

**Possess cannabis with intent to sell or supply,**  
**Cultivate cannabis with intent to sell or supply**  
**and Offer to sell or supply cannabis**

ss 6(1), 7(1) and 7(2) *Misuse of Drugs Act*

**From 1 January 2021**

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

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

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
11.	<p><b><i>French v The State of Western Australia</i></b></p> <p><b>[2025] WASCA 126</b></p> <p>Delivered 26/08/2025</p>	<p>28 yrs at time offending. 31 yrs at time sentencing.</p> <p>Convicted after PG (10% discount).</p> <p>Criminal history; AOBH; SMV; crim damage; agg home burg; on bail at time offending.</p> <p>Parents divorced at 2 yrs of age; father passed away when he was very young.</p> <p>Experienced difficulties in school.</p> <p>Worked in mining after school; later worked in the tow truck industry.</p> <p>Reported being diagnosed with ADHD.</p> <p>In a relationship.</p>	<p>1 x Sold cannabis (4.497 kg).</p> <p>On a date in late December, a co-offender Mr H, met with a UCO at a café in Kings Park. The UCO asked Mr H if he could arrange the supply of 10 lbs of cannabis. Mr H agreed to source the drug.</p> <p>Five days later, Mr H met the UCO again. This time Mr H was in company with the appellant. Mr H informed the UCO that the price would be \$37,000, to which the UCO agreed to pay. The appellant directed the UCO to attend an address later that day.</p> <p>The UCO attended the address as directed and was met by the appellant's partner. She directed the UCO to another co-offender (Mr E), who in turn introduced the UCO to another co-offender (Mr T). The sale was unsuccessful on that occasion.</p> <p>A few days later, the UCO, Mr E and Mr T attended a petrol station. The UCO gave Mr T \$37,000. Mr T left, then later returned with two cardboard boxes, which he placed in the UCO's vehicle. The UCO would later pay a commission to Mr H.</p> <p>At the time the appellant committed the offence, he was on bail for other serious offending.</p>	<p>TES: 2 yrs imp (cum on an unrelated sentence see: <b><i>Mackey v The State of Western Australia</i></b> [2025] WASCA 120).</p> <p>EFP.</p> <p>The sentencing judge found that the appellant arranged, from the buyer's end, for the sale of a very large quantity of cannabis.</p> <p>The sentencing judge found that the appellant would have received a financial gain of some description.</p>	<p>Appeal dismissed (leave refused).</p> <p>Appeal concerned the first limb of the totality principle (when regard is had to the other custodial sentence) and the length of the sentence.</p> <p>At [47] 'the sentencing judge was mistaken as to the effect of the sentence. Her Honour mistakenly thought that by making an order for eligibility for parole, the appellant would only serve half the sentence of 2 years' imprisonment because that sentence was under 4 years. However, that calculation failed to take into account that the sentence was to be served cumulatively on the existence sentence of 7 years 2 months.'</p> <p>At [48] 'this error did not, however, affect the sentence. Questions of eligibility for parole are not relevant when determining the appropriate had sentence.'</p> <p>At [49] 'in any event, the real question raised by this ground is whether the total effective sentence of 9 years 2 months was disproportionate to the overall criminality of the appellant's conduct.'</p> <p>At [50] '... having regard to the circumstances of all of the offending and the appellant's personal circumstances, it is not reasonably arguable that the aggregate sentence of 9 years 2 months' imprisonment is disproportionate to the appellant's overall criminal conduct.'</p> <p>At [61] 'as to the seriousness of the appellant's conduct, he played a crucial role in introducing the buyer to a person who could source the cannabis. The transaction was clearly a commercial one and involved a quantity that could only have been intended for further on-sale to potential users. Whilst the appellant's reward is unknown, it is accepted that he would have received something for his work, albeit it may not have been a large amount. The appellant's offending was aggravated by the fact that he involved his partner in the arrangements and committed the offence whilst he was on bail for other serious offending.'</p> <p>At [62] 'the appellant's personal circumstances were a very minor consideration. He did not have the benefit of youth or previous good character.'</p> <p>At [64] 'having regard to the maximum penalty, the circumstances of this offence, the personal circumstances of the appellant and the limited assistance afforded by comparable cases, it is not reasonably arguable that the sentence of 2 years' imprisonment was manifestly excessive.'</p>

<p>10.</p>	<p><b><i>Cheng-Pin v The State of Western Australia</i></b></p> <p><b>[2025] WASCA 104</b></p> <p>Delivered 07/07/2025</p>	<p>30 yrs at time offending. 31 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>No criminal history.</p> <p>Born and raised in Taiwan; loving and supportive childhood.</p> <p>Completed high school in Taiwan; later studied at university.</p> <p>Single; no dependents.</p> <p>Good physical and mental health; never used illicit drugs.</p>	<p>Ct 1: Poss cannabis wiss (137.5 kg). Ct 2: Cultivate cannabis (2,023 plants).</p> <p>After executing a search warrant at a rural property, a large commercial growing operation was discovered. The operation included tents set up as hydroponic greenhouses and a drying shed. The appellant and four other men (Lau, Kittu, Ko, and Soo) were arrested for their involvement with the plantation.</p> <p>In total, police seized 137.5 kg of dried cannabis material (count 1).</p> <p>In total, police seized 2,023 cannabis plants from the growing tents (count 2).</p> <p>The estimated value of the dried cannabis head material was approximately \$1.26 million. The estimated value of the 2,023 plants and seeds was \$4.427 million.</p> <p>Police seized mobile phones from all of the men. The appellant's phone contained multiple messages, photos and videos that were indicative of his higher role within the operation.</p>	<p>Ct 1: 20 mths imp (cum). Ct 2: 6 yrs 2 mths imp.</p> <p>TES: 7 yrs 10 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that the appellant was an 'intermediary'; that Mr Soo was a supervisor; Mr Ko, Mr Lau, and Mr Kittu were equally unaware of the full scale of the cannabis operation and were characterised as 'crop-sitters'. However, the sentencing judge found that the appellant had the greatest culpability, having the most entrusted role.</p> <p>The sentencing judge found that each of the offenders had engaged in the illegal activity for the purpose of financial gain, and that included the provision of free accommodation and food.</p> <p>The sentencing judge found that there was persistence in the offending as it occurred over a number of months.</p> <p><b><u>Mr Soo</u></b></p> <p>Ct 1: 10 mths imp (cum) Ct 2: 5 yrs 4 mths imp.</p> <p>TES: 6 yrs 2 mths imp.</p> <p><b><u>Mr Lau</u></b></p> <p>Ct 1: 16 mths imp (cum). Ct 2: 3 yrs 10 mths imp.</p> <p>TES: 5 yrs 2 mths imp.</p> <p><b><u>Mr Kittu</u></b></p> <p>Ct 1: 16 mths imp (cum) Ct 2: 4 yrs imp.</p> <p>TES: 5 yrs 4 mths imp.</p> <p><b><u>Mr Ko</u></b></p> <p>Ct 1: 16 mths imp (cum).</p>	<p>Appeal allowed.</p> <p>Appeal concerned length of sentences imposed on cts 1 and 2, and the first limb of the totality principle.</p> <p>Resentenced:</p> <p>Ct 1: 10 mths imp (cum) Ct 2: 5 yrs imp.</p> <p>TES: 5 yrs 10 mths imp.</p> <p>EFP.</p> <p>At [78] 'the only case we have identified in which a sentence of more than 5 years' imprisonment has been imposed for a single count of cultivating cannabis with intent to sell or supply is <b><i>Truong</i></b>.'</p> <p>At [81] '<b><i>Truong</i></b> was not referred to in sentencing submissions by the State or defence counsel, or by the sentencing judge. That is regrettable as it is plainly comparable to the present case. Although a single case cannot set a range, <b><i>Truong</i></b> provides a useful guide to the length of a sentence that will be appropriate in circumstances like those of the appellant.'</p> <p>At [82] '... making every allowance for sentencing discretion, it would be expected that the appellant would have received a lesser sentence than that of <b><i>Truong</i></b>.'</p> <p>At [83] 'as regards the seriousness of the present offence, this was plainly a very serious offence. It involved a sophisticated, large-scale commercial cannabis growing operation. The estimated value of the plants give an indication of the size of the operation and the likely profits. However, it was accepted that the appellant's reward for his involvement was to be comparatively small, and that he was not a principal who would share in the profits. His role was described as an intermediary. This was on the basis that he communicated with supervisors via mobile telephone and sent updates on request regarding the progress of the crop. He also purchased some gas bottles and made four cash deposits, totalling \$18,000. However, his primary responsibility was to assist in the care of the plants.'</p> <p>At [84] 'as regards the appellant's personal circumstances, he had no prior criminal record, had expressed remorse and had pleaded guilty at an early stage. As the sentencing judge correctly noted, there was nothing to indicate that any sentence needed to incorporate an element of personal deterrence.'</p> <p>At [85] 'in all the circumstances, evaluated against the yardstick of the maximum penalty of 10 years' imprisonment, locating the offence on</p>
------------	--	---	---	---	---

				<p>Ct 2: 4 yrs imp.</p> <p>TES: 5 yrs 4 mths imp.</p>	<p>the spectrum that extends from the least serious instances of the offence to the worst category, and taking into account the appellant's plea of guilty and the other mitigating factors, it must be concluded that the sentence imposed was unreasonable or plainly unjust.'</p>
<p>9.</p>	<p><b><i>The State of Western Australia v Hoxha</i></b></p> <p><b>[2025] WASCA 101</b></p> <p>Delivered 16/05/2025</p>	<p>44 yrs at time offending. 47 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Born and raised in Albania; eldest of four children; unremarkable childhood.</p> <p>Left school at 16 yrs of age; worked for 10 years in the hospitality industry in Athens; painter in Adelaide.</p> <p>After a dispute with his neighbour in Albania, fled to Australia as a refugee.</p> <p>Married with children; sole provider for his family.</p> <p>Sound physical and mental health.</p>	<p>Ct 1: Sold cannabis (8.77 kg) Ct 2: Poss money the proceeds of an offence (\$10,000).</p> <p>The respondent travelled from Adelaide, where he resided, to Perth in late 2022. While in Perth, the respondent spent time with a long-term associate, Mr A. Mr A had been involved in the sale of cannabis for several years.</p> <p>While in Perth, the respondent also spent time with another associate, Mr H. The respondent became aware that Mr H had a quantity of cannabis he wanted to sell. The respondent then contacted Mr A, and facilitated a meeting between him and Mr H.</p> <p>Later that afternoon, the respondent was observed arriving at Mr A's house alone in Mr H's vehicle. Cannabis was then transported from the boot of Mr H's car into Mr A's home. Once inside, Mr A tested some cannabis buds to ascertain the tetrahydrocannabinol in the material. The cannabis was also weighed. Mr A agreed to purchase the cannabis for \$50,000 and the respondent left Mr A's house to again meet with Mr H. The respondent took \$10,000 as his fee for his services; the remaining money was left in Mr H's vehicle.</p> <p>A search warrant was executed at Mr A's house. There, police found 83.6 kg of cannabis, including the 8.77 kg the subject of count 1.</p>	<p>Ct 1: 10 mths imp. Ct 2: 8 mths imp (conc).</p> <p>TES: 10 mths imp.</p> <p>EFP.</p> <p>The sentencing judge characterised the offending as 'a one-off, opportunistic transaction'; the respondent was characterised as a courier and a 'low-level offender'.</p> <p>The sentencing judge found that the offending was not the purpose of the respondent's visit to Perth.</p> <p>The sentencing judge observed that general deterrence was the predominant sentencing consideration for the respondent.</p> <p><b><u>Mr A</u></b></p> <p>Ct 1: Cultivation of cannabis. Ct 2: Poss of cannabis wiss (83.6 kg). Ct 3: Poss of cash unlawfully obtained (\$5,675).</p> <p>Convicted after PG (25% discount) Discount given for past and future cooperation; displayed genuine remorse.</p> <p>Ct 1: 11 mths imp (conc). Ct 2: 3 yrs 2 mths imp (conc). Ct 3: 4 mths imp (conc).</p> <p>TES: 3 yrs 2 mths imp.</p>	<p>Appeal allowed.</p> <p>Appeal concerned length of sentences imposed on cts 1 and 2, and the first limb of the totality principle.</p> <p>Resentenced:</p> <p>Ct 1: 18 mths imp. Ct 2: 14 mths imp (conc).</p> <p>TES: 18 mths imp.</p> <p>EFP.</p> <p>At [58] 'the characterisation of the respondent by the sentencing judge as "a low-level offender" is not a finding of fact, and is not binding on this court. While the respondent's offending may have been opportunistic, and a one-off occurrence, these factors do not diminish the serious criminality involved in what the respondent actually did in this case.'</p> <p>At [59] 'the respondent was fully aware that both Mr A and Mr H were each involved in the business of selling cannabis. Seeing an opportunity from which he thought he would profit, the respondent put together a "deal" in which Mr H sold to Mr A 8.77 kg of cannabis.'</p> <p>At [60] 'the respondent was more than an intermediary. He initiated and drove the transaction. He saw the opportunity and brought the parties together. He conducted the negotiations between vendor and purchaser. He obtained the cannabis from Mr H and took it to Mr A's house. After Mr A assessed the cannabis and the price of \$50,000 was agreed, Mr A gave this sum to the respondent. The respondent paid himself \$10,000 and was on his way to Mr H's house with the balance when he was arrested. Had the respondent not been stopped, Mr H would have received \$40,000.'</p> <p>At [61] 'without the involvement of the respondent, the transaction would not have occurred, given that, prior to the respondent's intervention, the parties to the transaction did not know each other. The respondent was plainly trusted by both vendor and purchaser. The respondent's motive for committing count 1 (which became a reality) was to make a quick and substantial profit.'</p> <p>At [63] 'none of the facts and circumstances of the comparable cases are on all fours with the current case. They are of only limited</p>

					<p>assistance and represent a broad spectrum of seriousness. Given the relative modest maximum penalty for a cannabis offence contrary to s 6(1) or s 7(1) of the <i>Misuse of Drugs Act</i>, there is some compression of the sentencing outcomes in cases involving very large quantities of cannabis.’</p> <p>At [65] ‘the respondent was a mature adult who had no prior criminal history, and was a person of prior good character. He had good prospects of rehabilitation, and posed a low risk of reoffending. While these matters are relevant, they could not be accorded great weight, having regards to the importance of general deterrence. In addition to the respondent’s personal circumstances, it must be accepted that the respondent’s time in prison in WA will be more onerous for him, given his separation from his family.</p> <p>At [72] ‘in our opinion, her Honour did not properly appreciate or have regard to the seriousness of the respondent’s offending, as described in [59]-[61] above, and the need for general deterrence. The individual sentence imposed by her Honour was not merely low, it was manifestly inadequate. The length of the sentence was not justified by the mitigating circumstances her Honour identified, either individually or in combination, or by parity considerations.’</p> <p>At [73] ‘in our opinion, the individual sentence imposed for ct 2 of 8 months immediate imprisonment was also manifestly inadequate. The sentence ... imposed by her Honour did not properly reflect the maximum penalty for the offence, the serious nature of the offending, or the need for general deterrence, and was not justified by the mitigating factors, either individually or in combination.’</p>
8.	<p><b><i>Sharp v The State of Western Australia</i></b></p> <p><b>[2023] WASCA 142</b></p> <p>Delivered 04/10/2023</p>	<p>32 yrs at time sentencing. 30–31 at time offending.</p> <p>Convicted after PG (20% discount).</p> <p>Extensive criminal history; drug, violence, traffic, and property offences.</p> <p>Born in WA; only child; parents separated; did not get along with his step-father.</p> <p>Left school after completing yr 9; frequently truant and involved in fights.</p> <p>Worked in various trade roles; owned his own business before it deteriorated; unemployed since</p>	<p>Ct 1: Att supp methyl 27.85 g at 80% purity. Ct 2: Att supp cannabis 23.41 g. Ct 3: Fail to obey data access order.</p> <p>The appellant threw two tennis balls into the Yongah Hill Detention Centre.</p> <p>Each of the tennis balls had been wrapped in tape and had lighters attached to them.</p> <p>The first tennis ball contained 13.82 g of methyl and 12.07 g of cannabis. The second tennis ball contained 14.03 g of methyl and 11.34 of cannabis.</p> <p>The appellant’s DNA was located inside the plastic clip seal bags in which the drugs were packaged. A SW at the appellant’s house resulted in another</p>	<p>Ct 1: 4 yrs imp. Ct 2: 18 mths imp (conc). Ct 3: 6 mths imp (cum).</p> <p>TES: 4 yrs 6 mths imp.</p> <p>The sentencing judge described the offending as very serious. The appellant attempted to introduce illicit drugs into a detention centre.</p> <p>The sentencing judge found that the appellant’s criminal history meant that specific deterrence was an important sentencing factor.</p> <p>The sentencing judge accepted that the appellant’s addiction made him more vulnerable to being taken advantage of; however, the appellant offended for personal gain — the supply of drugs.</p>	<p>Appeal dismissed (leave refused).</p> <p>Appeal concerned first limb of totality principle.</p> <p>At [35] ‘that this was an attempt to introduce drugs into a detention centre was a significant aggravating factor... There is an obvious risk that illicit drugs will ... create the risk of violence and further offending within a confined environment.’</p> <p>At [36] ‘the appellant’s role was not limited to merely throwing the drugs over the detention centre fence. The presence of his DNA on the packaging inside the tennis balls indicated that he was involved in the packaging exercise.’</p> <p>At [37] ‘the failure to comply with the data access order was itself a serious offence. The sentencing judge was correct to view this as separate offending deserving of additional punishment. This court has noted in the past that unless those whole fail to comply with data access orders receive some additional punishment there will be no effective incentive to comply.’</p>

		<p>2018.</p> <p>Used cannabis and alcohol from 16 yrs; significant family history of addiction; methyl use since 2018; limited motivation to address substance use.</p> <p>One significant relationship; two children; relationship deteriorated due to drug use.</p>	<p>tennis ball being found. Police also located a mobile phone which the appellant refused to provide the access code to. The appellant was served a data access order. The appellant failed to provide police with the information necessary to access the mobile phone.</p>		<p>At [40] ‘... it is not reasonably arguable that the overall total effective sentence of 4 years and 6 months’ immediate imprisonment is plainly unreasonable or unjust.’</p>
7.	<p><b><i>West v The State of Western Australia</i></b></p> <p><b>[2023] WASCA 3</b></p> <p>Delivered 06/01/2023</p>	<p>26 yrs at time offending. 29 yrs time sentencing.</p> <p>Convicted after PG (cts 1 &amp; 2) (25% discount). Convicted after trial (ct 3).</p> <p>Prior criminal history.</p> <p>Completed yr 10 high school.</p> <p>Consistent employment history; highly regarded employee.</p> <p>Cannabis use since aged 16 yr.</p>	<p>Ct 1: Manufactured cannabis oil. Ct 2: Poss cannabis wiss 679 g. Ct 3: Att poss LSD wiss 600 tabs at 11.6 g.</p> <p>A SW was executed at West’s home. Items consistent with the manufacture of cannabis oil, including cannabis plant material, butane gas canisters, glycerine, propylene, glycol, decarboxylators and a machine capable of extracting oil from plant material were found.</p> <p>At the rear of West’s property drug-related items, including scales, clipseal bags, syringes and silicone containers were also located.</p> <p>Messages relating to the sale and supply of drugs on his computer and mobile telephone were also found.</p> <p>Also located and seized was a quantity of cannabis, packaged into clipseal bags and \$2,645 in cash, derived from the sale and supply of drugs.</p> <p>About eight days later a parcel, sent from Poland and addressed to West, was incepted by police. It contained paper sheets, perforated into 600 small squares (‘tabs’) and impregnated with LSD. The tabs were seized and substituted with an inert substance.</p> <p>A controlled delivery of the parcel was arranged to West’s address. The parcel</p>	<p>Ct 1: 6 mths imp (conc). Ct 2: 12 mths imp (cum). Ct 3: 4 yrs 6 mths imp (cum).</p> <p>TES 5 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant a low to mid-level drug dealer; cts 3 was a serious offence having regard to the quantity of the drug.</p> <p>Demonstrated remorse; voluntary steps taken towards rehabilitation; drug free since release from prison.</p>	<p>Dismissed (leave refused - error in finding).</p> <p>Appeal concerned length of sentence ct 3; totality principle and error in finding (harm caused by LSD).</p> <p>At [49]-[51] ... his Honour’s remark [that LSD had the capacity to ‘blow your mind’] was just that – a remark ... no mention of [it] was mentioned in the sentencing remarks. ... the only statements made in the sentencing remarks which bear on the question of harm were ... made in the context of explaining why general deterrence was an important sentencing factor ...</p> <p>At [64] Each offence committed by the appellant was serious. The appellant engaged in the actual manufacture of cannabis oil. He possessed cannabis, packaged for sale, in a context where he was selling the drug for profit. Ct 3 involved even more serious offending. [He] arranged for a substantial quantity of LSD to be sent to him, via the post, from Poland, for sale. If not for the interception of the package containing the LSD by customers officers, it is highly likely the delivery would have been completed. While ct 3 was offence of att to possess LSD wiss, the appellant did everything he could to effect his poss of it. He did so against the background that he had previously sold the drug and had advertised its sale over the internet. Even allowing for the cost of purchasing the LSD, and his on use, [he] stood to derive a profit from its sale.</p> <p>At [65] The offending, as a whole, involved planning, determination and some sophistication. The appellant’s overall offending involved substantial criminality.</p> <p>At [71] ... Cts 1 and 2 involved significant additional criminality. [He] had gone to some considerable lengths to manufacture cannabis oil, and, on the evidence, had successfully done so. ... It was clear from the items seized by the police that the appellant was engaged in the sale of the drug. Not only was [he] engaged in dealing in cannabis for a commercial purpose, but he also intended to deal in LSD for the same purpose. It was entirely appropriate for his Honour to impose an additional term of imp to take account of the criminality involved in cts 1 and 2.</p>

			<p>was placed into his letter box. Police executed a SW a short time later and found the unopened parcel hidden in a rubbish bin.</p> <p>West had sold LSD in the past for \$25 per tab. If sold by the tab, the LSD would have been worth \$15,000. If sold by the sheet it was valued at between \$6,000 and \$7,800.</p>		
6.	<p><b><i>Giangiulio v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 77</b></p> <p>Delivered 01/07/2022</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Long criminal history; 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>Ct 1: Poss methyl wiss 2 kg at 74%-76% purity.</p> <p>Ct 2: Poss cannabis wiss 3.48 kg.</p> <p>The co-offender Liadow arranged to supply an UCO with methyl. When the UCO attended Liadow's home to collect a large quantity of the drug Gangiulio entered the room. He was carrying a bag, which he placed near the entrance, before leaving.</p> <p>Liadow informed the UCO that Gangiulio 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 Gangiulio's home. Four cardboard boxes, containing 3.48 kg of cannabis in large cipseal or vacuum sealed bags were found.</p> <p>During his interview Gangiulio maintained his right to silence.</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>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>Dismissed (leave refused – totality principle).</p> <p>Appeal concerned parity and totality principles.</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>
5.	<p><b><i>Celani v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 215</b></p> <p>Delivered</p>	<p>25 yrs at time offending.</p> <p>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>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</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>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</p>

	16/12/2021	<p>Parents separated when aged 12 yrs; witnessed domestic violence.</p> <p>Supportive family.</p> <p>Educated to yr 10; completed apprenticeship; later trained and worked in plastic fabrication.</p> <p>Cannabis use from aged 12 yrs; methyl from aged 16 yrs; regular user of methyl; heavy user at time of offending.</p>	<p>when it was stopped by police. His mobile telephone was seized and an examination of the text messages stored on the phone revealed he had made offers to sell prohibited drugs to 32 contacts listed in his phone. Each ct related to one named contact, a small number of contacts the subject of more than one ct as he offered to sell them more than one kind of prohibited drug. In total he made a 120 separate offers to his various customers.</p> <p>Many of the cts were committed over a period of time.</p>	<p>Ct 16; 19 &amp; 23: 24 mths imp (conc). Cts 20 &amp; 26: 10 mths imp (cum). Ct 27: 15 mths imp (conc). Ct 32: 6 mths imp (cum). Ct 33: 10 mths imp (conc).</p> <p>TES 5 yrs 2 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant's offending serious and aggravated by its repeated and persistent nature and that he committed the offences in order to fund his drug habit.</p> <p>Remorseful; positive steps taken towards rehabilitation; 2 yrs clear of drug use; no further offending.</p>	<p>characterisation of the case as being 'very strong' was well open. ... the sentencing judge was entitled to take into account the strength of the case against the appellant in assessing the appropriate discount under s 9AA of the <i>Sentencing Act</i>. In these circumstances, and having regard to when the pleas were entered, we are satisfied that a 15% discount was not unreasonable or plainly unjust. It was not manifestly inadequate.</p> <p>At [55] ... the appellant was involved, during the commission of the offences, in a commercial enterprise in which he sold prohibited drugs. The offers that he made were in respect of four different prohibited drugs, ... He was engaged in this business for the purpose of funding his own methyl habit. It was not suggested that the appellant did not have the capacity or intention to fulfil the offers.</p> <p>At [56] It is clear the appellant had a large coterie of customers, and it was not suggested that he did not have access to the prohibited drugs he offered to sell. While it was not said that all of the offers resulted in actual sales, it was not claimed the offers were unfulfilled.</p> <p>At [60] ... it is not reasonably arguable that the TES ... infringed the first limb of the totality principle. ...</p>
4.	<p><i>Nguyen v The State of Western Australia</i></p> <p>[2021] WASCA 198</p> <p>Delivered 25/11/2021</p>	<p>49 yrs at time offending. 51 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Born and educated to tertiary level in Vietnam.</p> <p>Arrived WA 2015; limited English; communication difficulties.</p> <p>Married; three children; wife and two youngest children residing Vietnam; some family members in Vietnam in frail and poor health at time sentencing.</p> <p>Supportive family in Vietnam; no family support WA.</p> <p>Business interests in Vietnam.</p>	<p>Cts 1 &amp; 2: Property laundering (\$70,000 and \$15,630 cash). Cts 3-9: Cultivation cannabis wiss.</p> <p>Nguyen was part of a sophisticated and extensive commercial cannabis growing enterprise. Although not involved in the physical operation of growing cannabis, he managed the financial operation of a number of grow houses, including keeping records of the expenses and revenues for each grow house and the preparation of financial analyses for each property.</p> <p><u>Cts 1-2</u> A search warrant was executed at Nguyen's home. During the search two cash bundles of \$70,000 and \$15,630 were located. This money was the proceeds of the sale of cannabis cultivated at one or more of the grow houses at an earlier time.</p> <p>Nguyen had control of the money essentially for the purpose of paying business expenses, but the money did not belong to him.</p>	<p>Ct 1: 1 yr 4 mths imp (cum). Ct 2: 10 mths imp (conc). Ct 3: 2 yrs 8 mths imp (head). Ct 4: 2 yrs 4 mths imp (conc). Ct 5: 2 yrs 6 mths imp (cum ct 3). Ct 6: 2 yrs 8 mths imp (conc). Ct 7: 2 yrs 8 mths imp (conc). Ct 8: 2 yrs 8 mths imp (conc). Ct 9: 2 yrs 4 mths imp (conc).</p> <p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge accepted other people apart from the appellant were involved in the cannabis growing operations and that the appellant was not the principal of the cannabis growing enterprise; but he played an important and trusted role in respect of each grow house; he provided his services for a 'not insignificant' reward.</p> <p>The sentencing judge found the money held by the appellant showed he played an 'important role' and demonstrated the trust that had been placed in him by his superiors; his possession of the cash enabled it to be</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [42]-[44] The appellant managed the financial operation associated with the grow houses. He did so over a lengthy period of time. While he was not involved in the physical set-up of the operation or the actual cultivation of cannabis plants, he must have been aware of the scale and sophistication of the enterprise. ... and must have been closely monitoring their progress. ... [He] oversaw and managed the payment of expenses. It cannot be doubted that his function was to ensure, as far as he could, the maximum commercial benefit from each grow house. ... [He] was an important, trusted and willing participant in the enterprise and shouldered significant responsibility in it. The enterprise was potentially highly profitable, concerning, as it did, the hydroponic cultivation of a large number of cannabis plants in seven separate grow houses with the potential value of the cannabis being grown being several hundred thousand dollars. We regard the appellant's role as involving a high degree of criminality. ... his importance to the organisation of the enterprise cannot be doubted.</p> <p>At [46] ... The appellant's role was to ensure that the grow houses operated efficiently and to maximise the financial returns for the owners of the business. Those who, for reward, use their financial expertise to assist those who grow cannabis and enhance the profitability of their illegal operation must understand that their actions involve a high degree of criminality and that, if convicted, substantial punishment will surely follow.</p>



			<p><u>Cts 3-9</u> Seven separate ‘grow house’ had been converted for cultivating cannabis. Each house consisted of a sophisticated hydroponic set-up, including the use of an electricity bypass system.</p> <p>A total of 1081 plants were being cultivated.</p> <p>During the search of Nguyen’s home police located handwritten notes, feed charts, excerpts from account books and receipts for items (including nutrients to feed the cannabis plants) purchased to facilitate the growth of cannabis plants.</p> <p>Six mobile telephones, one for each of the grow houses were also found. Nguyen was found also in possession of the floor plans and measurements of four of the grow houses.</p> <p>Nguyen received bills relating to two of the properties and he communicated with the owner of one of the houses regarding the payment of rent.</p>	<p>held separately from the owners of the grow houses, reducing the prospect of it coming to the attention of police.</p> <p>Prison more onerous on the appellant given his limited English and no personal family support available to him in WA.</p> <p>Moderate risk of reoffending.</p>	<p>At [48] ... we are not persuaded that the TES in this case did not bear a proper relationship to the overall criminality involved in the nine offences, viewed in their entirety ... While we would regard the TES that was imposed as high, it was not unreasonable or plainly unjust.</p>
3.	<p><b><i>Turner v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 132</b></p> <p>Delivered 28/07/2021</p>	<p>27 yrs at time offending. 28 yrs at time sentencing.</p> <p>Convicted after very late PG (5% discount) – TOI to resolve dispute as to appellant’s intent to sell or supply.</p> <p>Criminal history; no prior drug offences.</p> <p>Parents separated when aged 18 yrs.</p> <p>Completed yr 10 high school.</p> <p>Became father aged 17 yrs; separated from son’s mother shortly after his birth.</p> <p>Consistent work history; gardener</p>	<p>Ct 1: Poss MDMA wiss 8.57g at 85% purity. Ct 2: Poss cannabis wiss 362.45 g. Ct 3: Poss methyl wiss 4.96g at 80% purity.</p> <p>Turner was stopped by police driving a vehicle. His 10-yr-old son was a passenger in the vehicle.</p> <p>A search of the vehicle located four vacuum sealed bags containing 41.88g; 280g; 26.4g and 14.07g of cannabis.</p> <p>In a further vacuum sealed bag 8.57g of MDMA was located.</p> <p>In a clip seal bag 4.96g of methyl was found.</p>	<p>Ct 1: 18 mths imp (cum). Ct 2: 2 yrs 8 mths imp (conc). Ct 3: 3 yrs 6 mths imp (cum).</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found at the TOI that the appellant was a mid-level user/dealer; while some of the drugs were for his personal use, he intended to sell or supply the majority of the drugs.</p> <p>The sentencing judge found immediate imp was the only appropriate sentence.</p> <p>Not remorseful; some credit given for limited cooperation.</p>	<p>Allowed (length of sentence ct 2).</p> <p>Appeal concerned length of individual sentences and totality principle.</p> <p>Resentenced (5% discount):</p> <p>Ct 1: 12 mths imp (cum). Ct 2: 10 mths imp (conc). Ct 3: 2 yrs 10 mths imp (cum).</p> <p>TES 3 yrs 10 mths imp.</p> <p>EFP.</p> <p>At [23]-[24] ... The element of commerciality involved in the offending was limited. ... However, the offending was not fleeting, unplanned or out of character. The appellant engaged in a course of distributing three different types of prohibited drug. While he dealt with drug users known to him, he did so regularly and to some extent for commercial gain. It was an aggravating feature of the offending that the appellant’s 10-yr-old son was present in the vehicle [he] used</p>

		and handyman.  Regular user of illicit drugs; taking and sharing drugs with friends a normal way of life.			to transport the prohibited drugs.  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.
2.	<b><i>Nguyen v The State of Western Australia</i></b>  <b>[2021] WASCA 128</b>  Delivered 22/07/2021	33 yrs at time sentencing.  Convicted after late PG (18% discount).  No criminal history.  Born Vietnam, came to Australia after having a child with Australian citizen.  Supportive extended family; parents both deaf and mute; parents in Australia for sentencing.  Primary caregiver two children; aged 8 yrs (multiple developmental needs) and 2 yrs (breastfeeding at time sentencing); youngest child fathered by co-offender; neither child father figure in their life.  Lawful employment and study undertaken.	Cts 3 & 5: Cultivate cannabis wiss (412 plants). Ct 6: Fraudulent diversion of power.  Nguyen was jointly charged with her partner, Mr Tran.  The offending occurred at two houses used exclusively to cultivate cannabis, both converted with extensive and elaborate hydroponic systems.  <u>Ct 3</u> A search warrant was executed at a property leased by an unidentified male. Nguyen and Mr Tran were present inside the home and refused police entry. They attempted to leave, but were both arrested at the premises.  Five rooms of the property had been converted to grow cannabis hydroponically. The hydroponic system included timers, switches, lights, fans and irrigation and filtration systems. The installation of the hydroponic system caused significant damage to the rental property.  71 cannabis plants at various stages of maturity were located at the property.  Mr Tran was responsible for cultivating the cannabis and was paid by unidentified persons for his involvement. Nguyen aided Mr Tran, by assisting him in purchasing equipment, dealing with the proceeds of the offending and encouraging him to participate in the offending.  <u>Cts 5 &amp; 6</u> Nguyen and Mr Tran entered a lease for	Ct 3: 18 mths imp (conc). Ct 5: 2 yrs imp (conc). Ct 6: 2 mths imp (conc).  TES 2 yrs imp.  EFP.  The sentencing judge found the offending serious; the work required to establish the properties as grow houses and to maintain the cannabis plants would have required significant planning, preparation, premeditation and persistence, while noting the appellant was not involved in the establishment of the grow house the subject of ct 3; the number of cannabis plants involved; the extent of the damage done to the rented properties; the sophistication of the hydroponic set-ups; four or five rooms in each of the growing houses were completely used to grow cannabis and the amount of power fraudulently obtained.  The sentencing judge found the appellant played a lesser role than Mr Tran; but she aided, abetted and assisted him; she actively participated in the offending, with full knowledge of the commercial purpose and knowledge of the scale and extent of the enterprise involved in the illegal conduct.  The sentencing judge found exceptional circumstances arising from the hardship the appellant's incarceration would cause her family and her children; but the seriousness of the offending meant a term of imp had to be imposed.  No genuine remorse; failed to fully accept responsibility or appreciate the seriousness of her offending.	Dismissed.  Appeal concerned error of finding (knowledge of the scale and extent of the enterprise) and length and type of sentence.  At [63] ... the reference to the scale and extent of the enterprise refers, as a matter of substance, to the scale and extent of that operation, which encompasses the following ... Both houses were used exclusively to cultivate cannabis. ... converted to be used for that purpose, and had elaborate and sophisticated hydroponic systems for growing cannabis. The hydroponic systems extended, in each house, over several rooms, and enabled cultivation of cannabis on a substantial scale, not merely a cultivation of, say, 10 or 20 plants.  At [86] ... the cultivations the subject of cts 3 and 5 reflected a high level of criminality. ... both grow houses had elaborate and sophisticated hydroponic systems for growing cannabis for profit and they were being used to grow a substantial number of plants ... The appellant's involvement in the cultivations the subject of cts 3 and 5 was by no means minor or low-level. ... The appellant was the lessee of the [property the subject of cts 5 and 6] and purchased items for use in the cultivation process in relation to [the property the subject of ct 3]. Involvement of that kind elevates the seriousness of the offending. ... The appellant was involved in ct 5 over a period of mths and her involvement in the cultivation the subject of ct 3 was far from fleeting. ... [and she] was involved in the cultivation of cannabis in more than one grow house.  At [91]-[92] ... in our view, it was not open to susp the term of imp in relation to ct 5. Consequently, it was not open to the sentencing judge to susp any of the terms of imp for the appellant's offences. ... in our opinion, it was well open to the sentencing judge to conclude that only immediate imp would be commensurate with the seriousness of the appellant's offending. ...in the circumstances, that was the only reasonable conclusion.

			<p>a property. Shortly after taking possession they converted the property into a cannabis grow house.</p> <p>Nguyen signed the lease agreement using a false name, purchased bypass equipment and attempted to delay a rental inspection.</p> <p>Several mths later a search warrant was executed at the property. Four rooms had been converted to grow cannabis hydroponically. The hydroponic system included timers, switches, lights, fans and irrigation and filtration systems. The installation of the hydroponic system caused significant damage to the rental property.</p> <p>A total of 341 cannabis plants at various stages of maturity were located.</p> <p>The properties electrical meter had been bypassed and \$7,008 of electricity was fraudulently obtained.</p>		
1.	<p><b><i>Nickson v The State of Western Australia</i></b></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 search warrant 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><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</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 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>

			<p>A further \$2,000 cash was also found in a shed, along with a quantity of the cutting agent MSM.</p> <p>Nickson was charged and released on bail.</p> <p><u>Ind 990</u> Some mths later Nickson was inside a unit when it was searched by police. The property was fortified with chains and pieces of property. Police were forced to dismantle the barricade to gain entry.</p> <p>Inside the unit three separate quantities of methyl were found in three separate locations. In a cupboard in clipseal bags a total of 194.9 g of methyl with a purity of between 77% and 80% was found. In another part of the cupboard clipseal bags containing a total of 12.69 g of methyl with a purity of 4% was found. In the shower area police also located a clipseal bag containing 298 g of methyl with a purity of 77% (ct 1).</p> <p>Another clipseal bag found in the unit contained 13 tablets, being 2.95 g of dexamphetamine (ct 2).</p> <p>Also located were two clipseal bags containing cannabis, with a total weight of 105.5 g (ct 3).</p> <p>In various locations within the unit a total of \$8,745 in cash was found (ct 4) and inside a safe were various items of jewellery with an estimated value of \$10,000 (ct 5).</p> <p>Data from a mobile telephone located in the unit revealed Nickson had been offered jewellery in exchange for the discharge of outstanding debts. Digital scales, numerous clipseal bags, stun guns and an electrical shotgun were also located in the unit.</p>	<p>been selling illicit drugs since 2007 to fund his personal illicit drug use; he was within the mid to high level user/dealer range.</p> <p>Some demonstrated remorse; steps taken to rehabilitate himself and drug programmes undertaken while in custody.</p>	
--	--	--	---	---	--

			A search warrant 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).		
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Transitional Provisions Enacted (31/08/2003)</i>					