

# **Possess prohibited drug with intent to sell or supply**

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

MDMA, Heroin, Cocaine, Methylamphetamine/Amphetamine/Ketamine

**From 1 January 2021**

**Note:** This chart is arranged in ascending order of the total weight of prohibited drugs. Weights of drugs the subject of attempts to possess or offer to sell or supply offences are included in the total weight, together with those amounts actually possessed, supplied or sold, and are separately noted in the weight column as well. Please refer to the summary of facts or the judgement itself for the circumstances of those offences. Weights of cannabis have not been included in the total weights.

## Glossary:

att	attempt
agg	aggravating
conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
imp	imprisonment
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
methyl	methylamphetamine
OMG	outlaw motorcycle gang
PG	plead guilty
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

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal	Quantity
34.	<p><i>Croxford v The State of Western Australia</i></p> <p><b>[2021] WASCA 159</b></p> <p>Delivered 06/09/2021</p>	<p>43 yrs at time offending. 44 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</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</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 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-</p>	<p>9 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found 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>Allowed.</p> <p>Appeal concerned error of fact (sentenced on erroneous basis low-level dealer for 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</p>	4.04 g.

		<p>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>	level drug dealing.		<p>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>	
33.	<p><b>Wade v The State of Western Australia</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>Ct 1: Poss methyl wiss 9.71 g. 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</p>	<p>Ct 1: 2 yrs 3 mths imp (cum). 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</p>	9.71 g.

		<p>Living my himself aged 13 yrs.</p> <p>Left school yr 8.</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>implements, a cryovac machine and associated packaging.</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>standards for drug offences of the present kind. ...</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>	
32.	<p><b><i>Pearman v The State of Western Australia</i></b></p> <p><b>[2021] WASCA</b></p>	<p>34 yrs at time sentencing.</p> <p>Late PG (10% discount).</p> <p>Modest criminal history.</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</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>Dismissed – on papers.</p> <p>Appeal concerned length of sentence.</p>	13.38 g.

	<p><b>106</b></p> <p>Delivered 22/06/2021</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>Illicit drug use.</p> <p>Chronic mental health challenges.</p>	<p>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>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>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 would be commensurate with the seriousness of the drug offence of which the appellant was convicted.</p>	
31.	<p><b>Turner v The State of Western Australia</b></p>	<p>27 yrs at time offending. 28 yrs at time sentencing.</p> <p>Convicted after very late</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%</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>Allowed (length of sentence ct 2).  Appeal concerned length of</p>	<p>13.53 g.</p>

	<p><b>[2021] WASCA 132</b></p> <p>Delivered 28/07/2021</p>	<p>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>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>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>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>	
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					At [27] ... the sentence ... imposed ... for the cannabis offence is so far in excess of that which is properly capable of being regarded as commensurate with the seriousness of the cannabis offence so as to drive us to the conclusion that the sentence is manifestly excessive, notwithstanding that it is to be served conc with other sentences.	
30.	<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>Exposed to a number of tragic events as an adult.</p> <p>Completed high school; some TAFE studies.</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 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>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 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</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 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>	22.44 g.

		<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>Forensic analysis of the cipseal 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>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>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>	
29.	<b><i>O'Malley v The State of Western Australia</i></b>	<p>35 yrs time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (20%</p>	<p>1 x Poss methyl wiss 26.49 g at 78% purity.</p> <p>O'Malley drove from Geraldton to</p>	<p>3 yrs 6 mths imp.</p> <p>EFP.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of sentence.</p>	26.49 g.



	<p><b>[2021] WASCA 8</b></p> <p>Delivered 14/01/2021</p>	<p>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>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>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>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 a heavily discounted price, even</p>	
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					allowing for the expense of travelling to and from Perth.	
28.	<p><i>Monisse v The State of Western Australia</i></p> <p><b>[2021] WASCA 52</b></p> <p>Delivered 26/03/2021</p>	<p>18 yrs 11 mths time offending. 19 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>No prior criminal history.</p> <p>Raised loving family; parents and extended family very supportive.</p> <p>Completed yr 12; academically successful; university studies.</p> <p>Worked part-time from aged 14 yrs.</p> <p>Relationship; partner very supportive.</p> <p>Experienced bout of depression at university.</p> <p>Illicit substance use from aged 17 yrs; ketamine addiction time offending;</p>	<p>Ct 1: Att poss ketamine wiss 27.8 g. Ct 2: Poss unlawfully obtained property (\$1,820 cash).</p> <p>Monisse sourced ketamine on the Dark Web and purchased a quantity of the drug for about \$2,500.</p> <p>The parcel, addressed to Monisse, was intercepted at a post office outlet. It was found to contain 27.8 g of ketamine. The ketamine was removed and the parcel was returned to the outlet (ct 1).</p> <p>The following day Monisse collected the parcel. He was arrested a short time later.</p> <p>In Monisse's wallet police located \$550 cash and a search of his home revealed a further \$1,270 cash (ct 2).</p> <p>Numerous items associated with illicit drugs, including ketamine, MDMA, cannabis and Xanax were also located in the bedroom.</p> <p>Monisse told police that about one quarter of the ketamine was for his own use and he would have sold the balance.</p>	<p>Ct 1: 22 mths imp (conc). Ct 2: 10 mths imp (conc).</p> <p>TES 22 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found a number of serious factors to the appellant's offending; the significant quantity of ketamine; its commerciality, in that he was, at least in part, selling prohibited drugs in order to make a profit; it was not an isolated one-off incident and his involvement in the sale and distribution of prohibited drugs had a level of persistence to it.</p> <p>The sentencing judge characterised the appellant a low level drug user-dealer.</p> <p>Genuinely remorseful; meaningful steps taken towards rehabilitation; drug and psychological counselling since arrest; abstained from illicit substance use; low risk of</p>	<p>Dismissed.</p> <p>Appeal concerned type of sentence; length of individual sentence ct 1 and TES.</p> <p>At [58]-[59] ... the appellant's offending was serious. It involved attempting to possess, wiss, 27.8 g of ketamine. The appellant was a dealer as well as a user of the drug. The offending on ct 1 was not isolated, opportunistic or impulsive. ... the appellant had been selling or supplying prohibited drugs for some time. .... [He] was selling or supplying prohibited drugs, in part, to make a profit and, in part, to fund his own drug habit. ... the fact that he had a history of low level drug dealing demonstrated that the current offences were not aberrations and informed his culpability.</p>	27.8 g.

			Monisse admitted the money the subject of ct 2 was the proceeds of the sale of prohibited drugs.	reoffending.	<p>At [62] ... it was reasonably open for the sentencing judge to conclude that it was inappropriate to susp or conditionally susp (wholly or partly) the sentences of imp. ... The types of individual sentences were not unreasonable or plainly unjust. ...</p> <p>At [67]-[68] ... the TES imposed on the appellant was appropriate ... The mitigating factors in the present case were properly reflected in the length of the individual terms of imp and the length of the TES.</p>	
27.	<p><b>FZA v The State of Western Australia</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 retain sector</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</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 imp with a TES of 5 yrs 2</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>	45.23 g.

		<p>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>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 lists', were also found.</p>	<p>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>	
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					At [87] The offences committed by the appellant were undoubtedly serious. ... The appellant was part of a reasonably sophisticated commercial drug distribution operation. ...	
26.	<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</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.</p>	47.13 g.

		relationships; 19 yr-old daughter first marriage; baby with current partner.  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.			... 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 terms of imp that will achieve that necessary deterrence.	
25.	<b><i>The State of Western Australia v Stocker</i></b>  <b>[2022] WASCA 178</b>  Delivered 17/11/2022	Age at time of offending and sentencing not available.  Convicted after early PG (cts 1 & 2 - 20% discount). Convicted after very early PG (cts 3 & 4 - 25% discount).  No prior criminal history.  Raised close-knit, loving and supportive family environment; parents and siblings remain supportive.  Completed yr 12; trade apprenticeship.  Commenced working	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).  Stocker was engaged in the business of dealing in methyl.  A SW was executed at Stocker's home. At the time he was not at home, although a co-accused was present.  On the kitchen bench in a glove, police found two cipseal bags and a plastic wrapper containing quantities of methyl. In addition, two cipseal bags were found on the bench.  Stockers DNA profile was found on	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).  Individual sentences for cts 1 and 2 cum upon conc individual sentences for cts 3 and 4.  TES partly susp; upon serving 20 mths imp balance (3 yrs 4 mths imp) susp period of 2 yrs.  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 the respondent was conducting a	Allowed.  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.  Resentenced (20% discounts cts 1 & 2 and 25% discounts cts 3 & 4):  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).  TES 6 yrs 6 mths imp. EFP.	54.14 g.

		<p>father's business aged 25 yr; operational manager by aged 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>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>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</p>	
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					totality principle, the orders for partial concurrency as between ct 1 ... and ct 3 ... resulted in an overall term of imp which was not commensurate with the overall seriousness of the offences committed by the respondent ...	
24.	<p><b><i>HSH v The State of Western Australia</i></b></p> <p><b>[2023] WASCA 113</b></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</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>EFP.</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</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>	70.7 g.



		while in prison.		<p>was to be given 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>At [101] In all of the 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>	
23.	<p><i>Stipanich v The State of Western Australia</i></p> <p>[2023] WASCA</p>	<p>41 yrs at time sentencing.</p> <p><u>IND 1926</u> Convicted after early PG (ct 1 20% discount)</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 1926</u> Ct 1: 8 mths imp (conc). Ct 2: 10 mths imp (cum).</p> <p><u>IND 1878</u></p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence ct 1 (IND 1878) and totality principle.</p>	113.88 g.

	<p><b>118</b></p> <p>Delivered 11/08/2023</p>	<p>(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 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>Ct 1: 7 yrs imp (cum).</p> <p>TES 7 yrs 10 mths imp.</p> <p>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 took into account that the offending took place while the appellant was on parole</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 offence. ...</p>	
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			<p>Also found were two further bundles of cash, in the amounts of \$1,850 and \$850, 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>and on bail.</p> <p>Courses undertaken while in prison; demonstrated commitment to rehabilitation.</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,</p>	
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					the circumstances of the offending and the max penalty for that offence ... The relatively low sentence 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. ...	
22.	<p><b><i>Celani v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 215</b></p> <p>Delivered 16/12/2021</p>	<p>25 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</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>Cts 1; 11; 17 &amp; 18: Offer to sell cannabis 3.6212 kg.</p> <p>Cts 2-6; 8-10; 12-16; 19-31 &amp; 33-35: Offer to sell methyl 93.145 g.</p> <p>Ct 7: Offer to sell cocaine 28 g.</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>Cts 1-3; 8 &amp; 10: 12 mths imp (conc).</p> <p>Ct 4 &amp; 18: 20 mths imp (conc).</p> <p>Cts 5-6 &amp; 21: 14 mths imp (conc).</p> <p>Ct 7: 36 mths imp (head).</p> <p>Ct 9; 11; 13-14; 17; 22; 24-25 &amp; 28-31: 6 mths imp (conc).</p> <p>Cts 12; 34 &amp; 35: 9 mths imp (conc).</p> <p>Ct 15: 18 mths imp (conc).</p> <p>Ct 16; 19 &amp; 23: 24 mths imp (conc).</p> <p>Cts 20 &amp; 26: 10 mths imp (cum).</p> <p>Ct 27: 15 mths imp (conc).</p> <p>Ct 32: 6 mths imp (cum).</p> <p>Ct 33: 10 mths imp (conc).</p>	<p>Dismissed - leave refused.</p> <p>Appeal concerned plea discount and totality principle (individual sentences not 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</p>	122.895 g.

		<p>Cannabis use from aged 12 yrs; methyl from aged 16 yrs; regular user of methyl; heavy user at time of offending.</p>	<p>Many of the cts were committed over a period of time.</p>	<p>TES 5 yrs 2 mths imp. 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>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 the offers.</p> <p>At [56] It is clear the appellant had a large coterie of customers, and it was not suggested that he</p>	
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					<p>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>	
21.	<p><b><i>IIO v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 38</b></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>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><u>Indictment A</u> Cts 1-4: Sold/supplied MDMA 129.79 g at 79% &amp; 85% purity. Ct 5: Poss cocaine wiss 2.7 g at 35% purity.</p> <p><u>Indictment B</u> Ct 1: Poss unlawfully obtained 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</p>	<p><u>Indictment A</u> Ct 1: 6 mths imp (conc). Ct 2: 2 yrs imp (cum). Ct 3: 3 yrs 3 mths imp (cum). Ct 4: 3 yrs imp (conc). Ct 5: 6 mths imp (conc).</p> <p><u>Indictment B</u> 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</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 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</p>	144.9 g.

			<p>cocaine.</p> <p><u>Indictment B</u></p> <p>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>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>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>	
20.	<p><b><i>Palladino v The State of Western Australia</i></b></p> <p><b>[2023] WASCA 101</b></p> <p>Delivered 29/06/2023</p>	<p>47 yrs at time offending. 48 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Criminal history; prior drug related offending; prior sentence of imp.</p> <p>Happy childhood; parents divorced aged 3 yrs; little contact with father; loving; supportive, but</p>	<p>Ct 1: Poss dexamphetamine wiss 145.38 g. Ct 2: Poss methyl wiss 5.49 g. Ct 3: Poss unlawfully obtained property (\$3,050 cash).</p> <p>During a search of Palladino's residence bottles containing dexamphetamine tablets were located.</p> <p>In total eight bottles, containing 730 dexamphetamine tablets, weighing 145.38 grams were found.</p>	<p>Ct 1: 3 yrs imp (conc). Ct 2: 9 mths imp (conc). Ct 3: 6 mths imp (conc).</p> <p>TES 3 yrs imp.</p> <p>EFP.</p> <p>The appellant accepted it was her intention to sell the methyl on behalf of another person and that the \$3,050 was the proceeds of previous sales, which was to be given</p>	<p>Dismissed (leave refused - totality principle).</p> <p>Appeal concerned length of sentence ct 1 and totality principle.</p> <p>At [66] The appellant's offending was serious. It involved a substantial quantity of dexamphetamine. ... It is true that, in terms of the seriousness of the</p>	145.38 g.

		<p>strict mother and stepfather; left home aged 16 yrs.</p> <p>Strong supportive family; father deceased.</p> <p>Education difficult; attended various schools; experienced bullying; left halfway through yr 11.</p> <p>Commenced relationship with husband aged 17 yrs; four children from the union; husband emotionally abusive; marriage ended after 17 yrs; commenced another long-term relationship shortly after.</p> <p>Employed in retail and hospitality until birth of her first child aged 18 yrs; employed two part-time jobs at time of sentencing.</p> <p>Entrenched illicit drug use; introduced to methyl aged 25-27 yrs.</p>	<p>Also located were four clip seal bags containing methyl. Palladino told police that she had divided the drugs into the bags to ration it out for her own use.</p> <p>In a bedside draw \$3,050 cash was also found. She admitted the cash belonged to her and she had legitimately obtained the money from her three jobs.</p> <p>A glass smoking implement and two sets of electronic scales were also located.</p> <p>Palladino's mobile phone was seized and was found to contain messages consistent with the sale of methyl.</p>	<p>to the owner of the drug.</p> <p>The sentencing judge found, even if dexamphetamine could be described as less harmful than other prohibited drugs, it was an illicit drug and the seriousness of the offending was not to be underestimated; appellant sentenced on the basis the dexamphetamine was for her and her partner's personal use; and not for dissemination into the community.</p> <p>The sentencing judge found it was a 'significant amount of methyl'; there was an element of commerciality in the offending and characterised the appellant as a 'low-end user-dealer'.</p> <p>Remorseful; risk of reoffending 'somewhere in the middle of the scale'; stable accommodation and employment at time sentencing; steps taken towards rehabilitation.</p>	<p>appellant's offending, the offending was not aggravated by any motive of commercial gain. Nor was there an intention to sell or supply the dexamphetamine into the community generally. These matters moderate the seriousness of the appellant's offending. It must, nevertheless, be appreciated that the significant quantity involved - and the stimulant and mind-altering properties of dexamphetamine - created a potential danger to the appellant's partner's health and wellbeing so far as the appellant accepted that she had an intention to supply her partner. The significant quantity of the dexamphetamine is a distinguishing feature of the present appeal when it is compared to the cases of <b>Attenborough</b>, <b>Fenton</b> and <b>May</b> as relied on by the appellant (those cases all involving much smaller quantities which put the offending at the lower end</p>	
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					<p>of the scale of seriousness of offences of this kind).</p> <p>At [67] The offending was not an aberration. It occurred in the context of the appellant's prior drug related offending and her simultaneous poss of methyl wiss. ...</p> <p>At [68] For the reasons as given in <i>ENR</i> ... it may not be assumed that dexamphetamine is less harmful than other prohibited drugs.</p> <p>At [76] ... it is not arguable that the TES of 3 yrs immediate imp ... infringed the first limb of the totality principle so far as the individual sentence for the head sentence (ie ct 1) is not manifestly excessive. The individual sentence for ct 1 is not unreasonable or plainly unjust. ...</p>	
19.	<p><i>Humes v The State of Western Australia</i></p> <p>[2023] WASCA 110</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Prior criminal history; no</p>	<p>Ct 1: Poss methyl wiss 166.3 g at 80-81% purity (trafficable quantity).</p> <p>Ct 2: Poss unlawfully obtain property.</p> <p>Humes drove his utility from Perth to Bunbury 'to assist with a job'. He did</p>	<p>Ct 1: 6 yrs 2 mths imp (conc).</p> <p>Ct 2: 6 mths imp (conc).</p> <p>TES 6 yrs 2 mths imp.</p>	<p>Allowed – Quinlan J dissenting.</p> <p>Appeal concerned length of sentence ct 1.</p>	166.3 g.

	<p>Delivered 17/07/2023</p>	<p>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>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>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>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 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>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 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</p>	
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					<p>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 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</p>	
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					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. ...	
18.	<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 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</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 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</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>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>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 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</p>	175.08 g.

		<p>drug debt to an OMG; commenced selling drugs in order to repay the debt.</p>	<p>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>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>		<p>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>	
17.	<p><b><i>Den Ridder v The State of Western Australia</i></b></p> <p><b>[2022] WASCA</b></p>	<p>36 yrs at time offending. 39 yrs at time sentencing.</p> <p>Convicted after PG (18% discount).</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.</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).</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence ct 10 and totality principle.</p>	178.67 g.

<p><b>113</b></p> <p>Delivered 26/08/2022</p>	<p>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</p>	<p>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 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>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</p>	
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		selling drugs to fund his addiction.	<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>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>	
16.	<i>Le v The State of Western Australia</i>	41 yrs time sentencing.	Cts 1-4: Sold methyl 3.4 g - 14.27 g at 69%-77% purity.	Cts 1 & 2: 15 mths imp (conc).	Dismissed (leave refused).	213.31 g.

<p><b>[2022] WASCA 163</b></p> <p>Delivered 08/12/2022</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>Ct 5: Sold methyl 83.7 g at 63% purity (trafficable quantity) Ct 6: Offer to sell methyl 56 g (trafficable quantity). Ct 7: Poss methyl wiss 31.91 g (trafficable quantity). Ct 8: Poss unlawfully obtained property (\$7,580 cash). 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>Cts 3 &amp; 4: 2 yrs imp (conc). Ct 5: 4 yrs 6 mths imp. Ct 6: 3 yrs imp (cum). Ct 7: 2 yrs 6 mths imp (conc). Ct 8: 9 mths imp (conc). 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>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 ...</p>	
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		<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>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 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 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>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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			The home at which Le was residing was also searched. A clipseal bag containing 7.13 g of methyl was found (ct 9).			
15.	<p><i>Curry v The State of Western Australia</i></p> <p><b>[2022] WASCA 36</b></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 mutual substance abuse; second partner positive and supportive; two young children at time sentencing.</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 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</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 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</p>	248 g.

		Commenced methyl use aged 20 yrs; long-standing entrenched drug addiction at time sentencing.		<p>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>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>	
14.	<b>Jacomb v The State of Western Australia</b>	<p>36 yrs at time sentencing.</p> <p><u>Ind 1437</u> Convicted after very late</p>	<p><u>Ind 1437</u> Cts 1-4; 7-17 &amp; 19: Offer to sell methyl. Cts 5 &amp; 6: Poss firearm.</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</p>	<p>Allowed.</p> <p>Appeal concerned error in law (failure to give credit</p>	424.725 g.

<p><b>[2021] WASCA 81</b></p> <p>Delivered 11/05/2021</p>	<p>PG (10% discount). <u>Ind 2201</u> Convicted after PG (20% discount).</p> <p>Prior criminal history.</p> <p>Born New Zealand; moved to 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>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> 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>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 Ind 1437).</p> <p>TES 8 yrs 6 mths imp. 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</p>	<p>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). 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</p>	
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			<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>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>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>Prospect of deportation once sentence of imp served.</p>	<p>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 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</p>	
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			<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> 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>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>		<p>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>	
13.	<p><b><i>Walker v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 100</b></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>Dysfunctional upbringing;</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 Ciphre.</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).  TES 10 yrs imp.  EFP.</p>	<p>Dismissed - Buss P dissenting.</p> <p>Appeal concerned parity principle and length of sentence ct 9.</p> <p>At [71]-[72] ... the individual sentence for ct 9</p>	456.9 g.

		<p>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>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>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</p>	
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				available programs; ceased all involvement with OMC gang at time sentencing.	appellant's possession of an additional 93.6 g of methyl was a significant distinguishing feature of that offending.	
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>Educated to yr 10; completed trade apprenticeship; employed consistently until 2007.</p> <p>Marriage of 17 yrs ended 2006.</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 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><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>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</p>	<p>Dismissed.</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</p>	578.04 g.



			<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 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</p>	<p>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>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>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>			
11.	<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</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>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</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</p>	977g.

		<p>from their father 5 yrs prior to sentencing; one child diagnosed ADHD, another with autism; another suffered abuse.</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</p>	<p>The vehicle was searched and the drugs were located in the roof cavity.</p>	<p>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; remorse.</p> <p>No demonstrated remorse; genuine attempts made at rehabilitation and to abstain from illicit drugs.</p>	<p>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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		rehabilitation undertaken.				
10.	<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>Diagnosed with ADHD.</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 was substituted with an inert substance before being delivered. KJL was seen</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).</p> <p>TES 10 yrs 6 mths imp.</p> <p>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</p>	<p>Dismissed.</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 behaving</p>	1192.34 g.

		<p>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</p>	<p>commercially dealing in illicit 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>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</p>	
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			<p>web, along with evidence of cryptocurrency transactions.</p> <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>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 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>	
9.	<p><b><i>Chuang v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 49</b></p> <p>Delivered</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>1 x Offer to sell methyl (3 kg).</p> <p>Chaug 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</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>Dismissed.</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>	3000 g.

	<p>19/03/2021</p> <p>Co-offender of:</p> <p><b><i>Law v The Queen</i></b> [2019] WASCA 81</p>	<p>Born Taiwan; lived in Australia over 20 yrs.</p> <p>Hairdresser by trade.</p> <p>Three children.</p>	<p>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 arrested. During a search of his home a heat-sealing machine and unopened bags of rock sugar were found.</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>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</p>	
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					<p>pretences, the victim of a drug ‘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>	
8.	<p><b><i>Giangiulio v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 77</b></p>	<p>50 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Long criminal history;</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</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>	2000.00 g.



	<p>Delivered 01/07/2022</p>	<p>serious drug offending; prior 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>UCO attended Liadow's home to 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>At [81] ... we consider that the 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>	
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7.	<p><b><i>VRW v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 177</b></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>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>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 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>Ct 1: 8 yrs imp (conc). Ct 2: 9 mths imp (conc).</p> <p>TES 8 yrs imp.</p> <p>EFP.</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>Dismissed.</p> <p>Appeal concerned length of sentence ct 1.</p> <p>At [31] The appellant's offending was, ... 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>	3000.00 g.
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6.	<p><b><i>Ta v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 49</b></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>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>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 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</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 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</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>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</p>	3120.00 g.
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			<p>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 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>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>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> <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>	
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5.	<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>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>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 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</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 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</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. 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</p>	3892.96 g.
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			and that he was going to pass them on to another person.	offending for commercial gain.  Cooperative; showed police the locations of the drugs; made admissions as to his possession of the drugs.	of 14 yrs imp imposed by the sentencing judge in respect of ct 1 was unreasonable or plainly unjust. ...	
4.	<b><i>Watson v The State of Western Australia</i></b>  <b>[2022] WASCA 80</b>  Delivered 06/07/2022	27 yrs at time offending. 28 yrs at time sentencing.  Convicted after PG (20% discount).  Prior criminal history.  Family in New Zealand; imp more difficult because of absence of family support.  Positive character references.  No history of drug use.	Ct 1: Supplied methyl 3.999 kg at 68-72% purity. Ct 2: Poss unlawfully obtained property (\$5,987,220 cash).  Watson and others were part of a significant drug and money laundering enterprise.  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.  A forensic examination of the backpack provided a DNA match to Watson.  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.	Ct 1: 10 yrs imp (cum). Ct 2: 3 yrs imp (cum).  TES 13 yrs imp.  EFP.  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.  The sentencing judge found the appellant knew the cash	Dismissed (leave refused).  Appeal concerned length of sentence and totality principle.  At [56] The objective facts and circumstances of the appellant's offending on ct 1 were very serious. ...  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.  At [64] The objective facts and circumstances of the appellant's offending on ct 2 were very serious ...  At [66] In our opinion, the sentence ... for ct 2 was	3.999 kg.

			<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 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>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 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>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 having regard to all relevant facts and circumstances, ...</p>	
3.	<b>Ramachandran v The State of</b>	30 yrs at time offending. 31 yrs at time sentencing.	Ct 1: Poss methyl wiss 32.572 kg at 57%-81% purity.	Ct 1: 19 yrs 10 mths imp (conc).	Allowed.	37.526 kg

<p><b>Western Australia</b></p> <p><b>[2021] WASCA 54</b></p> <p>Delivered 31/03/2021</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 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</p>	<p>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>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 home-owner he intended to reside at the property with his wife. He in fact lived at another property with his co-accused.</p>	<p>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>The sentencing judge found the appellant's criminal culpability very high regardless of the position he held within the network, he was still</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 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</p>	
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		<p>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>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>a vital part of the operation, protecting those holding other positions in the network, both higher up and on the same level.</p>	<p>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 relatively low level in the criminal syndicate which imported the drugs for the purpose of selling them. There is no</p>	
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					<p>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</p>	
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					with which the offence is regarded in light of the increased maximum. ...	
2.	<p><b><i>The State of Western Australia v Radford</i></b></p> <p><b>[2022] WASCA 142</b></p> <p>Delivered 15/11/2022</p> <p>Co-offender:</p> <p><b><i>The State of Western Australia v Edwards</i></b></p> <p><b>[2022] WASCA 141</b></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><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</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 <b><i>The State of Western Australia v Edwards</i></b>, we have concluded that the individual sentence of 14 yrs imp imposed on Mr Edwards for selling or supply 119 kg of methyl to</p>	133.60 kg.

			<p>Radford's DNA profile was identified on one of the cardboard boxes and a bag located 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>and that his role enabled those higher up in the drug distribution chain to make profits in a way that 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>the respondent was manifestly inadequate. The same reasoning leads us to the 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>	
1.	<p><b><i>The State of Western Australia v Edwards</i></b></p> <p><b>[2022] WASCA 141</b></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</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>Cts 1 &amp; 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</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences cts 1 &amp; 2 and totality principle.</p> <p>Resentenced (25% discount):</p> <p>Ct 1: 17 yrs imp (conc).</p>	162.00 kg.

	<p>children; parents separated when young; mother remarried; raised by mother and stepfather; good, hardworking parents; family in NSW supportive.</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>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>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 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 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</p>	<p>Ct 2: 15 yrs imp (conc). Ct 3: 8 yrs imp (conc). TES 17 yrs imp.</p> <p>EFP.</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</p>	
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				responsibility for his offending.	<p>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 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. ...</p>	
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