various activities including Mr Tran's activities, she did not coordinate matters to the same extent as Mr Le. ... Each of the appellant and Mr Le committed cts 1, 2 and 4. However, in addition, Mr Le (but not the appellant) committed ct 3. The offence charged in ct 3 involved the poss of heroin wiss it to another. The quantity of heroin was substantial ... and the purity of the drug was high ...</p> <p>At [69] In our opinion, the individual sentences imposed on Mr Le for cts 1 and 2 and the TES he received were, without doubt, lenient. That unwarranted leniency contributed to an outcome in the relativities as between the appellant and Mr Le, for the purposes of the parity principle, that is unreasonable or plainly unjust. ...</p>
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			<p>in a wardrobe (ct 2). Also located was \$361,000 in cash concealed in the lining of three eskies (ct 4). The cash was packaged in bundles and either cryovac sealed or wrapped with glad wrap.</p> <p>Various items connected with the sale and supply of prohibited drugs were found in the Forrest Avenue unit, including a set of digital scales with traces of white powder; large-size scales with detectable traces of a white crystal substance; a cryovac machine and unused cryovac rolls; a money counter; large glad wrap rolls, several tick lists and a press machine and cash, used to compress heroin into block form.</p>		<p>At [71] We are satisfied that the TES imposed on the appellant, compared to the TES imposed on Mr Le, reveals that there was a marked and unjustifiable lack of disparity adverse to the appellant and favourable to Mr Le.</p>
7.	<p><i>Curry v The State of Western Australia</i></p> <p>[2022] WASCA 36</p> <p>Delivered 25/03/2022</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Long criminal history; including offences involving violence and weapons; on parole for offence of agg burg at time offending.</p> <p>Raised by single mother; absent father; aged 12 yrs parents unsuccessfully attempted to revive their relationship.</p> <p>Left school aged 16 yrs; undertook four-yr apprenticeship.</p> <p>Two significant relationships; first involved</p>	<p>Ct 1: Poss methyl wiss 248 g at 74% purity. Ct 2: Poss unlawfully obtained property (\$146,225 cash).</p> <p>A SW was executed at an apartment and Curry was found in a bedroom of the apartment</p> <p>A vacuum sealed bag containing the methyl was also located in the bedroom.</p> <p>Also in the bedroom was \$146,225 in cash, a box magazine, five shotgun rounds, a stun device, metal baton and identification documents in Curry's name.</p> <p>The box magazine fitted a rifle seized earlier from the apartment complex.</p> <p>Curry was involved with a group of people who dealt drugs and he did not possess the drugs and the cash alone.</p>	<p>Ct 1: 6 yrs 6 mths imp (cum). Ct 2: 8 mths imp (cum).</p> <p>TES 7 yrs 2 mths imp.</p> <p>The sentencing judge found the offending part of a serious criminal enterprise in which the appellant was an essential part; he offended for commercial gain and there was a clear connection between his poss of the methyl and his poss of the \$146,225 in cash.</p> <p>The sentencing judge found text messages suggested the appellant dealt with 'lower level' dealers and users; indicating his involvement</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned plea discount and totality principle.</p> <p>At [46] ... The appellant did not enter his PG to cts 1 and 2 at the first reasonable opportunity. ...</p> <p>At [49] ... There is no basis to suppose that the judge failed to apply the 20% discount to both cts 1 and 2.</p> <p>At [60] Bearing in mind ... the appellant's essential role in what [was] found ... to be a prolonged drug-dealing enterprise ...; the weight and purity of the methyl; and ... the fact that [he] committed</p>

		<p>mutual substance abuse; second partner positive and supportive; two young children at time sentencing.</p> <p>Commenced methyl use aged 20 yrs; long-standing entrenched drug addiction at time sentencing.</p>		<p>was much more than that of a courier or storekeeper, the messages helped better identify his role and showed that his offending the subject of ct 1 was sustained rather than isolated; it was significant the criminal enterprise possessed firearms and weapons; although the appellant was not being sentenced for poss of weapons, they formed part of the circ of the offending.</p> <p>The sentencing judge found the offending aggravated by the fact the appellant committed the offences while on parole and while cts 1 and 2 were connected, their seriousness made it appropriate to impose cum sentences.</p> <p>Remorseful; insight into his offending; courses undertaken while in custody; steps taken to address his drug use; expressed desire to avoid reoffending and to fulfil his responsibilities as a father.</p>	<p>the offence while on parole, [his] sentence on ct 1 was well within the range of sentences available on a proper exercise of the sentencing discretion. A materially higher sentence could have been imposed without revealing error. ...</p> <p>At [61] The same is true, in our opinion, of the sentence imposed on ct 2, and the TES on cts 1 and 2 as a whole.</p> <p>At [69] ... the appellant was not being sentenced for offences concerning the firearms, ammunition and weapons. However, the fact that the criminal enterprise of which [he] was a part was in poss of those items formed part of the circumstances relevant to [his] offending. The judge did not err in so finding. The nature, scale and characteristics of the criminal enterprise of which the appellant's offending formed a part was a matter relevant to the judge's evaluation of the seriousness of the appellant's offences.</p>
6.	<p><i>ATH v The State of Western Australia</i></p> <p>[2021] WASCA 149</p>	<p>36 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history.</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</p>	<p>7 yrs imp.</p> <p>EFP.</p> <p><u>Co-offender M</u></p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned parity principle.</p>

	<p>Delivered 24/08/2021</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 autism; one abused by a step-brother.</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</p>	<p>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>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 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;</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 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>
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		and participated in counselling. Commenced using methyl 2018; drug use quickly escalated; drug rehabilitation undertaken.		remorse. No demonstrated remorse; genuine attempts made at rehabilitation and to abstain from illicit drugs.	
5.	<i>McGrath v The State of Western Australia</i> [2021] WASCA 118 Delivered 06/07/2021	27 yrs at time offending. Convicted after early PG (25% discount). Criminal history; 2018 and 2020 convictions for poss methyl; no prior sentences of imp. Positive upbringing; supportive family. Family financial trauma when significant amount of money stolen from family business 2012; resulted in significant family disruption and parents' personal struggles and separation. Stressed by previous imp of twin brother. Good education; completed yr 10 high school. Good work history; completed apprenticeship; employed in security; drug use escalated to point no longer able to hold down a	1 x Poss methyl wiss 985 g at 78% purity. McGrath agreed to assist a friend with the transportation of drugs, in exchange for an amount of methyl for his own use. McGrath was a passenger in a vehicle, being driven by his friend, when it was stopped by police. Police observed a bag in the footwell of the passenger's seat, between McGrath's feet. He was asked to step outside the vehicle so he could be searched. As he did so he picked up the bag and attempted to run. He was restrained by one of the officers. McGrath then threw the bag over the car. The bag and its contents were secured by police. Inside was a package wrapped in tape. The package contained 985 g of methyl. The methyl, as a single lot, was valued at about \$125,000, or between \$500,000 and \$800,000 if sold in individual doses. A search of McGrath's residence found nothing to indicate he was involved in the distribution or sale of methyl, other than the drugs the subject of the offending.	8 yrs imp. EFP. The sentencing judge found that while the appellant did not know the amount of the drugs being transported the quantity of methyl was 'very serious' and he was to receive a commercial benefit for his role in the offending, being a quantity of the drug for his own use. The sentencing judge found the appellant was at the lowest end of the hierarchy and his role was that of someone who was involved only in the transportation of methyl. Remorseful; regretful of his conduct; insight into his offending and its effect on the community; good prospects of rehabilitation.	Allowed. Appeal concerned length of sentence. Resentenced (25% discount): 5 yrs 9 mths imp. EFP. At [55]-[56] There is no doubt that the appellant's offending is properly characterised as serious. [He] willingly involved himself in assisting the transportation of a substantial quantity of methyl, almost 1 kg. ... Further, [he] offended for commercial gain, in the sense and to the extent that he was to receive an unidentified quantity of methyl in return ... At [58] ... putting to one side the quantity of drugs involved, the extent of the appellant's involvement, and what he actually did, puts his criminality towards the

		<p>job.</p> <p>Commenced using drugs on moving out of home.</p>			<p>lowest end of the scale of seriousness of offences of this kind. The appellant's offending is fairly described as both fleeting and opportunistic. ... There was nothing to suggest that he had any other role in the drug dealing or had met or communicated with anyone involved in the enterprise other than the driver.</p> <p>At [62] ... We also accept that, in throwing the bag containing the methyl over the car ..., the appellant sought to prevent the police from taking poss of the bag. Nevertheless, in our view, that conduct does not undermine the opportunistic and fleeting character of the appellant's involvement. ... What the appellant did is consistent with a panicked and desperate att to avoid detection of the drugs he had at his feet when the police stopped the car.</p> <p>At [65] ... in our respectful view, the sentence of 8 yrs imp was not merely high, but, rather, is properly characterised as unreasonable or plainly unjust.</p>
4.	<i>Nickson v The State of Western Australia</i>	58 yrs at time sentencing.	<u>Ind 2154</u> Ct 1: Poss methyl wiss 69.5 g.	<u>Ind 2154</u> Ct 1: 3 yrs 6 mths imp	Dismissed (leave refused).

<p>[2021] WASCA 40</p> <p>Delivered 05/03/2021</p>	<p>Convicted after PG (Ind 2154 10% discount; Ind 990 20% discount).</p> <p>Extensive 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>Educated to yr 10; completed trade apprenticeship; employed consistently until 2007.</p> <p>Marriage of 17 yrs ended 2006.</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 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</p>	<p>(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>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</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 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</p>
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			<p>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 contained 13 tablets, being 2.95 g of dexamphetamine (ct 2).</p> <p>Also located were two clipseal 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 clipseal 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>	<p>drug programmes undertaken while in custody.</p>	<p>circumstances, ...</p>
3.	<p><i>Trainor v The State of Western Australia</i></p> <p>[2021] WASCA 36</p>	<p>53 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</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>Ct 1: 14 yrs imp (conc).</p> <p>Ct 2: 16 mths imp (conc).</p> <p>TES 14 yrs imp.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence ct 1.</p>

	<p>Delivered 26/02/2021</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>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>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 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>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 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>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. 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>
2.	<p><i>Blasco v The State of Western Australia</i></p> <p>[2021] WASCA 26</p> <p>Delivered 12/02/2021</p>	<p>39 yrs at time sentencing.</p> <p>Convicted after PG (22% discount).</p> <p>Extensive prior criminal history; prior drug</p>	<p>Ct 1: Sold/supplied methoxphenidine.</p> <p>Cts 2-4: Offer to sell methyl 1 g; 14 g & 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 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>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences not challenged.</p> <p>At [58] The appellant</p>

		<p>convictions.</p> <p>Chaotic and dysfunctional upbringing.</p> <p>Expelled yr 9; never returned 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>Ct 8: Poss methoxphenidine wiss 72.9 g.</p> <p>Blasco's mobile telephone was lawfully monitored. The offending occurred over 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>Ct 8: 3 yrs imp (conc).</p> <p>TES 8 yrs imp.</p> <p>EFP.</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>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 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 <i>2017 Amendment Act</i>. It was not unreasonable or plainly unjust.</p>
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1.	<p><i>Cochrane v The State of Western Australia</i></p> <p>[2021] WASCA 5</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</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</p>

		<p>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>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 terms of imp that will achieve that necessary deterrence.</p>
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Amendment to s 34(1)(a) Misuse of Drugs Act (18/09/2017)

**Offence amended to include trafficable quantity of methylamphetamine (28 grams or more as specified in Schedule VII Item 8 of the Misuse of Drugs Act).
Maximum penalty life imprisonment.**

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