

# Aggravated dangerous driving occasioning death & vehicular manslaughter

**From 1 January 2014**

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

imp	imprisonment
susp	suspended
conc	concurrent
cum	cumulative
circ	circumstances
PG	plead guilty
occ	occasioning
BAC	blood alcohol content
AOBH	assault occasioning bodily harm
GBH	grievous bodily harm
BH	bodily harm
att	attempted
EFP	eligible for parole
DDOGBH	dangerous driving occasioning grievous bodily harm
DDOD	dangerous driving occasioning death
DDOBH	dangerous driving occasioning bodily harm
agg	aggravated
disqu	disqualified
TES	total effective sentence
SCP	summary conviction penalty

No.	Case	Antecedents	Summary/ facts	Sentence	Appeal
4.	<p><i>The State of Western Australia v Molloy</i></p> <p>[2020] WASCA 123</p> <p>Delivered 05/08/2020</p>	<p>34 yrs at time offending. 35 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Serious and extensive criminal history; multiple convictions for stealing a MV and reckless driving; most of adult life spent in custody; disq for life from holding or obtaining MDL.</p> <p>Dysfunctional early childhood; characterised by drug use and exposure to criminal and anti-social behaviour; death of father and step-father to suicide.</p> <p>Struggled at school.</p> <p>Proficient motor vehicle mechanic.</p> <p>Number of serious relationships; marred by conflict, substance abuse and jealousy; single at time of sentencing.</p> <p>Heroin dependence; commenced intravenous heroin use from aged 13 yrs; other illicit drug use.</p>	<p>Ct 1: Steal MV. Cts 2-5: Agg DDOGBH. Cts 6-7: DDOBH Ct 8: Agg DDOD. Ct 9: Failing to report an incident occasioning BH. Ct 10: Fail to stop and render assistance to victim of incident occasioning BH.</p> <p>Molloy stole a motor vehicle and drove it on a highway with a 70 km/h speed limit. He was travelling at about 100 km/h and not paying sufficient attention when he crashed into the rear of a van stopped at a red traffic light.</p> <p>The van was carrying eight family members, including two young children aged 6 and 5 yrs.</p> <p>The impact caused the front of the van to become wedged under the trailer of a truck, which was stationary in front of the van.</p> <p>Molloy immediately fled the scene on foot. He then telephoned his mother, who collected him from a location near the crash scene.</p> <p>Molloy failed to report the accident to police or to assist any of the victims of the accident.</p> <p>The driver and all passengers suffered injury and were taken to hospital.</p>	<p>Ct 1: 12 mths imp (conc). Ct 2: 2 yrs 6 mths imp (cum). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 2 yrs 6 mths imp (conc). Ct 5: 2 yrs imp (conc). Ct 6: 12 mths imp (conc). Ct 7: 12 mths imp (conc). Ct 8: 4 yrs imp (cum). Ct 9: 18 mths imp (conc). Ct 10: 12 mths imp (cum).</p> <p>MDL disq 5 yrs.</p> <p>TES 7 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the respondent's offending was aggravated by the fact he was driving a stolen vehicle and he had been disqu for life from holding or obtaining a driver's licence.</p> <p>The sentence judge found the respondent drove at an excessive speed; failed to take any evasive action and showed a complete disregard for other road</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences cts 2-5 and 8 and totality principle.</p> <p>Resentenced (25% discount):</p> <p>Ct 1: 2 yrs imp (cum). Cts 2-4: 4 yrs 6 mths imp (conc). Ct 5: 4 yrs imp. Ct 6: 18 mths imp (cum). Cts 7 &amp; 9: 18 mths imp (conc). Ct 8: 6 yrs 6 mths imp (cum). Ct 10: 3 yrs imp (conc).</p> <p>MDL disq 5 yrs.</p> <p>TES 10 yrs imp.</p> <p>EFP.</p> <p>At [77] The respondent's offending in relation to ct 8 was very serious. ... [He] was driving a stolen vehicle .... He was driving while disq for life from holding or obtaining a driver's licence .... He was driving at a speed of 96 km an hr about 3 km before the collision. An eye witness estimated that [he] was travelling at about 100 km an hr</p>

		<p>Good physical health; no serious or medically treatable mental illness.</p>	<p>Two of the passengers underwent surgical treatment</p> <p>The 5 yr old passenger sustained a severe head injury. He was declared brain dead and later died.</p>	<p>users.</p> <p>Victims suffered very substantial trauma as a result of the offending.</p> <p>Genuinely remorseful; accepted responsibility for his offending; suffered significant distress; depression and att suicide since offending.</p>	<p>immediately before the collision. ... He did not brake, swerve or attempt to steer around the victims' van which was stationary at a red traffic light. ... [He] demonstrated a complete disregard for other users of the road.</p> <p>At [81] In our opinion, the sentence ... for ct 8 was not commensurate with the seriousness of the offence. ... The sentence was not merely 'lenient' or 'at the lower end of the available range'. It was substantially less than the sentence that was open to his Honour on a proper exercise of his discretion.</p> <p>At [88] We are satisfied that the individual sentences of ... imp for cts 2, 3 and 4 and the individual sentence of ... imp for ct 5 were not commensurate with the seriousness of the offences. ... the length of each sentence was unreasonable or plainly unjust. ... Each sentence was not merely 'lenient' or 'at the lower end of the available range'. Each sentence was substantially less than the sentence that was open to his Honour on a proper exercise of</p>
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					<p>his discretion.</p> <p>At [91] In our opinion, the TES ... did not bear a proper relationship to the overall criminality involved in all of the respondent's offences, viewed together, and having regard to all relevant facts and circumstance and all relevant sentencing factors. ... The objective facts and circumstances of the offending, viewed as a whole, were very serious. The TES was unreasonable or plainly unjust. It was not merely 'lenient' or 'at the lower end of the available range'. The TES was substantially less than the TES that was open to his Honour on a proper exercise of his discretion.</p>
3.	<p><b><i>Paulose v The State of Western Australia</i></b></p> <p><b>[2019] WASCA 182</b></p> <p>Delivered 15/11/2019</p>	<p>48 yrs at time offending. 49 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>No prior criminal history.</p> <p>Born India; death of father when aged 17 yrs; financial hardship.</p> <p>Well educated; attained</p>	<p>Ct 1: DDOGBH</p> <p>Cts 2 &amp; 3: Failure to stop and render assistance</p> <p>Cts 4 &amp; 5: Failure to report an incident.</p> <p>Ct 6: Unlawful killing.</p> <p>Paulose drove his motor vehicle after consuming alcohol. He drove erratically and veered to the right of the road and mounted the traffic island between lanes.</p> <p>Paulose made no attempt to brake and his vehicle collided with two males, ages 16</p>	<p>Ct 1: 1 yr imp (cum). MDL disq 5 yrs.</p> <p>Cts 2 &amp; 3: 3 yrs 6 mths imp (conc).</p> <p>Cts 4 &amp; 5: 2 yrs imp (conc). MDL disq cts 2-5: 2 yrs (cum).</p> <p>Ct 6: 8 yrs imp (cum).</p> <p>TES 9 yrs imp.</p> <p>MDL disq 7 yrs.</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [57] ... the appellant's overall offending was very serious. ... The victims of the appellant's offending were highly vulnerable.</p> <p>At [60] It was appropriate for the sentencing judge to order</p>

		<p>Bachelor degree.</p> <p>Strong marriage; two children; wife seriously ill at time offending; supportive family.</p> <p>Arrived Australia 2015; own business; financial difficulties; ceased trading to care for his wife.</p> <p>History of charitable work through Church.</p> <p>Good physical health; some history of mental health issues; including depression; using alcohol to excess as a means to cope at time offending.</p>	<p>yrs and 15 yrs, waiting to cross the road. He narrowly avoided a third male aged 12 yrs.</p> <p>Paulose drove from the scene without rendering assistance to either victims or reporting the incident to police. He later claimed this was because he feared being assaulted.</p> <p>Paulose was arrested several hrs later. Analysis revealed a blood alcohol level of 0.212g/per 100mL of blood at the time of the collision. During interview he admitted to consuming alcohol prior to driving.</p> <p>The two victims sustained life threatening injuries. One victim was placed on life support but later died. The other suffered fractures in his back and bleeding on the brain.</p>	<p>EFP after 7 yrs.</p> <p>The sentencing judge characterised the offending as serious; he engaged in a gross breach of traffic rules; he knew he was heavily intoxicated yet he made a decision to drive in circ where he was clearly incapacitated and he had no particular reason to drive beyond mere convenience.</p> <p>The sentencing judge found an agg factor was the appellant's driving was so erratic and unexpected that the victims had no opportunity to take evasive action.</p> <p>Remorseful; empathy for families of the victims; insight into impact of his offending; addressing his alcohol use; low risk of re-offending.</p>	<p>some accumulation of the sentence for the ct of unlawful killing and the sentence his Honour would otherwise have imposed for the ct of DDOGBH while under the influence of alcohol ...</p> <p>At [61] ... The sentence was commensurate with the overall seriousness of the offending ...</p>
2.	<p><i>The State of Western Australia v Tittums</i></p> <p>[2018] WASCA 23</p>	<p>35 yrs at time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (12.5% discount).</p> <p>Minor criminal history; no prior traffic convictions.</p>	<p>Cts 2; 4 &amp; 6: Agg DDOD. Ct 7: Failure to report an incident. Ct 8: Failure to render assistance.</p> <p>The three victims were travelling together in a motor vehicle. Tittums was driving his vehicle some distance behind the victims' vehicle.</p>	<p>Ct 2: 6 yrs 6 mths imp (to commence 9 mths after commencement of ct 4); MDL disqu 2 yrs (conc ct 8). Ct 4: 6 yrs 6 mths imp (to commence 9 mths after commencement of ct 6);</p>	<p>Allowed.</p> <p>Appeal concerned length of sentences cts 7 and 8; MDL disqualifications and totality principle.</p> <p>Sentences cts 7 and 8 set aside;</p>

<p>Delivered 27/02/2018</p>	<p>Left school yr 10.</p> <p>Good work history; employed time offending.</p> <p>Loving family man; married; two young children.</p> <p>History of alcohol and drug abuse; since offending undertaken counselling for substance abuse.</p>	<p>The applicable speed limit was 90 km per hr. Tittums' was driving at a minimum average speed of between 157-165 km per hr.</p> <p>Tittums' vehicle collided with the rear of the victims' vehicle causing their vehicle to leave the road and strike trees. The vehicle ignited and was engulfed in flames.</p> <p>Tittums' vehicle came to rest 82m down the road. He abandoned his vehicle and made no attempt to assist the victims or to report the incident to the police or emergency services.</p> <p>Tittums walked home, showered, changed his clothes and went to bed.</p> <p>The victims died at the scene from smoke inhalation or, possibly, smoke inhalation and incineration.</p> <p>Police attended Tittums' home in the early hours of the same day and he lied to police about his knowledge of the incident. His blood alcohol level at the time of the collision was calculated to have been 0.13% and blood analysis detected the use of methyl.</p>	<p>MDL disqu 2 yrs (conc ct 8).</p> <p>Ct 6: 6 yrs 6 mths imp (to commence 1 yr after commencement of ct 8); MDL disqu 2 yrs (conc ct 8).</p> <p>Ct 7: 1 yr's imp (con ct 8); MDL disqu 1 yr (cum ct 8)</p> <p>Ct 8: 2 yrs imp; MDL disqu 2 yrs .</p> <p>TES 9 yrs imp. MDL disqualification 3 yrs.</p> <p>EFP.</p> <p>The sentencing judge rejected the submission offending was within the worst category of offences of its kind; but accepted it was towards the upper end of seriousness for offending of its kind.</p> <p>Genuinely remorseful; 'deeply distressed about the impact' of his offending; has taken responsibility for the consequences of his criminal conduct.</p>	<p>all orders for conc and cum set aside.</p> <p>Re-sentenced:</p> <p>Ct 2: 6 yrs imp (head sentence). Ct 7: 2 yrs imp (cum with head sentence). Ct 8: 4 yrs imp (conc).</p> <p>Individual sentences for cts 4 and 6 not disturbed.</p> <p>All other individual sentences conc with each other and conc with accumulates sentences for cts 2 and 8.</p> <p>MDL disqualification each ct set aside; all orders for conc and cum in relation to MDL disqualifications set aside.</p> <p>Re-sentenced:</p> <p>Ct 2: MDL disqu 4 yrs (conc). Ct 4: MDL disqu 4 yrs (conc). Ct 6: MDL disqu 4 yrs (conc). Ct 7: MDL disqu 2 yrs (cum ct 2). Ct 8: MDL disqu 4 yrs (conc).</p> <p>TES 10 yrs imp. MDL disqualification 6 yrs.</p> <p>EFP after 8 yrs.</p>
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1.	<p><b><i>Billing v The State of Western Australia</i></b></p> <p><b>[2017] WASCA 80</b></p> <p>Delivered 21/04/2017</p>	<p>37 yrs at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Prior criminal history, including convictions of 3 x breaching VROI, 3 x criminal damage, 3 x threats to injure and several driving offences.</p> <p>Divorced; three children.</p> <p>Educated to yr 10; sandblaster by trade.</p>	<p><u>Indictment</u> Ct 1: Agg DDOD.</p> <p><u>Section 32 Notice</u> Ch 1: DDOBH. Ch 2: DDOBH. Ch 3: Driver failing to report incident occasioning death or GBH. Ch 4: Failed to render assistance to victim of incident occasioning BH, not GBH or death Ch 5: No MDL (fine suspension) Ch 6: Breach of VRO.</p> <p>The three victims were all passengers in Billing's car.</p> <p>Approx. 30 mins before the fatal crash, Billing drove in a grossly dangerous</p>	<p><u>Indictment</u> Ct 1: 10 yrs imp.</p> <p><u>Section 32 Notice</u> Ch 1: 6 mths imp (conc). Ch 2: 6 mths imp (conc). Ch 3: 12 mths imp (conc). Ch 4: 12 mths imp (conc). Ch 5: \$1500 fine. Ch 6: \$2000 fine.</p> <p>5 yrs 9 mths MDL disqualification.</p> <p>TES 10 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge</p>	<p>Allowed in part.</p> <p>Appeal concerned finding of agg DDOD as worst case of its kind.</p> <p>Re-sentenced to:</p> <p><u>Indictment</u> Ct 1: 8 yrs imp.</p> <p><u>Section 32 Notice</u> Ch 1, 2 and 3: to be served cum upon each other and Ct 1. Ch 3: to remain conc with new sentence on Ct 1.</p> <p>All other sentences to remain.</p>

			<p>fashion. He drove at speeds of up to 220km per hour and through four red lights. At one intersection he nearly collided with another car. He drove over one victim's foot at a service station. He did a burnout out at his former partner's house in breach of a VRO.</p> <p>Billing ignored pleas from two victims asking him to stop and let them out.</p> <p>Billing drove at 145km per hr in a residential street where the speed limit was 50km per hr. The street was a two-lane carriageway. Another car had to swerve to avoid colliding with Billing's car. Billing collided with a raised median island, causing him to lose control of the car. The car struck the vegetation on the median island and the rear passenger side struck a large pole. The impact caused fatal injuries to the left rear passenger. The front passenger suffered a deep cut to the scalp, grazing and bruising. The right rear passenger suffered a cut to his top lip and scratches to both arms.</p> <p>Billing got out of the car and urged the victims to leave with him. One victim said that another was critically injured, and Billing responded "I don't give a fuck". Billing fled from the scene.</p> <p>Billing repeatedly denied being the driver and being involved. He failed to report the crash. He attempted to implicate one of the victims.</p>	<p>erroneously found that the agg DDOD fell within the worst category.</p> <p>Sentencing judge found that the DDOBH offences were severe, but noted that the victims suffered relatively minor injuries.</p> <p>Sentencing judge found that Billing's dangerous driving was willful and did not involve an error of judgment or other momentary driving error. He found that while the outcome was not inevitable, the risk of a catastrophic outcome became grossly unacceptable by the time the collision occurred.</p> <p>Sentencing judge characterised Billing's behaviour in abandoning the victim shortly after the crash as callous and deliberate.</p> <p>Sentencing judge noted that Billing had been drinking alcohol before driving and that at the time of the crash this was in his system.</p>	<p>TES 10 yrs imp (thus the TES was left unchanged).</p> <p>At [34] ... while the overall circumstances of the offence and the offender warranted a lengthy sentence of immediate imp, it did not warrant the maximum prescribed penalty.</p> <p>At [37] ... his Honour erred in his assessment of the gravity of the offence of DDOD. A different and lower sentence should have been imposed with respect to the indictable offence.</p> <p>At [39] Although the offence of agg DDOD was not in the worst category of cases, it was nevertheless a bad offence of its kind.</p> <p>At [44] The only significant matter in mitigation in the present case was the appellant's PG, which was entered at the first reasonable opportunity. Having regard to the strength of the case against the appellant I would give a discount of 20%...</p> <p>At [49] ... the TES imposed by his Honour of 10 yrs' imp was appropriate...</p>
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			<p>Billings had a BAC of 0.048%.</p> <p>Billings was not authorised to drive, having previously been disqualified from holding an MDL for 8 mths.</p>		
<i>Transitional Provisions Repealed (14/01/2009)</i>					
<i>Amendments to RTA s59 – reversal of onus of proof (01/01/2005)</i>					
<i>Transitional Provisions Enacted (31/08/2003)</i>					