

Possess prohibited drug with intent to sell or supply

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

MDMA, Heroin, Cocaine, Methylamphetamine/Amphetamine

From 1 January 2014

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:

conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
immed	immediate
imp	imprisonment
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
methyl	methylamphetamine
PG	plead guilty
poss	possess
SIO	suspended imprisonment order
susp	suspended
TES	total effective sentence
UCO	undercover operative
wiss	with intent to sell or supply

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal	Quantity
139.	<i>Apkarian v The State of Western Australia</i> [2015] WASCA 67 Delivered 02/04/2015	54 yrs at time offending. Convicted after early PG. Long criminal history including poss drugs. Born in Sudan; came to Australia at age 11; positive upbringing. Two adult children; two adult grandchildren. Addicted to heroin for 20 yrs; previous attempts of rehabilitation failed. Co-offender was de facto partner; co-offender also addicted to heroin. Co-offender placed on a pre-sentence order; order breached; sentenced to TES 8 mths imp.	Ct 1: Sold heroin 0.06g. Ct 2: Sold heroin 0.07g. Ct 3: Sold heroin 0.13g. Apkarian sold 0.06g of heroin to an UCO for \$100 (ct 1). On another date, Apkarian and the co-offender had a conversation with an UCO about supplying that person with 0.1g of heroin. The co-offender then sold 0.07g of heroin to the UCO for \$100 (ct 2). On another date, Apkarian and the co-offender had a conversation with an UCO about supplying that person with 0.2g of heroin. Apkarian then sold 0.13g of heroin to the OCU for \$200 (ct 3).	Ct 1: 12 mths imp (cum). Ct 2: 12 mths imp (conc). Ct 3: 12 mths imp (cum). TES 2 yrs imp. EFP. Sentencing judge found appellant's primary motivation for selling drugs was to obtain money to purchase more drugs; moral culpability and legal responsibility high because appellant was prepared, for profit, to sell drugs and thereby distribute them within the community.	Dismissed. At [53] ... the appellant was a low-level street dealer of heroin... The appellant's offending was persistent and was for financial reward, albeit primarily to feed his own habit. Some cumulation of sentence was justified having regard to the fact that he sold drugs in several separate transactions over a period of days.	0.26 g.
138.	<i>Crichton v The State of Western Australia [No 2]</i> [2014] WASCA 37	36 yrs at time of offending. Convicted after early PG. Criminal history; prior convictions for poss	1 x Poss heroin wiss 1.38g. Crichton was a heroin addict and resided and worked in Carnarvon. The Crichton and her partner drove from Carnarvon to Fremantle to see their children.	9 mths imp. Admitted offence; co-operated with police. Sentencing judge did not make a positive	Allowed - McLure P dissenting. Re-sentenced 9 mths imp susp 12 mths imp with orders.	1.38 g.

	<p>Delivered 18/02/2014</p>	<p>stolen property, fraud & poss prohibited drugs.</p> <p>Victim of sexual abuse as a child; parents separated at 7 yrs because of family violence.</p> <p>Drug use commenced at 15 yrs; commenced using heroin at 18 yrs; had periods of abstinence.</p> <p>Partner has significant drug history; 3 children now in the care of others; 1 child deceased 2001.</p> <p>Highly motivated towards employment.</p> <p>Since arrest has engaged in rehabilitation.</p> <p>No prior sentences of imp.</p>	<p>Access to their children was refused and Crichton became upset. She purchased 1.5g of heroin for \$900. Her intention was to use the heroin herself and perhaps give some to her partner, who was also a heroin user.</p> <p>Two days later police executed a search warrant at Crichton's place of work. In her handbag police found a ring box in which a small bag contained 1.18g of heroin. Crichton told police she had more heroin in a lipstick case which she had hidden behind a stove. The lipstick case included 5 small plastic bags each containing between 0.02g – 0.06g of heroin.</p> <p>Crichton admitted to police the heroin belonged to her. The larger quantity in the ring box was for her personal use. The 5 small plastic bags she intended to sell to her friends.</p>	<p>finding as to whether the appellant's intention to sell the drugs in the bags was a one-off aberration or part of a broader course of conduct.</p>	<p>At [35] There are few comparative cases concerning a single offence of drug dealing involving small amounts of heroin. They were recently collected and discussed in <i>Ness v The State of Western Australia [No 2]</i> [2013] WASCA 56.</p> <p>At [38] In my opinion, the present case has a number of exceptional features which, in combination, have led me to the conclusion that it was unjust and unreasonable to impose an immediate term of imprisonment upon the appellant ...</p> <p>At [39] None of these factors alone would have caused me to allow this appeal. I wish to stress that it is the combination of them that has led me to the exceptional conclusion that the sentence of immediate imprisonment was unjust and unreasonable.</p>	
137.	<i>Goodwin v The State of Western Australia</i>	<p>34 yrs at time offending. 36 yrs at time sentencing.</p>	<p>25 x Offer to supply methyl 1g – 1.73g and 0.1 - 3.5g. 1 x Sold MDMA.</p>	<p>Cts 1-5; 8; 10-15; 20 & 25: 12 mths imp. Cts 6 & 9: 16 mths imp.</p>	<p>Dismissed. Appeal concerned failure to</p>	<p>1g - 3.5 g.</p>

<p>[2017] WASCA 184</p> <p>Delivered 12/10/2017</p>	<p>Convicted after PG (14% discount).</p> <p>Prior criminal history; including breaches of VRO and poss prohibited drug.</p> <p>Time spent in immigration detention after arrest for offences subject of appeal; assaulted and sustained significant injuries whilst in detention; ongoing surgery required.</p> <p>Born in UK, arrived in Australia in 2010.</p> <p>Married; separated after a short period due to illicit drug use.</p> <p>Good prospects of employment; stable accommodation and supportive family and friend in UK.</p> <p>History of illicit drug use; methyl addiction; drug free since taken into immigration detention.</p>	<p>Goodwin sent group text messages advertising the sale of methyl. Over 16 different days over a 69 day period he communicated with 12 separate individuals about supplying them with the drug.</p> <p>Goodwin took anti-detection measures by using four different telephone numbers.</p> <p>An UCO met with Goodwin and arranged to purchase MDMA or ecstasy from him. The UCO subsequently purchased 20 tablets for \$600 (ct 6).</p>	<p>Cts 7; 17-18 & 26: 14 mths imp. Cts 16; 19; 21-24: 6 mths imp.</p> <p>Cts 6 & 26 cum with each other, conc all other sentences.</p> <p>TES 2 yrs 6 mths imp. EFP.</p> <p>The sentencing judge found the appellant had a considerable customer base and he was an active street-level dealer, at the mid-range, selling to end users.</p> <p>The sentencing judge found the appellant had not fully accepted responsibility for his offending and PGs were entered after numerous adjournments and delays.</p>	<p>account for time spent in immigration detention.</p> <p>At [26] ... her Honour was entitled to recognise and give credit for the time the appellant had spent in immigration detention by reducing the length of the individual sentences and the TES she would otherwise have imposed. ... her Honour did not make an error of fact or law by recognising and giving credit for the time the appellant had spent in immigration detention in the manner that she did, rather than backdating the TES.</p> <p>At [27] ... each individual sentence imposed on the appellant was appropriate having regard to the max penalty for the offence, the objective seriousness of the offence, the standards of sentencing customarily observed with respect to the offence, the place which the appellant's criminal conduct occupies on the scale of seriousness of</p>	
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136.	<i>The State of Western Australia v Thompson</i> [2014] WASCA 108 Delivered 21/05/2014	55 yrs at time of trial. Convicted after trial. Criminal history – multiple convictions for poss prohibited drug. Disability pensioner; supplements income busking, selling second-hand goods and motor vehicle parts. Suffers panic attacks, anxiety and hepatitis C. At time of offence, was a methyl user who was taking drugs to deal with adverse side effects from chemotherapy treatment for hepatitis C. Long history of drug use, including heroin for 15 yrs; has not used drugs since being charged.	Possess methyl wiss – 4.34g of 33-63% purity. Police conducted a search of Thompson's house. Thompson was in possession of 4.34g of methyl in 3 separate parcels containing 0.18g, 0.21g and 3.95g. The first two parcels were found in Thompson's pocket and the third on a shelf in his house. Thompson was also in possession of electronic scales, a small number of clip seal bags and 0.87g of methyl at 1% purity mixed with MSM. Thompson said the drugs were for his personal use.	\$2000 fine. Sentenced in absence of PSR. The sentencing judge found was able to purchase, on favourable terms, a larger quantity of methyl (7gms) than he had previously purchased. The sentencing judge found, consistent with the verdict, that a small part of the methyl in the respondent's possession would be supplied, without reward, to another.	Allowed. Re-sentence to 18 mths imp susp for 12 mths. At [40] A fine is so far outside the range of a sound exercise of the sentencing discretion as to constitute an affront to the proper administration of justice.	4.34 g.
135.	<i>Bailey v The State of Western</i>	32 yrs at time sentencing.	1 x Poss MDMA wiss 4.46g of 31% purity (18 tablets).	16 mths imp.	Dismissed – on papers.	4.46 g.

	<p>Australia</p> <p>[2016] WASCA 10</p> <p>Delivered 13/01/2016</p>	<p>Convicted after early PG.</p> <p>No relevant criminal history.</p> <p>Experienced significant trauma as a child and adult.</p> <p>No settled employment.</p> <p>Long history of drug use.</p>	<p>Bailey's vehicle was stopped and searched by police. Inside his wallet police located 18 tablets. He admitted that the drugs were his. His mobile phone also contained text messages related to drug dealing.</p> <p>Bailey initially denied intent to sell or supply. However, later made admissions that he intended to sell a portion of the tablets and use some himself.</p>	<p>Sentencing judge found at the relevant time the appellant was involved in the sale and supply of drugs of a high order.</p>	<p>Appellant challenged type, not length, of sentence.</p> <p>At [16] ... it does not fall within the exceptional category. The appellant possessed the MDMA in part to distribute it into the community. There was an aspect of commerciality to the offence. The sale of the tablets would have funded the purchase of more illicit drugs. It was not a 'one-off' event; rather, it occurred in the context of other drug dealing.</p> <p>At [17] ... given the significant weight that must be given to general deterrence... the efforts the appellant has taken towards his rehabilitation do not bring the case within the exceptional category.</p>	
134.	<p>Truscott v The State of Western Australia</p> <p>[2016] WASCA 58</p> <p>Delivered 08/04/2016</p>	<p>27 yrs at time offending; 29 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Substantial criminal history.</p>	<p>1 x Poss methyl wiss 4.94g of 72-76% purity.</p> <p>Police searched Truscott's house and found the methyl in a bedroom. Police also found empty clip seal bags, scales, cutting agent, glass smoking implements and 15.73g of cannabis.</p>	<p>16 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that some of the methyl was for appellant's personal use and some would have</p>	<p>Dismissed – on papers.</p> <p>At [23] The appellant intended to sell some of the methyl into the community. There was therefore an element of commerciality to what he did. While the quantity of methyl was</p>	4.94 g.

		<p>Mental health issues.</p> <p>Traumatic childhood; limited education and work history.</p> <p>At time sentencing, offered apprenticeship and accepted into apprenticeship course.</p> <p>Long user of cannabis and methyl.</p>	<p>Truscott admitted ownership of all items.</p>	<p>been sold to his friends in order to fund his further use of the drug.</p> <p>The sentencing judge characterised the appellant as a 'user/dealer'.</p>	<p>relatively small, the purity was high. Although not the primary factors for consideration, the quantity and purity of the drug remain relevant and important because they impact on the scope and extent of the potential harm to the community.</p> <p>At [25] The appellant's antecedents were not favourable. He has little insight into the adverse effects of his offending. He was, shortly before being sentenced, still using illicit drugs. Despite his claim that he was prepared to undertake counselling - which was repeated at the hearing of this application - there is, as yet, no demonstrated rehabilitation. As her Honour said, personal and general deterrence were the dominating sentencing considerations in this case.</p>	
133.	<p><i>Jones v The State of Western Australia</i></p> <p>[2018] WASCA</p>	<p>Convicted after PG (10% discount).</p>	<p>1 x Poss methyl wiss 5.15g at 81% purity.</p> <p>Police had cause to search Jones. In a satchel in cipseal bags police located 4.27g and 0.78g of methyl.</p>	<p>20 mths imp.</p> <p>EFP.</p> <p>The sentencing judge</p>	<p>Allowed.</p> <p>Appeal concerned plea discount.</p>	<p>5.15 g.</p>

	<p>105</p> <p>Delivered 31/05/2018</p>		<p>He was also found to be in possession of \$810 cash.</p> <p>During his interview Jones admitted to giving some of the drugs to his partner or swapping it with friends for goods and services.</p>	<p>characterised the State case as ‘arguably a strong case’.</p> <p>The sentencing judge found the appellant was a user of methyl, prepared to deal in the drug in order to fund his own acquisition costs and he was prepared to share the drug with others, including his girlfriend.</p> <p>The sentencing judge found the offending aggravated by the fact he was on bail for another matter at the time of committing the offence.</p>	<p>Re-sentenced to 18 mths imp. EFP.</p> <p>At [17] The sentencing judge did not find, and in our view it could not be said, that the plea was entered at the first reasonable opportunity. His pleas was entered at his eighth appearance ... Moreover, the appellant absconded on bail for a period of about a mth, during the 4 ½ mths from when he was charged until he entered his PG.</p> <p>At [18] As the plea was not entered at the first reasonable opportunity, a discount of 25% was not available.</p> <p>At [23] ... In our view, the confined considerations relevant to the s 9AA discount mean that the appellant’s absconding has only limited weight in the proper determination of the discount.</p>	
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132.	<p><i>Fenton v The State of Western Australia</i></p> <p>[2015] WASCA 255</p> <p>Delivered 14/12/2015</p>	<p>31 yrs at time offending.</p> <p>Convicted after early PG (discount not stated in appeal judgment).</p> <p>Criminal history, including one conviction of poss prohibited drug.</p> <p>Long-time user of cannabis and methyl.</p> <p>Stopped using methyl after being charged; continues to use cannabis.</p> <p>Motivated to engage in drug counselling.</p>	<p><u>Ind</u></p> <p>1 x Poss methyl wiss 5.19g of 66-75% purity.</p> <p><u>S32 Notice</u></p> <p>5 x drug-related offences.</p> <p>Police searched Fenton's home and with Fenton's confession, found 1.69g (75% purity) and 1.68g (66% purity) of methyl in the pocket of his shorts. Fenton stated that he purchased it for \$3,000.</p> <p>Police also found 1.82g of methyl on the floor. The purity of this methyl is unknown.</p> <p>Fenton admitted that he intended to supply some of the methyl to his friends.</p>	<p><u>Ind</u></p> <p>10 mths imp.</p> <p><u>S32 Notice</u></p> <p>\$850 fine.</p> <p>Despite the appellant ceasing the use of methyl and expressing a willingness to undergo treatment, the sentencing judge had reservations about rehabilitation.</p>	<p>Dismissed.</p> <p>At [14] The appellant was sentenced on the basis that his intention was to supply the methyl to friends without charge and to use some himself, and that there was no commercial aspect to his poss.</p>	5.19 g.
131.	<p><i>Donaldson v The State of Western</i></p>	<p>35 yrs at time offending.</p> <p>36 yrs at time sentencing.</p>	<p>1 x Poss methyl wiss 5.69g at 79% purity.</p>	<p>2 yrs 3 mths imp.</p>	<p>Dismissed.</p>	5.69 g.

	<p>Australia</p> <p>[2018] WASCA 143</p> <p>Delivered 10/08/2018</p>	<p>Convicted after PG (10% discount).</p> <p>Prior criminal history; including multiple drug convictions; no prior sentences of imp.</p> <p>Born in Scotland; difficult and dysfunctional childhood.</p> <p>Migrated to Australia with wife and child 2001; two children born in Australia; marriage ended 2008.</p> <p>Suffered serious work-related injury; relapsed into drug use.</p> <p>History of illicit substance abuse; using methyl at time offending.</p>	<p>Donaldson was the passenger in a motor vehicle when it was stopped and searched by police.</p> <p>Methyl was located in the vehicle inside a camera case, stored in in eight separate clipseal bags.</p>	<p>EFP.</p> <p>The sentencing judge found the appellant was prepared to disseminate the methyl into the community.</p> <p>Sentenced on basis appellant a low-level user/dealer.</p> <p>Motivated to abstain from drug use; engaged in drug and alcohol programme whilst on remand.</p>	<p>Appeal concerned length of sentence.</p> <p>At [32] ... His offending was not an aberration. ... The appellant's steps towards rehabilitation were commendable, but not exceptional. No special leniency was warranted. ...</p> <p>At [36] ... the sentence ... is broadly consistent with reasonably comparable cases. ... in the context of the maximum penalty, the facts and circumstances of the offending, the standards of sentencing customarily observed, the place which the appellant's offending occupies on the relevant scale of seriousness of offences of this kind and all mitigating factors, the sentence was not unreasonable or plainly unjust. ...</p>	
130.	<p>Maric v The State of Western Australia</p> <p>[2015] WASCA 190</p>	<p>39 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Long criminal history, including convictions of drug offences.</p>	<p>1 x Poss methyl wiss 5.78g of 26-27% purity.</p> <p>1 x Driving MV without authority.</p> <p>Maric was riding his off-road motorcycle. He was approached by an off-duty police officer. After being approached, he disposed</p>	<p>3 yrs imp.</p> <p>Susp term to be served: 6 mths imp (cum).</p> <p>TES 3 yrs 6 mths imp.</p> <p>The trial judge found</p>	<p>Dismissed - on papers.</p> <p>At [21] – [21] Discussion of comparable cases.</p> <p>At [28] Whilst the amount of methyl possessed by the</p>	5.78 g.

	Delivered 16/09/2015	Drug offence breached SIO for driving offence.	of his camera case into a bush. The officer later found the camera case containing methyl, digital scales, a bundle of clipseal bags and straw. Driving offence not connected to drug offence; no facts were provided.	appellant as a user/low level street dealer.	appellant was less than that in many of the other cases... that was not the only or indeed the most important factor. The appellant was clearly engaged in low level street dealing. His offending involved an element of commerciality. There was an absence of any mitigating factors and a pronounced need for personal deterrence.	
129.	<i>Potaka v The State of Western Australia</i> [2017] WASCA 98 Delivered 25/05/2017	23 yrs at time offending. 24 yrs at time sentencing. Convicted after early PG (25% discount). Relevant prior criminal history. At time of offending on parole 1x Poss methyl wiss 20g, for which sentenced to 22 mths imp. Supportive family; parents separated when a child; left home 14 yrs. Left school yr nine. Employed; working for	1 x Poss methyl wiss 6.35g at 81% purity. Police executed a search warrant on Potaka's residence and in his bedroom found methyl. A set of digital scales, \$500 in cash and a diary containing names, weights and money owing were also located. Potaka was sentenced on the basis that the cash and diary had not been proved to be connected with the offence.	2 yrs 9 mths imp. EFP. The sentencing judge characterised the appellant as 'a low-level street dealer' and accepted he was using methyl and was selling the drug to pay for his habit. The sentencing judge found the fact the appellant committed the offence on parole as an agg factor. Motivated towards 'some form of	Dismissed – on papers. Appeal concerned length of sentence and failure to state head sentence prior to applying s9AA discount. At [26] ... The appellant's counsel ... submitted, ... that, because his Honour did not expressly refer to the head sentence, this court should infer that the reduction was not made from the head sentence. At [27] We do not accept this submission. His Honour's use of the words 'would have otherwise imposed' can only be	6.35 g.

		<p>his father at time offending.</p> <p>History of alcohol and drug abuse; commenced methyl use aged 20 yrs; using daily time offending.</p>		rehabilitation.	<p>reasonably understood as shorthand for the definition of the head sentence ... and does not reveal any error in approach.</p> <p>At [32] ... The fact that the appellant may have been motivated to deal in methyl to support his own drug habit is not a mitigating factor and does not reduce the seriousness of the offence. His Honour was correct to regard the offence as more serious because it was committed while the appellant was on parole ... An offender's obligation not to commit an offence does not diminish as the parole period progresses. ... the present offence is not uncharacteristic of him and manifests a continuing attitude of disobedience of the law.</p>	
128.	<p><i>McCooke v The State of Western Australia</i></p> <p>[2020] WASCA 155</p>	<p>45 yrs at time offending. 46 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>No prior criminal history.</p>	<p>Ct 1: Poss methyl wiss 6.71 g at 84% purity. Ct 2: Poss stolen or unlawfully obtained property (\$2,720 cash). Ct 3: Failing to comply with data access order.</p> <p>During a search of McCooke's home a</p>	<p>Ct 1: 12 mths imp (cum). Ct 2: 10 mths imp (conc). Ct 3: 3 mths imp (cum). TES 15 mths imp.</p>	<p>Dismissed.</p> <p>Appeal concerned error (finding refusal to provide correct PIN to police an agg feature ct 3) and type of sentence.</p>	6.71 g.

<p>Delivered 18/09/2020</p>	<p>Traumatic and difficult upbringing; unstable childhood; experienced abuse; parents separated when aged 10 yrs.</p> <p>Lived with her husband from age 16 yrs; five children from marriage; sixth child from a subsequent relationship marred by domestic violence; resulting in ex-partner being convicted of assault.</p> <p>Full-time carer and educator for youngest child with special needs; requires daily medication.</p> <p>Fairly regular work history; unemployed at time sentencing due to home-schooling obligations.</p> <p>Digestive health difficulties; self-diagnosed concerns about early-onset dementia as a result of domestic abuse; no evidence in support of this diagnoses or of any</p>	<p>clipseal bag containing the methyl was located. Police also located \$2,720 in cash.</p> <p>Digital scales and multiple packets of clipseal bags were also found in the house.</p> <p>McCooke's mobile phone was seized. She failed to provide police with information to enable them to access the phone. When a data access order was obtained requiring her to provide the PIN for the mobile phone she provided an incorrect PIN. She claimed to have short-term memory loss so could not recall the correct PIN.</p> <p>Police later gained access by other means to the text messages stored on McCooke's mobile phone. They indicated she was actively engaged in the sale and supply of methyl.</p>	<p>EFP.</p> <p>The sentencing judge found it was clear from all the relevant circumstances; the high purity of the methyl; the text messages recovered from her mobile phone; the cash and the presence of digital scales and clipseal bags; that the appellant was involved in the supply of methyl for commercial gain.</p> <p>The sentencing judge rejected the proposition the appellant did not provide the correct PIN to her mobile telephone because she was experiencing memory impairment; her refusal to comply with the data access order was persistent and hindered the police to complete their investigations for some time; her refusal to provide reasonable assistance by providing the correct PIN was an</p>	<p>At [30] ... The appellant's conduct was more than a mere failure to obey the data access order. She actively and persistently misled the police in an attempt to prevent them from discovering the incriminating text messages that were kept on her mobile telephone by feigning an inability to recall her PIN. Her Honour therefore correctly categorised these features as aggravating, that is, they increased the appellant's culpability: ...</p> <p>At [35] ... The appellant attempted to thwart the investigation by not merely failing to comply with the order, but by actively misleading the police by stating that she could not recall the PIN to the mobile telephone. ... Penalties for non-compliance with a data access order must act as a deterrent to others and ... '[overcome] the reluctance that the person and others may have to cooperate with</p>	
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		memory impairment.		agg factor. The sentencing judge found the only appropriate penalties were immediate terms of imp. Not genuinely remorseful; lacked insight and accountability into her offending; externalised blame to others.	the police'. At [47] Having evaluated all of the relevant facts and circumstances of the case, it was not open to her Honour to impose a susp term of imp for ct 1. The only appropriate sentence was a term of immediate imp. As the only appropriate sentence for ct 1 was a term of immediate imp, susp sentences were not open on cts 2 and 3.	
127.	<i>Burnes v The State of Western Australia</i> [2017] WASCA 77 Delivered 21/04/2017	28 yrs at time sentencing. Convicted after PG. Extensive criminal history; including stealing, driving, drug and firearm offence; assaulting police and armed robbery. Left school at yr 8. Negative peer associations. Minimal employment history. Long and entrenched	<u>Ind 861</u> Ct 1: Poss methyl wiss 10.9g at 27% purity. <u>Ind 236</u> Ct 1: Burglary. Ct 2: Stealing. <u>Section 32 Notice 1</u> Ch 1: Att pervert justice. <u>Section 32 Notice 2</u> Ch 1, 13 & 19: Steal motor vehicle. Ch 2-3 & 7: Poss firearm/ammunition. Ch 4: Poss stolen property. Ch 5: Carried controlled weapon. Ch 6 & 8: Poss prohibited weapon. Ch 9-11: Breach bail. Ch 12: Threats to injure. Ch 14: Assault to prevent arrest. Ch 15: No authority to drive.	<u>Ind 861</u> Ct 1: 1 yr 6 mths imp (cum). <u>Ind 236</u> Ct 1: 2 yrs imp (cum). Ct 2: No punishment (s11). <u>Section 32 Notice 1</u> Ch 1: 1 yrs imp (cum). <u>Section 32 Notice 2</u> Ch 1: 1 yr imp (conc). Ch 2: 1 yr imp (conc). Ch 3: 3 mths imp (conc). Ch 4: 6 mths imp (conc). Ch 5: 8 mths imp	Allowed - error of fact only, otherwise dismissed. Appeal concerned totality and error of fact in respect of ch 12 (PE 48601 of 2015). Re-sentenced to: Discount of 10% on indictable offences; discount of 20% on section 32 notice offences. Ch 12: 12 mths imp (cum). All other individual sentences and orders remain.	10.90 g.

	<p>history of illicit drug use; commenced using aged 15 yrs.</p>	<p>Ch 16: Reckless driving. Ch 17: Fail to stop. Ch 18: Carried prohibited weapon.</p> <p><u>Ind 861</u> Police stopped and searched Burnes' car. They found a clipseal bag containing methyl and a set of electronic scales.</p> <p><u>Ind 236</u> Burnes removed a flyscreen from a sliding door, smashed the glass and entered the victim's home. He ransacked the home and stole jewellery valued at approx \$27,000. None of the jewellery has been recovered.</p> <p><u>Section 31 Notices 1 and 2</u> A hired car was reported stolen and later found abandoned. A DNA profile taken from the car was matched to Burnes (ch 1).</p> <p>On another occasion Burnes threatened and intimidated the owner of a car into giving him the car's keys. He then drove off in the car (ch 19).</p> <p>On another occasion Burnes failed to appear in the Perth Magistrate's Court while remanded on bail (ch 9).</p> <p>On another occasion Burnes drove a stolen car to his former partner's house (ch 13). His former partner walked up to the car and, during a heated argument, Burnes pointed a firearm directly at her and said 'I'll fix you'</p>	<p>(conc). Ch 6: 4 mths imp (conc). Ch 7: 9 mths imp (conc). Ch 8: 8 mths imp (conc). Ch 9: 3 mths imp (conc). Ch 10: 3 mths imp (conc). Ch 11: 3 mths imp (conc). Ch 12: 1 yr 6 mths imp (cum). Ch 13: 9 mths imp (conc). Ch 14: 1 yr 6 mths imp (cum). Ch 15: 6 mths imp (conc); MDL susp 12 mths. Ch 16: 8 mths imp (conc); MDL susp 24 mths. Ch 17: 1 mths imp (conc); MDL susp 4 yrs (cum). Ch 18: 6 mths imp (conc). Ch 19: 1 yr 6 mths imp (conc).</p> <p>TES 7 yrs 6 months imp.</p>	<p>TES 7 yrs imp. EFP.</p> <p>At [33] ...the TES of 7 yrs 6 mths imp did not infringe the first limb of the totality principle.</p> <p>At [35] ... his Honour found that the appellant used a <i>loaded</i> firearm when making the threat. ... There was no evidence to support his Honour' finding that the firearm was loaded during the offence ...</p> <p>At [36] The appellant should have been sentenced in respect of PE 48601 of 2015 on the basis that the weapon he used was unloaded. The finding that the firearm used to threaten the appellant's former partner was loaded made the offence more serious. This is because of the risk that a loaded firearm may somehow be discharged. It is evident ... his Honour regarded the 'fact' that the firearm was loaded justified the imposition of a more severe penalty.</p>	
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		<p>(ch 12).</p> <p>On another occasion Burnes was seen to get into the stolen car the subject of ch 19. To prevent him from driving police stopped their car behind and to the side of his car with their lights and siren activated. He accelerated heavily and deliberately reversed into the police car while two police officers were inside (ch 14). He failed to stop and drove away at speed (ch 17). Pursued by police, he drove on the incorrect side of the road and contravened traffic control signals. He mounted a kerb and drove over a median strip (ch 16). It was raining heavily; there were other vehicles on the road and his driving so dangerous the pursuit was aborted. He was not the holder of a valid MDL at the time (ch 15). The vehicle was later found abandoned and inside, was a prohibited electronic shock weapon, disguised as a torch (ch 18).</p> <p>On another occasion Burnes was bailed to appear in the District Court, he failed to do so (chs 10 & 11).</p> <p>On another occasion Burnes went to an apartment to meet an acquaintance. Police were at the apartment in order to execute a search warrant. Alerted to his presence in the lobby he was searched and found to be in poss of \$4,700 in cash (ch 4) and a replica firearm (ch 5). A set of home-made knuckledusters (ch 6), nine 12 gauge</p>	EFP.	<p>At [39] Although the firearm was not loaded, the victim was not to know whether the weapon was loaded or unloaded. The use of the unloaded weapon by the appellant was designed to terrify and doubtless had that effect. The offence was still serious.</p>	
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			<p>shotgun cartridges and 51 .22 calibre revolver rounds (ch 7) were found in his car. When asked to provide his personal details he gave a false name and signed identification and bail documents using the false name (ch 1 of section 32 notice 1).</p> <p>On another occasion police searched Burnes' home and found a crossbow (ch 8) and a 22 calibre bolt-action repeater rifle (ch 2), loaded with six bullets (ch 3). The rifle had been modified and its serial numbers removed.</p>			
126.	<p><i>Italiano v The State of Western Australia</i></p> <p>[2020] WASCA 115</p> <p>Delivered 27/07/2020</p>	<p>48 yrs at time offending. 49 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Prior criminal history; including drug offending.</p> <p>Stable upbringing; raised by his parents; three siblings.</p> <p>Performed well academically.</p> <p>Completed motor mechanic apprenticeship; employed this industry most of his adult life; successful business endeavours and</p>	<p>Ct 1: Poss methyl 11.7g at 81% purity. Ct 2: Threat to kill.</p> <p><u>Ct 1</u> A search warrant executed at Italiano's home located the methyl in a toolbox. Hundreds of unused clip seal bags; a tick list; about 10 g of cannabis and cannabis resin; about 75 cannabis seeds and a knuckle duster were also found.</p> <p>The estimated value of the methyl was between \$5,000 and \$20,000 depending on whether it was sold in point form or by the gram.</p> <p><u>Ct 2</u> Italiano sent his former partner three text messages threatening to kill her, telling her she was going to die and he was going to wait for her at her parents' home.</p>	<p>Ct 1: 4 yrs 3 mths imp. Ct 2: 6 mths imp (cum).</p> <p>TES 4 yrs 9 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was selling methyl for commercial gain.</p> <p>The sentencing judge found the threats were intended to terrify the victim; she believed the appellant was going to kill her and the offending seriously affected her life and kept her away from her own son for fear of making him unsafe as</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence ct 1.</p> <p>Resentenced (20% discount):</p> <p>Ct 1: 3 yrs imp. Ct 2: 1 yr 4 mths imp (cum).</p> <p>TES 4 yrs 4 mths imp.</p> <p>EFP.</p> <p>At [53] The appellant's offending was serious. It involved the poss, wiss, ... of methyl with a high degree of purity. The appellant was a dealer as</p>	11.70 g.

		<p>investments.</p> <p>Financial difficulties during GFC; 16 yr relationship with partner ended.</p> <p>Cannabis use as a teenager; methyl use from 2012; significant methyl dependence at time sentencing.</p>	<p>About six days later Italiano was stopped by police within 2 km of his former partner's parents' home. He had driven to Perth from his home in the south of WA.</p> <p>At the time Italiano was subject to a VRO, with his former partner the protected person.</p> <p>Italiano was also on bail for cnt 1 at the time of committing the offence the subject of ct 2.</p>	<p>well.</p> <p>No genuine remorse; minimised his offending; blamed the victim for his behaviour; moderate, if not higher, risk of reoffending.</p>	<p>well as a user of the drug. The appellant was selling methyl for commercial gain. Dealers in methyl who are also addicted to the drug are not treated more leniently merely because the motive for there is wholly or in part the need for money to finance their addiction. The poss of methyl wiss for the purpose of financing an addiction or reducing a drug debt is not mitigatory. It still involves selling or supplying a prohibited drug for a commercial purpose. ...</p> <p>At [57] ... The sentence imposed ... would have been within the range open on a proper exercise of the sentencing discretion if the appellant had been convicted after a trial, but not in circumstances where he had PG and was afforded a 20% discount for the plea.</p>	
125.	<p><i>Howard v The State of Western Australia</i></p> <p>[2016] WASCA</p>	<p>32 yrs at time offending.</p> <p>Late PG (10% discount).</p> <p>Lengthy criminal history.</p>	<p><u>Ind</u></p> <p>1 x Poss methyl wiss 11.8g of 79% purity.</p> <p><u>S32 Notice</u></p> <p>2 x Poss firearm in circ of agg.</p>	<p><u>Ind</u></p> <p>2 yrs 6 mths imp.</p> <p><u>S32 Notice</u></p> <p>2 x Poss firearm: 12 mths</p>	<p>Appeal dismissed.</p> <p>Appellant challenged length of sentence, the application of s 9AA and</p>	11.80 g.

	<p>70</p> <p>Delivered 06/05/2016</p>		<p>1 x Poss unlicensed firearm. 2 x Poss unlicensed ammunition. 2 x failing to ensure safe keeping of firearm/ammunition. 1 x Poss cannabis. 1 x Poss prohibited weapon. 1 x Poss smoking utensil.</p> <p>Methyl, scales, cutting agent, clipseal bags, surveillance cameras, firearms and ammunition were found at Howard's home.</p> <p>While on bail for the indictable offence and some of the summary offences, police found a sawn-off shotgun; four shotgun rounds; cannabis; a taser and two smoking implements at his home.</p>	<p>imp each (cum each other and ind). 1 x Poss unlicensed firearm: 3 mths imp. 2 x Poss unlicensed ammunition: 6 mths imp each. 2 x Failing to ensure safe keeping of firearm/ammunition: 3 mths imp each. 1 x Poss cannabis: 1 mth imp. 1 x Poss prohibited weapon: 6 mths imp. 1 x Poss smoking utensil: Fine \$1,000</p> <p>TES 4 yrs 6 mths imp.</p> <p>The sentencing judge not satisfied on the balance of probabilities the drug was for the appellant's use and supply to his partner. Sentenced on basis appellant was a user/dealer.</p>	<p>totality principle.</p> <p>At [17] ... it was open to the sentencing judge to apply the same discount to all the offences. The only information before the sentencing judge was that the appellant had not foreshadowed his intention to PG to the s32 offences until more than four months after the appellant pleaded guilty to the indictable offence.</p> <p>At [20] ... the appellant's lengthy criminal record indicated a persistent defiance and disregard for the law and that the offending was not an uncharacteristic aberration. This, together with the appellant's offending ... whilst on bail ... underscores the need for personal deterrence in addition to general deterrence.</p>	
<p>124.</p>	<p><i>Stewart v The State of Western Australia</i></p> <p>[2014] WASCA</p>	<p>28 yrs at time offending. 29 yrs at time sentencing. Convicted after late PG.</p>	<p>Possess methyl wiss 11.8g of 23% purity.</p> <p>Stewart was stopped by police driving his vehicle. He was observed to be acting nervously and drug paraphernalia was in</p>	<p>2 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge</p>	<p>Dismissed – on papers.</p>	<p>11.80 g.</p>

	<p>195</p> <p>Delivered 30/10/2014</p>	<p>Lengthy criminal history including traffic and drug offences.</p> <p>Left school at Year 9; worked for father and owned own business.</p> <p>Lost his home and business following loss of driver's licence.</p> <p>Methyl addiction.</p> <p>Attended and sought counselling following arrest.</p>	<p>his car. He was searched and in his underpants were four cipseal bags containing 1.66g, 1.70g, 1.72g and 11.8g of methyl.</p> <p>Police later found Stewart was in poss of two more cipseal bags which contained 0.78g of methyl between them. Only the contents of the bag containing 11.38g of methyl was analysed.</p> <p>Cash, a cipseal bag containing MSM, a set of electronic scales, a smoking implement and three mobile phones in various parts were also found.</p>	<p>accepted the appellant 'got into the wrong crowd and his life fell apart'.</p> <p>The sentencing judge found was a 'user/dealer'.</p> <p>Remorseful.</p>		
123.	<p><i>The State of Western Australia v Egeland</i></p> <p>[2018] WASCA 228</p> <p>Delivered 12/10/2018</p>	<p>23 yrs at time offending. 25 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Dysfunctional and traumatic childhood; chronic history of ADHD; significant grief issues on tragic death of his father.</p> <p>Education and peer interactions affected by dyslexia.</p> <p>Stable relationship;</p>	<p>1 x Poss MDMA wiss 12.35g at 57%-65% purity.</p> <p>Egeland was returning from a music festival when the vehicle in which he was a passenger was stopped by police.</p> <p>A search of the car located a backpack containing 66 capsules of MDMA.</p> <p>The value of the drugs, if sold at about \$25 per capsule, were worth \$1,650.</p> <p>At the time of the offending the average purity of MDMA sold in WA ranged from about 20% - 60%.</p> <p>Also located in the backpack were</p>	<p>16 mths imp, susp 12 mths.</p> <p>The trial judge found the respondent was actively engaged in the social drug culture but was not an established or significant dealer; he would occasionally sell drugs to friends from his personal stock.</p> <p>The trial judge found the respondent acquired the capsules as an impulse buy at the festival; there was no evidence that he</p>	<p>Dismissed - Mazza & Mitchell JJA (Buss P dissenting).</p> <p>Appeal concerned error of fact (respondent deeply remorseful) and length of sentence.</p> <p>At [73] ... the respondent's offending was serious. It involved poss wiss ... of MDMA with a high degree of purity. The respondent was a dealer as well as a user of the drug. Although ... the respondent's acquisition of the MDMA</p>	12.35 g.

		<p>supportive family.</p> <p>Very good employment history.</p> <p>History of drug use; drug free for some time.</p>	<p>perforated paper sheets infused with the illicit drug NBOMe.</p> <p>A search warrant executed at Egeland's home located two empty vacuum sealed bags, a vacuum sealer machine and some cannabis. Also found were more perforated papers sheets infused with NBOMe, a set of electronic scales and two containers with empty pill capsules.</p> <p>Egeland's mobile phone was seized and was found to contain a message asking for 'a tab or two if you still have some'.</p> <p>Egeland admitted possession of the drug but denied any intent to sell or supply them.</p>	<p>was selling drugs at the festival; the acquisition of the capsules indicated it was not a planned purchase by an organised dealer, it was opportunistic and impulsive and the offending was unsophisticated and was not part of an organised business involving the sale of illegal drugs.</p> <p>The trial judge was satisfied the respondent would not reoffend and a term of imp to be served immediately would be extremely counter-productive and an appalling set-back.</p> <p>Accepted responsibility for his offending; deeply remorseful; demonstrated commitment to counselling; 'unusually high prospects of rehabilitation'.</p>	<p>capsules was opportunistic and impulsive, ... he was not averse to selling or supplying at least some of the MDMA capsules and there was a probability that many of the capsules would be distributed to others. ... It was not suggested (and it could not reasonably have been suggested) that the respondent would have distributed the MDMA capsules, which he intended to supply, gratuitously to others. The only reasonable inference, ... is that [he] would have supplied them for some modest monetary or other benefit.</p> <p>At [128] It is difficult to accept that an offender is genuinely remorseful if he or she continues to maintain their innocence. While ... the respondent admitted that he possessed the MDMA, he denied and continues to deny that he did so with an intent to sell or supply to another. ...</p> <p>At [129]-[130] ... we do not think it could</p>	
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					<p>reasonably be said that the respondent was deeply remorseful for the offending of which he was convicted. Thus, we accept the appellant's submission that his Honour erred in so finding. ... However, ... we would not regard [the] error as a material error because, given the way in which the sentencing judge reasoned, the finding did not affect the sentencing outcome. ...</p> <p>At [171] ... the criminality involved in this case is towards the lower level of offences of this type.</p> <p>At [180] ... While his Honour's decision to impose conditionally susp imp was undoubtedly lenient, we are not satisfied that it was unreasonable or plainly unjust. ... the nature and circumstances of the offence were not so serious as to necessarily make anything other than an immediate term of imp an inappropriate sentencing option.</p>	
122.	<i>Lovell v The State</i>	60 yrs at time offending.	Cts 1 & 7: Att poss methyl wiss 0.2 g.	Cts 1-5; 10-12 & 14: 15	Appeal dismissed.	12.40 g

<p><i>of Western Australia</i></p> <p>[2019] WASCA 169</p> <p>Delivered 01/11/2019</p>	<p>62 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Significant prior criminal history; including drug offending.</p> <p>Single; two adult children.</p> <p>Work related injury; resulting in nerve damage: receipt of unemployment benefits.</p> <p>History of ongoing drug use; methyl addiction.</p>	<p>Ct 2: Poss methyl wiss 0.5 g. Cts 3-4 & 12: Att poss methyl wiss 0.5 g. Cts 5 & 11: Att poss methyl wiss 0.3 g. Ct 6: Att poss methyl wiss 0.8 g. Ct 8: Poss methyl wiss 0.8 g. Ct 9: Att poss methyl wiss 0.8 g. Ct 10: Att poss methyl wiss 1 g. Ct 13: Selling methyl 1.5 g. Ct 14: Poss methyl wiss 1 g. Ct 15: Att poss methyl wiss 3.5 g. Cts 16-17: Receiving. Ct 18: Poss stolen property.</p> <p>For a period of two mths, Lovell was involved in the supply of drugs into a regional community, encouraging the theft of goods to pay for drugs.</p> <p>Police intercepted Lovell's mobile telephone service. He ordered drugs from his supplier, and then supplied them to his own customers.</p> <p>The offending involved small quantities of methyl, generally less than one gram at a time; with the exception of the sale of 1.5 g of methyl and an att to poss 3.5 g of methyl.</p> <p>Lovell acted as a 'fence for stolen property' which he used in payment for drugs including receiving stolen jewellery worth \$1,200. On numerous occasions, he and another discussed receiving and exchanging stolen property for methyl.</p>	<p>mths imp (conc). Ct 6; 8 & 9: 18 mths imp (cum). Ct 7: 17 mths imp (conc). Ct 13 & 15: 18 mths imp (conc). Ct 16: 2 yrs imp (conc). Ct 17 & 18: 18 mths imp (conc).</p> <p>TES 5 yrs imp. EFP.</p> <p>The sentencing judge found the appellant played a very active and important role in the distribution of the drugs; with the smaller quantities revealing dealing at a street level facilitating the distribution of drugs imported by others.</p>	<p>Appeal concerned totality and length of sentence.</p> <p>At [31] ... The TES bore a proper relationship to the overall criminality involved in all of the offences, having regard to all of the circumstances...</p> <p>At [33] ... the sentencing Judge's remarks make it plain that the appellant was sentenced for his criminal conduct in relation to the supply of drugs to the community and his receipt of stolen property as payment for the drugs he supplied... The appellant's history of serious drug offending was properly recognised as elevating the significance of personal deterrence as a sentencing consideration.</p>	
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<p>121.</p>	<p><i>Nguyen v The State of Western Australia</i></p> <p>[2019] WASCA 56</p> <p>Delivered 05/04/2019</p>	<p>49 yrs at time offending, 52 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; convicted and sentenced to term of imp in Victoria for cultivating cannabis.</p> <p>Medicated for high blood pressure; may require treatment for PTSD.</p> <p>History of prohibited drug use; ceased using drugs since offending.</p>	<p>Ct 1: Poss methyl wiss 12.81g at 73%-81% purity.</p> <p>Ct 2: Poss money suspected of being unlawfully obtained.</p> <p>Police approached a motor vehicle, containing three people, stopped by the side of the road. Nguyen was in the driver's seat. In response to a question from police he produced \$4,800 cash from his pockets.</p> <p>A search of the vehicle located 3.13g of methyl at 81% purity; 3.13g at 79% purity and 6.55g at 73% purity.</p> <p>Two mobile telephones; digital scales and empty plastic bags were also located.</p>	<p>Ct 1: 2 yrs 8 mths imp (cum).</p> <p>Ct 2: 4 mths imp (cum).</p> <p>TES 3 yrs imp. EFP.</p> <p>The trial judge found the appellant a low-level drug dealer involved in 'street dealing' and that he sold drugs to finance his drug addiction.</p> <p>The trial judge found the offending too serious to enable suspension.</p>	<p>Dismissed.</p> <p>Appeal concerned length and type of sentence ct 1 and totality principle.</p> <p>At [34] The appellant's offending in relation to ct 1 was serious. It involved the possession, wiss, of 12.81 g of methyl with a high degree of purity. The appellant was a low-level drug dealer as well as a user. Dealers in a prohibited drug who are addicted to the drug are not treated more leniently merely because the motive for their dealing is the need for money to finance the addiction or to reduce drug debts. ... Although the appellant was to be punished only for the offence in question, his status as a drug dealer indicated that ct 1 did not involve an isolated transaction.</p> <p>At [38] ... The fact that the appellant anticipated receiving only a 'modest reward' from the sale of the</p>	<p>12.81 g.</p>
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					<p>drugs in question, the appellant's medical conditions and his efforts to overcome his drug addiction were appropriately reflected in the sentence ... imposed.</p> <p>At [40] ... The sentence imposed on the appellant for ct 1 is broadly consistent with the sentencing pattern for offences of the kind he committed, having regard to the comparable and distinguishing features between the prior cases and the appellant's case.</p> <p>At [49] ... The offences charged in cts 1 and 2 were separate and distinct. A custodial term of 3 yrs was necessary in order properly to reflect the serious character of the appellant's offending, ...</p>	
120.	<p><i>The State of Western Australia v Richards</i></p> <p>[2020] WASCA 129</p>	<p>38 yrs at time sentencing.</p> <p><u>Indictment 1234</u> Convicted after trial (judge alone).</p> <p><u>Indictment 986</u></p>	<p><u>Indictment 1234</u> Ct 1: Agg burg. Ct 2: Steal MV. Ct 3: Threats with intent to gain benefit.</p> <p><u>Indictment 986</u> Ct 1: Poss methyl wiss 13.06g at 78%</p>	<p><u>Indictment 1234</u> Ct 1: 2 yrs imp (cum). Ct 2: 12 mths imp (conc). Ct 3: 12 mths imp (conc).</p> <p><u>Indictment 986</u> Ct 1: 16 mths (cum).</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence ct 1 (Ind 1234).</p> <p>Resentenced:</p>	13.06 g.

<p>Delivered 19/08/2020</p>	<p>Convicted after PG (5% discount).</p> <p>Substantial criminal history; no prior sentences of imp.</p> <p>Unremarkable childhood; raised by brother following parent's separation.</p> <p>Prior 18 yr relationship.</p> <p>Good employment history; employed various industries, including mining and construction.</p> <p>Likely mental health issues at time offending; attributed to substance abuse.</p> <p>History of illicit drug use.</p>	<p>purity.</p> <p><u>Indictment 1234</u> Richards was on bail for the offence the subject of Ind 986 when he committed these offences.</p> <p>Richards believed the victim owned him \$10,000.</p> <p>In the early hrs of the morning Richards, in the company of two men, went to the home occupied by the victim, her partner and their children.</p> <p>The three forced entry into the house. Richards was armed with an axe, which he held to the victim's throat while one of the men took a sum of money and a car key.</p> <p>Richards then left in a car owned by the victim's partner.</p> <p>Later Richards sent the victim a message telling her to get the money or he would burn the car.</p> <p><u>Indictment 986</u> Richards was found by police sitting in the driver's seat of a parked car. A search of the vehicle located the methyl in clip-seal bags, concealed beneath panels next to the gear shift.</p>	<p>TES 3 yrs 4 mths imp.</p> <p>EFP.</p> <p><u>Indictment 1234</u> The trial judge found the respondent's offending was very serious; he was on bail at the time of committing the offences; the offending was planned, it was premediated and involved two other people that he took to provide him with some muscle; after stealing her car the respondent continued to threaten the victim over a number of days; the offending was not a one-off offence; it was ongoing and persistent.</p> <p><u>Indictment 986</u> The trial judge found the respondent was a low-level user-dealer and 'an element of commerciality to the commission of that offence' as he admitted to selling small quantities of methyl to other people to fund his own habit.</p>	<p><u>Indictment 1234</u> Ct 1: 4 yrs 6 mths imp (cum). Ct 2: 12 mths imp (conc). Ct 3: 12 mths (conc).</p> <p>Cum with 16 mths imp imposed for Ind 986.</p> <p>TES 5 yrs 10 mths imp. EFP.</p> <p>At [29] The sentence of only 2 yrs immediate imp imposed in all of the circumstances of the present case is inconsistent with the range of sentences customarily imposed, and the recognition that sentences for home burglary need to be firmed up.</p> <p>At [30] ... The burglary was committed on what the respondent knew to be a residence at which people were present, when it was occupied by a family which included two children. Not only was the respondent armed with a dangerous weapon ..., but the weapon was an axe capable of</p>	
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				<p>Co-operative; insight into his offending; steps taken towards rehabilitation; good prospects of employment upon release.</p>	<p>inflicting very serious injury if used. Moreover, the respondent held the axe to the victim's throat in what must have been a terrifying ordeal for her. There was a premediated, planned and intentional intimidation of the victim. The respondent was accompanied by two men who were there to provide 'muscle' and the men forced entry into the house in the very early hrs of the morning. It was also a significant agg factor that the respondent was on bail for the drug offence when the burglary offence was committed.</p> <p>At [42] ... the sentence ... for the agg home burglary offence is so low as to be manifestly inadequate notwithstanding that it was ordered to be served wholly cum with the sentence for the drug offence.</p> <p>At [45] ... The sentence for the agg home burglary offence was substantially less than that which was</p>	
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					open on a proper exercise of the sentencing discretion. Appealable error has been very clearly established. ...	
119.	<i>Tran v The State of Western Australia</i> [2016] WASCA 37 Delivered 29/02/2016	36 yrs at time offending. 38 yrs at time sentencing. Convicted after trial. Criminal history, including poss heroin wiss. Difficult childhood. Single; four children from previous relationships. Limited employment history; financial difficulties. History of drug use; breached previous parole by testing positive to amphetamine and methyl.	1 x Poss methyl wiss 13.9g of 66-69% purity. Police searched Tran's house and found methyl behind a pillow on a couch that the co-offender had been sitting in front of. They also found \$4,900 cash behind a pillow that Tran was sitting on. Scales and clip seal bags were found in Tran's handbag and \$900 cash on the table. Tran admitted that she used methyl and that the \$900 cash was hers. She denied poss of the methyl and \$4,900 cash.	3 yrs 9 mths imp. EFP. The trial judge found that it was more likely that the appellant was the purchaser of the drugs. The trial judge found that the appellant dealt in illicit drugs in the "upper mid-level range".	Dismissed – on papers. At [31] The trial judge's unchallenged finding was that the appellant dealt in illicit drugs in the 'upper mid-level' range ... Her prime motivation appears to have been to fund her own drug use and to alleviate her financial difficulties. At [35] Her Honour found that there were no matters of mitigation in the appellant's personal circumstances... There was no evidence that the appellant had taken any steps with a view to her rehabilitation. She maintained her denial of the offending and was not remorseful.	13.09 g.
118.	<i>Stickells v The State of Western Australia</i> [2018] WASCA 160	34 yrs at time sentencing. Convicted after PG (25% discount). Born in South Africa;	Ct 1: Poss methyl wiss 13.27g at 76%-80% purity. Cts 2 & 3: Extortion. Stickells was arrested in relation to another matter. He was searched and	Ct 1: 12 mths imp (cum). Ct 2: 18 mths imp (conc). Ct 3: 3 yrs imp (cum). TES 4 yrs imp.	Dismissed. Appeal concerned length of sentence and totality principle.	13.27 g.

<p>Delivered 19/09/2018</p>	<p>migrated to Australia aged 23 yrs.</p> <p>Parents separated aged 6 yrs;</p> <p>Schooled to aged 15 yrs; employed catering industry; self-employed own watch business.</p> <p>Married; young daughter born 2014.</p> <p>Commenced methyl use around time of wife's pregnancy; escalated drug use following marriage breakdown and separation; dealing drugs to fund own addiction.</p> <p>Mental health difficulties; prior episodes of depression and anxiety; not treated for any major mental illness prior to offending.</p>	<p>released from custody.</p> <p><u>Ct 1</u> After the search 9.25g of methyl was found on the floor of the police vehicle where he had been sitting. Upon his rearrest a further 0.51g of methyl was found in his clothing and a further 3.5g in his underwear.</p> <p><u>Cts 2 & 3</u> Stickells was owed \$10,000 by the victim MWS. He threatened MWS, telling him he would 'bury him' if he did not pay the money back.</p> <p>MWS failed to repay the debt and in fear he would be killed he suggested Stickells contact his mother KBS. Stickells then contacted KBS and told her to transfer \$10,000 into his account or her son would be killed. In fear for her son's safety she transferred the money as instructed.</p>	<p>EFP.</p> <p>The sentencing judge characterised the appellant as a low level user/dealer; nevertheless he played an important role in distributing dangerous drugs into the community and he acted in order to fund his own addition.</p> <p>The sentencing judge found although the quantity of methyl was not particularly high, the purity was high.</p> <p>The sentencing judge found the offence involving KBS, a 71-yr-old woman living in another State, to be particularly serious.</p> <p>Genuinely remorseful; steps taken towards rehabilitation; prior history of drug addiction counselling; good prospects of rehabilitation and low risk of reoffending.</p>	<p>At [40] ... The appellant's extortion offences had reasonably serious elements. In effect, the appellant threatened to kill the complainant, MWS, if payment of a debt was not made. His threats were plainly conveyed in a manner and tone that led the complainants to take the threats very seriously. ... the making of a threat to a 71-yr-old woman that her son would be killed aggravated the seriousness of the second extortion offence. The appellant exploited the vulnerability of an elderly mother arising from her maternal instinct to protect her child from harm.</p> <p>At [41] The terms of imp imposed for the appellant's extortion offences were not manifestly excessive.</p> <p>At [42] ... the appellant's offence of poss of methyl wiss is itself a serious criminal offence. In the circumstances, it amply justified, indeed required, a</p>
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					<p>term of imp cum on the sentences for the extortion offences. The appellant was in poss of more than 13.5g of methyl of a high degree of purity, with the intention to sell or supply it to another.</p> <p>At [44] ... the TES ... was within the range of an appropriate exercise of the sentencing discretion.</p>	
117.	<p><i>May v The State of Western Australia</i></p> <p>[2019] WASCA 92</p> <p>Delivered 20/02/2019</p>	<p>42 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Minor criminal history.</p> <p>Born and raised New Zealand; moved to Australia 1988.</p> <p>Excellent work history; employed drilling industry before starting own successful business with 50-60 employees and contractors.</p> <p>Positive contributions to local community.</p> <p>Significant assets.</p>	<p>1 x Att poss cocaine wiss 14g of 54% purity.</p> <p>May was contacted by his co-offender, Fredrickson, with an offer to buy a quantity of cocaine for \$10,000.</p> <p>Fredrickson provided May with bank details to facilitate payment of the drug. Within a few days May transferred a total of \$10,000 into two accounts controlled by Fredrickson and his wife.</p> <p>Several days later Fredrickson flew to Perth from the eastern states. At Perth Airport he was found to be carrying 82.1g of cocaine, in three separate packages.</p> <p>One of the packages contained 27.8g of cocaine and was labelled 'MB'. From this package 14g of the drug, at a cost of \$5,000, was for May.</p>	<p>15 mths imp.</p> <p>EFP.</p> <p>The sentencing judge accepted the appellant intended to use some of the 14g of cocaine he had purchased himself and to supply some to close friends; he did not intend to distribute the drug into the wider community, nor commercially profit from its sale.</p> <p>The sentencing judge found the appellant's offending had to be viewed against a background of him being involved in the use and</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and error of fact (prior distribution of drug to friends).</p> <p>At [51] ... there was no factual basis, either in the evidence or in the sentencing submissions made on behalf of the appellant, for the finding made by the learned sentencing judge that the appellant had, in the past, supplied cocaine to his partner and friends. It was not open to his Honour to find, as a fact, that the appellant had supplied cocaine to others in the</p>	14.00 g.

		<p>Separated; four children aged between 13-19 yrs; primary carer for three youngest children.</p> <p>Good physical and mental health; commences using cocaine socially 2010.</p>	<p>The balance of the package was to be provided by Fredrickson to a third person whose initial was B. The additional \$5,000 paid by May was on behalf of B, who would later repay him.</p>	<p>distribution of cocaine to a small group of friends on repeated occasions over a number of yrs.</p> <p>Significant remorse and insight into seriousness of his offending; very low risk of reoffending.</p>	<p>past. ...</p> <p>At [66] ... The appellant att to obtain 14g of cocaine, which he understood was of good quality. While he did not initiate the transaction ... he embraced it quickly, and with evident enthusiasm. Within a short period of time, he paid into the bank accounts of [Fredrickson] and his partner a total sum of \$10,000, \$5,000 of which was to purchase 14g of cocaine, with the balance being, in effect, a loan to B so that B could obtain poss of approx 14g of cocaine. ... the fact that he was prepared to provide \$5,000 for an associate to obtain a dangerous drug ... detracts from the appellant's status as a person who has made positive contributions to the community.</p> <p>At [67] It is relevant that the appellant intended only to distribute part of the 14g of cocaine ... to a small group of friends who were fellow users of the drug,</p>	
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					<p>and that he had no commercial motive. Nevertheless, the appellant intended to distribute cocaine, an illicit and dangerous drug, to others. ...</p> <p>At [70]-[72] ... the offence committed by the appellant was serious. ... We are positively satisfied that the only appropriate penalty is a term of immed imp by reason of the objective seriousness of the offence ... we would not impose a sentence different from that imposed ...</p>	
116.	<p><i>Winder v The State of Western Australia</i></p> <p>[2020] WASCA 30</p> <p>Delivered 11/03/2020</p>	<p>26 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Lengthy criminal history; multiple drug offences.</p> <p>Disadvantaged upbringing and difficult childhood; subjected to unduly harsh discipline and witnessed the abuse of a family member; no contact with his father.</p>	<p>46 x Offer to sell or supply methyl 11.9 g.</p> <p>2 x Offer to sell or supply oxycodone</p> <p>4 x Offer to sell or supply cannabis.</p> <p>1 x Poss methyl wiss 6.0 g at 82% purity.</p> <p>1 x Poss oxycodone wiss 4.07 g.</p> <p>1 x Conspiracy to poss cannabis wiss.</p> <p>Winder was dealing in methyl, cannabis and oxycodone.</p> <p>During a three-month period Winder received numerous text messages or telephone calls from customers requesting drugs. He agreed to supply drugs to them and frequently negotiated the price.</p>	<p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was not engaged in high-level drug dealing; however his offending was prolific, repeated and persistent and occurred over a relatively short period of time; he was prepared to supply drugs to 'what was obviously a willing market.</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [25] ... the appellant was not a high-level drug dealer. He was not supplying or selling illicit drugs in large quantities. ... However, this is not to say that the appellant's overall offending was not serious. The appellant was a prolific dealer of harmful drugs, most notably methyl, into</p>	21.97 g.

		<p>Limited and disrupted education; literacy difficulties.</p> <p>Limited employment history.</p> <p>Partner pregnant time of arrest; miscarried not long after.</p> <p>Long history of substance abuse; cannabis and methyl.</p>	<p>A search warrant executed at Winder's home located 26 oxycodone tablets and a quantity of methyl, along with scales, clipseal bags and mobile telephones.</p> <p>Offending committed while Winder was on bail for other drug offences.</p>	<p>The sentencing judge found the quantities of illicit drugs involved were 'typical of street-level dealings' but involved 'an element of commerciality'.</p> <p>Rehabilitative programs undertaken while in custody on remand.</p>	<p>his community. He did so for commercial reasons. ...</p> <p>At [26] The offences were committed by the appellant while he was on bail for other alleged drug offences. This is a significant agg factor which underscores the need for personal deterrence.</p>	
115.	<p><i>Gallagher v The State of Western Australia</i></p> <p>[2019] WASCA 108</p> <p>Delivered 07/08/2019</p>	<p>39 yrs at time sentencing.</p> <p>Convicted after early PG (22% discount).</p> <p>No prior criminal history.</p> <p>Married; two young children; no contact with 18 yr old son earlier relationship.</p> <p>Almost completed Bachelor degree.</p> <p>Good employment history.</p> <p>Gambling and substance abuse problems.</p>	<p><u>Indictment 24</u> Ct 1: Att poss cocaine wiss 4.98g. Ct 2: Att poss MDMA wiss 6.93g. Ct 3: Poss cocaine wiss 10.28g.</p> <p><u>Indictment 1167</u> Cts 1; 3-11: Stealing as a servant. Cts 2 & 12: Att stealing as a servant.</p> <p><u>Indictment 24</u> A parcel, address to Gallagher and containing cocaine and MDMA, was intercepted at an Australia Post office.</p> <p>A controlled delivery of the parcel was made to his home address. It was collected from his mailbox.</p> <p>The same day a search warrant was executed at Gallagher's address. The unopened parcel was located in his</p>	<p><u>Indictment 24</u> Ct 1: 10 mths imp (conc). Ct 2: 10 mths imp (conc). Ct 3: 14 mths imp (conc).</p> <p><u>Indictment 1167</u> Cts 1 & 2: 4 mths imp (conc). Cts 3 & 6: 2 mths imp (conc). Cts 4-5 & 7-9: 8 mths imp (conc). Ct 10: 18 mths imp (cum). Ct 11: 12 mths (conc). Ct 12: 6 mths imp (conc).</p> <p>TES 2 yrs 8 mths imp.</p> <p>EFP.</p> <p><u>Indictment 1167</u></p>	<p>Dismissed.</p> <p>Appeal concerned early plea discount and type of sentence imposed.</p> <p>At [26] ... in all the circumstance ... it is appropriate to allow a discount of 22% in respect of the drug offences ... we consider the discount given ... to be appropriate in all the circumstances, including the time at which the appellant indicated he would PG to the drug offence. We also agree ... that a discount of 22% ... is appropriate in respect of the stealing offences.</p>	22.19 g.

			<p>garage. His laptop contained material relating to the purchase of the drugs from the ‘dark web’, including a recent order for quantities of MDMA and cocaine.</p> <p>Gallagher also declared possession of three quantities of cocaine in his vehicle, of which he was to retain half for his own use and supply the other half to a co-purchaser (ct 3).</p> <p><u>Indictment 1167</u> These offences occurred while Gallagher was on bail for the above offences.</p> <p>Gallagher was employed as a sales representative.</p> <p>On various dates Gallagher altered invoices issued to customers, substituting his own bank account details for those of the company’s account.</p> <p>On other occasions Gallagher altered invoices issued by a supplier to the company, substituting his own bank account details for those of the supplier.</p> <p>The amount stolen was \$53,845.60.</p> <p>On two other occasions Gallagher altered the account details but the invoices were not paid by the customer or the company.</p> <p>In total Gallagher sought to obtain</p>	<p>The sentencing judge found the offending had some degree of sophistication and deception and there was a degree of significant premeditation.</p> <p>Appellant genuinely remorseful; steps taken to address his substance abuse problems.</p> <p>Appellant’s incarceration imposed financial and emotional strain on his family.</p>	<p>At [29] The drug offences were not at the upper end of seriousness on the scale of offending of this type. The quantities involved were relatively low, and the only supply was to a co-purchaser. Nevertheless, any poss of quantities of dangerous drugs with an intention to sell or supply them to another is a serious offence.</p> <p>At [31] ... the offending involved a series of premeditated and deceptive transactions over a period of mths, which resulted in a significant financial detriment ... The offences were agg by the fact that the appellant committed them while on bail ... a sentence of immed imp was clearly the only appropriate type of sentence for the stealing offences. We are positively satisfied that suspended and conditionally susp imp are not appropriate sentencing options ... The imposition of a term of immed imp for</p>	
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			\$60,291.30.		the stealing offences precludes suspension or conditional suspension of the terms for the drug offences, ...	
114.	<i>JM v The State of Western Australia</i> [2015] WASCA 40 Delivered 06/03/2015	42 yrs at time sentencing. Convicted after trial. Prior criminal history. Married; three young children.	1 x Poss methyl wiss 23g of 61-73% purity. Police executed a search warrant at JM's home and seized three clipseal bags. The first bag contained 21.4g of 61% pure methyl, the second contained 2.32g of 73% pure methyl and the third contained 0.11g of methyl. Methyl worth over \$20,000. Police also found digital scales, a bundle of clipseal bags and a quantity of cutting agent. After JM's conviction, but before sentencing, he provided information to police on offences committed by other persons.	3 yrs imp. The sentencing judge found the appellant a 'user/dealer ... slightly above a street dealer'.	Dismissed. [31] - [37] Discusses the scope and application of the principles relating to cooperation. At [45] The appellant's timing and drip feeding of his disclosures suggests he did not have confidence that they could withstand close and considered scrutiny... The appellant has failed to demonstrate that either of the disclosures were actually or potentially valuable at any relevant time so as to constitute cooperation. At [47] ...the sentence imposed on the appellant was well within the discretionary range even when regard is had to the matters on which he relies.	23.00 g.
113.	<i>Donaldson v The State of Western Australia</i>	37 yrs at time sentencing. Convicted after PG (20%	1 x Poss methyl wiss 23.6 g at 77% purity.	4 yrs 6 mths imp. EFP.	Allowed. Appeal concerned length of	23.6 g.

	<p>[2020] WASCA 193</p> <p>Delivered 20/11/2020</p>	<p>discount).</p> <p>Minor NSW criminal history; no prior drug offending.</p> <p>Uneventful childhood.</p> <p>Completed yr 10.</p> <p>Two children; in care of their father in NSW at time sentencing.</p> <p>Regular employment; various unskilled roles until birth of her children.</p> <p>Methyl user.</p>	<p>Donaldson was the passenger in a motor vehicle being driven the by the co-offender Cain. Police stopped the vehicle.</p> <p>Cain informed police there was \$13,000 cash in the vehicle.</p> <p>A search of the vehicle located very significant quantities of methyl and cocaine.</p> <p>Donaldson's involvement in relation to the drugs found in the vehicle was limited to the methyl located in the glovebox and dashboard.</p>	<p>The sentencing judge accepted the appellant possessed the methyl jointly with Cain; some of the drugs would have been used personally by her and she did not stand to gain any financial benefit from the sale or supply of the drugs.</p> <p>Very remorseful; cooperative with police; courses undertaken on remand; imp made more difficult due to separation from family and children in NSW.</p>	<p>sentence.</p> <p>Resentenced to 2 yrs imp. EFP.</p> <p>At [32] In our opinion, the sentence ... imposed ... was manifestly excessive. ... taking into account ... the seriousness of the offence; ... the place which the appellant's criminality occupies on the scale of seriousness of offences of this kind; ... the general pattern of sentencing in reasonably comparable cases; ... the importance of personal and general deterrence ... the appellant's PG, her personal circumstances ... the sentence of ... imp was unreasonable or plainly unjust.</p>	
112.	<p><i>Tirkot v The State of Western Australia</i></p> <p>[2018] WASCA 41</p> <p>Delivered 04/04/2018</p>	<p>20 yrs at time offending. 22 yrs at time sentencing.</p> <p>Convicted after PG (10% discount cts 1-23; 25% discount ct 24).</p> <p>No prior criminal history.</p> <p>Strong, supportive and</p>	<p>Cts 1; 3-7; 9-11; 13; 15-16 & 20: Offer to supply MDMA.</p> <p>Cts 2; 8; 12; 14; 17-19 & 21: Offer to supply methyl.</p> <p>Ct 23: Poss MDMA wiss 2.11g.</p> <p>Ct 24: Att poss MDMA wiss 21g at 27% purity.</p> <p>Tirkot was stopped by police driving her motor vehicle.</p>	<p>Cts 1; 5; 7; 11; 15 & 23: 2 mths imp (conc).</p> <p>Ct 2: 12 mths imp (cum).</p> <p>Cts 3-4; 16 & 20: 6 mths imp (conc).</p> <p>Ct 6: 46 mths imp (head).</p> <p>Ct 8; 10; 18 & 21: 4 mths imp (conc).</p> <p>Cts 9 & 13: 9 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 6) and totality principle.</p> <p>At [68] ... The appellant offered to sell ... MDMA pills and ... methyl for prices totalling more than</p>	23.11 g.

		<p>loving family.</p> <p>Private school education; performed well academically; well-accepted by peers and teachers.</p> <p>Completed first yr law; certified personal trainer and beauty therapist.</p> <p>Idolised her father; effected by his death in 2016; significant role in supporting him and her mother during his illness.</p> <p>Loving mother to young child; partner violent and abusive; subsequently abandoned her and his child.</p> <p>Diagnosed with depression and anxiety.</p> <p>No history of illicit drug use.</p>	<p>Her mobile phone revealed that over a two-month period Tirkot offered to sell or supply more than 2,850 MDMA pills and more than 10g of methyl for a total price exceeding \$42,400 (cts 1-21).</p> <p>A search of her vehicle located six capsules of MDMA powder (ct 23).</p> <p>At her home a cipseal bag containing 78 tablets of fluoroamphetamine were located (ct 24).</p> <p>Digital scales, a box of cipseal bags, a tick list and cipseal bags containing small quantities of MDMA and fluoroamphetamine were also found at her home.</p>	<p>Cts 12; 14; 17 & 19: 12 mths imp (conc). Ct 24: 5 mths imp (conc).</p> <p>TES 4 yrs 10 mths imp.</p> <p>The sentencing judge found the appellant a commercial drug dealer, operating at the higher end of the scale, well above street level; was selling drugs to make money and had access to large quantities of drugs.</p> <p>The sentencing judge rejected the submission the appellant was dealing drugs solely or for the benefit of her drug dealer acquaintances.</p> <p>Insight into her offending; genuinely remorseful; low risk of future offending.</p>	<p>\$42,000. The offers were made in the context of an ongoing and persistent commercial drug operation. ... motivated by commercial gain. The appellant was a commercial dug dealer, operating at the higher end of the scale, well above street level. ... the appellant had access to large quantities of drugs specially MDMA. In relation to ct 6, ..., although the appellant did not have stock ... she was able to get two quotes from two suppliers for 2,000 pills on the same day.</p> <p>At [80] ... accounting for the scale, persistence and commercial character of the appellant's offending, the TES ... imposed is broadly consistent with the sentencing outcomes in other cases with some comparable features, ...</p>	
111.	<i>Dinh v The State of Western Australia</i>	<p>56 yrs at time sentencing.</p> <p>Convicted after trial.</p>	<p>1 x Poss methyl wiss 24.2g at 67% purity.</p> <p>Dinh was the passenger in a car being driven by the co-accused, her son, Tran.</p>	<p>2 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>Appeal challenged type, not length, of sentence.</p>	24.20 g.

	<p>[2019] WASCA 167</p> <p>Delivered 29/10/2019</p>	<p>No prior criminal history.</p> <p>Born in Vietnam; came to Australia with her family 1982.</p> <p>Resides with her family; involved in an agricultural operation in rural area.</p> <p>No history of drug use; suffers a skin condition; at time sentencing undergoing diabetic testing.</p>	<p>During a random police stop Dinh was seen leaning down and attempting to conceal a handbag underneath her seat.</p> <p>A search of the vehicle located Dinh's handbag. Inside the handbag was a pouch containing a clipseal bag, containing a quantity of methyl.</p> <p>Also found inside the vehicle were two methyl smoking pipes. One of those pipes returned a positive match to Tran's DNA.</p> <p>When interviewed Dinh and Tran denied knowledge of the drug.</p>	<p>The sentencing judge found the individual involvement and roles the appellant and her co-offender each played in the offending was not known precisely; they continued to maintain their silence and denial of the offence.</p> <p>The sentencing judge found some or all of the methyl was for sale and would have been supplied and disseminated into the regional community in which they both lived; there must have been some personal gain for each offender by reason of their willingness to be in poss of a substantial quantity of methyl valued at approx \$10,000.</p> <p>No remorse or insight into the seriousness of her offending.</p>	<p>At [35] ... the imposition of a term of immediate imp was not unreasonable or plainly unjust. ... immediate imp was not merely open, it was the only appropriate sentencing outcome.</p>	
110.	<p>Wellstead v The State of Western Australia</p> <p>[2019] WASCA 130</p>	<p>50 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Prior criminal history.</p>	<p>1 x Poss methyl wiss 27.1 g at 82% purity.</p> <p>Wellstead was engaged in the business of dealing methyl. The co-offender was one of his regular customers.</p>	<p>4 yrs 10 mths imp.</p> <p>EFP.</p> <p>Co-accused: Convicted after late PG (5%</p>	<p>Dismissed.</p> <p>Appeal concerned miscarriage of justice (sentence on incorrect factual basis as to role in</p>	27.10 g.

	<p>Delivered 28/08/2019</p>	<p>No family support; resulting in isolation since imp.</p> <p>Good work history; employed young age to support family.</p> <p>Marriage collapsed 2-3 yrs prior to offending; two adult children and 15 yr old.</p> <p>Casual user of methyl.</p>	<p>Wellstead asked the co-offender to accompany him to obtain more methyl in Perth. They attended a pre-arranged location and collected the drug.</p> <p>Wellstead hid the drugs under his shirt. During the return journey the co-offender tore open the package containing the methyl. They both smoked some of the drug as they drove.</p> <p>Police had cause to stop their vehicle. Wellstead removed the methyl where he had secreted it, holding it so as not to come into contact with the bag directly. He then threw the bag of drugs to his co-offender, telling him to hide it. The drugs and the glass pipe they had been using were placed in a cavity behind the glovebox.</p> <p>A search of the vehicle quickly located the methyl.</p> <p>Analysis of Wellstead's phone, seized by police, indicated he was engaged in the commercial supply of methyl and that he was making threatening demands for money owed to him by his customers.</p>	<p>discount). 2 yrs imp, susp 20 mths.</p> <p>The trial judge found the appellant obtained the drugs as part of his business of dealing in methyl; his motivation was commercial; he owned the drugs and expected to sell them; he may have used some of he drugs, but the vast bulk of it was to be stock-in trade for his commercial business.</p> <p>The trial judge found the drugs were not the co-offender's and he was not to obtain any commercial benefit from the drugs; his benefit was receiving some of the drug itself.</p> <p>No demonstrated remorse or insight into seriousness of offending; no evidence of rehabilitation.</p>	<p>the offence) and parity principle.</p> <p>At [113] ... The trial judge cannot be held to have committed any error by making factual findings without regard to material not before him. The appellant's trial counsel clearly had the recorded interview, ... There is no miscarriage of justice involved in the absence of evidence of parts of the recorded interview which was in the poss of the appellant's trial counsel, who chose not to adduce the evidence.</p> <p>At [120] ... the significant differences between the sentence imposed on the appellant and the co-offender are explained by the following matters found by the trial judge: ... The offenders played very different roles in the offending ... The co-offender provided assistance to police by giving evidence in the appellant's trial ... The co-</p>	
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					<p>offender PG ... was remorseful and had taken positive steps towards his rehabilitation ... The co-offender received a small amount of mitigation for his youth ...</p> <p>At [121] ... the disparity in the sentencing outcomes is not capable of giving rise to a legitimate or justifiable sense of grievance, ...</p>	
109.	<p><i>Moodley v The State of Western Australia</i></p> <p>[2020] WASCA 158</p> <p>Delivered 24/09/2020</p>	<p>21 yrs at time offending.</p> <p>Convicted after very late PG (5% discount).</p> <p>Significant prior criminal history.</p>	<p>1 x Offer to sell methyl 28g.</p> <p>Over a two-day period Moodley and his co-offender offered to sell 28g of methyl to an UCO for \$14,000.</p> <p>The conversations between Moodley and the UCO were covertly recorded, along with incriminating text messages exchanged between Moodley and the UCO.</p>	<p>4 yrs 3 mths imp.</p> <p>EFP.</p> <p><u>Co-offender</u> Convicted very early PG (25% discount).</p> <p>Cts 1 & 3: Selling methyl. Ct 2: Offering to sell methyl.</p> <p>Ct 2 same offence as that committed by the appellant (the common offence).</p> <p>Sentenced in respect of the common offence to 2 yrs imp.</p> <p>The sentencing judge</p>	<p>Allowed.</p> <p>Appeal concerned parity principle (error in finding the sentence of the co-offender had been reduced for totality).</p> <p>Resentenced to 2 yrs 8 mths imp. EFP.</p> <p>At [12] ... it is apparent from the sentencing remarks of Petrusa DCJ that her Honour did <i>not</i> reduce the sentence that she imposed on [the co-offender] for the common offence for reasons of totality. ...</p> <p>At [13] As the respondent</p>	28 g.

				<p>found the appellant had the capacity to contact and deal with the person who would supply the methyl, thus was more culpable than his co-offender and his offending was purely for commercial gain, unlike the co-offender, a user/dealer.</p> <p>The sentencing judge found the co-offender's sentence was reduced for the common offence 'for totality purposes'.</p> <p>No evidence of remorse; engaged in, or att to engage in, rehabilitative courses while in prison.</p>	<p>conceded, [the sentencing judge] erred in finding that Petrusa DCJ reduced the sentence that she imposed on [the co-offender] for the common offence for reasons of totality.</p> <p>At [21] The appellant had the contacts within the local community to provide him with the 28 g of methyl which was offered to the UCO. The offence was committed over two days, demonstrating a degree of persistence. It was committed for commercial gain.</p> <p>At [23] ... having regard to the recent decision of ... <i>Baker v The State of Western Australia</i>, the appellant is to be resentenced on the basis that he intended to sell or supply the methyl in accordance with the terms of the offer, but was denied the opportunity of doing so before his arrest.</p>	
108.	<i>Labrook v The State of Western Australia</i>	46 yrs of age. Late PG.	<u>Indictment</u> 3 x Offer to sell methyl.	<u>Indictment</u> Ct 1: 3 yrs imp. Ct 2: 12 mths imp (conc).	Dismissed. Appellant challenged	32.50 g.

<p>[2016] WASCA 127</p> <p>Delivered 15/07/2016</p>	<p>Extensive criminal history, including prior drug convictions and offences of violence.</p> <p>Abusive childhood, alcoholic father.</p> <p>Educated to yr 9, studying towards a business degree in custody.</p> <p>In a relationship at time of sentencing. Father of three young children, to two different partners.</p> <p>Regularly user of methyl since aged 18 yrs.</p>	<p>Labrook offered to sell an ounce (28g) of methyl for \$11,500-\$12,000 to a woman who contacted him on his mobile phone (ct 1).</p> <p>A man contacted Labrook and asked for a 'half weight' of methyl. Labrook offered the man 1g for \$500 (ct 2).</p> <p>Labrook was contacted by a woman on his mobile phone. He offered to sell her 3.5g of methyl for \$2,000 (ct 3).</p> <p>On each occasion the offence was detected by police who were monitoring his phone.</p> <p>Between committing and being sentenced for the indictable offences Labrook was sentenced on the following summary offences:</p> <p><u>Ch 1: Driving under suspension</u> Labrook was driving a motorcycle at the time his driver's licence was suspended and he was the subject of a suspended sentence.</p> <p><u>Chs 2 and 3: Driving under suspension and giving false personal details</u> Labrook was stopped driving a car while his driver's licence was suspended. He provided a false name to police. At the time of committing these offences he was</p>	<p>Ct 3: 22 mths imp (cum). TES 4 yrs 10 mths imp. EFP.</p> <p><u>Summary offences</u> Ch 1: 7 mths imp suspended sentence activated. Ch 2: 4 mths imp (cum). Ch 3: Fine \$200. Ch 4: 4 mths imp (conc). Ch 5: 6 mths imp (cum).</p> <p>TES 17 mths imp. EFP.</p> <p>Combined TES 6 yrs 3 mths imp.</p> <p>The sentencing judge took into account the appellant's personal circumstances; prospects of rehabilitation and the need for protection of the public; punishment and personal and general deterrence.</p> <p>The summary offences breached a 7mths term of imp, suspended for 18mths for driving under suspension.</p>	<p>totality principle.</p> <p>At [49] The sentencing judge found that the appellant was involved in a commercial enterprise, at least on a modest scale, and had ready access to significant amounts of methyl. ... The appellant engaged in consistent offending over a 2½ month period. The appellant's purpose was commercial gain.</p> <p>At [52] The driving offences ... were particularly serious, involving the risk of injury to a number of members of the public who were required to take evasive action ... the individual sentence for the reckless driving offence represents a lenient outcome.</p> <p>At [53] It is also significant that the appellant received the benefit of the suspended sentence ... All other offences were committed while serving the suspended sentence.</p>	
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			<p>the subject of the suspended sentence (1).</p> <p><u>Chs 4-5: Driving under suspension; reckless driving in circ of aggravation</u> Driving a vehicle Labrook attempt to evade police by driving into a parking lot, forcing his vehicle through a lowered swing gate and a parking attendant to run out of his path. He then drove on a number of main thoroughfares in a built up area at speed, pursued by two police vehicles with emergency lights and sirens engaged, causing members of the public to take action to avoid a collision. Labrook accelerated and braked with sufficient aggression to skid and cause smoke from his tyres. When the car's engine seized he jumped out of the vehicle as it was rolling, narrowly missing two surveyors and destroying a tripod. He hid in nearby bushes before being located and arrested.</p>		<p>At [54] It is an aggravating factor that the appellant committed the drug offence ... while on bail.</p>	
107.	<p><i>Tran v The State of Western Australia</i></p> <p>[2019] WASCA 50</p> <p>Delivered 22/03/2019</p>	<p>25 yrs at time offending. 27 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Prior criminal history; at time offending subject of District Court SIO (12 mths imp, suspended 2 yrs).</p> <p>One of three children; close and supportive</p>	<p><u>Ind</u> Ct 1: Att poss MDMA wiss 33.1g at 27% purity. Ct 2: Poss unlawfully obtained property (\$2,280).</p> <p><u>Breach SIO</u> 1 x Extortion</p> <p><u>Ind</u> A parcel marked for delivery to Tran's address was intercepted by Australia Post. The parcel was seized when it was found</p>	<p><u>Ind</u> Ct 1: 4 yrs imp (conc). Ct 2: 3 mths imp (conc).</p> <p><u>Breach SIO</u> 12 mths imp (cum ct 1).</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was a</p>	<p>Dismissed.</p> <p>Appeal concerned error of fact and length of sentence.</p> <p>At [76] ... The appellant attempted to conceal his activities by using the darknet and by making payments via Bitcoin, plainly with the intention of making his wrongdoing more difficult to detect.</p>	33.10 g.

		<p>family.</p> <p>Completed university degree.</p> <p>Constant work history; well-regarded employee.</p> <p>Long term relationship; plans to marry.</p> <p>Senior martial arts instructor; national level lion dancer.</p> <p>Occasional recreational user of MDMA.</p>	<p>to contain 100 MDMA pills (ct 1).</p> <p>A search warrant executed at Tran's home located \$2,280 in cash (ct 2). Also found were one 251 N-bomb pill and small quantities of a prohibited drug. Scales with a residue of MDMA and empty clipseal bags were also located.</p> <p>A computer at the home showed Tran had accessed the Australia Post tracking website and he had made enquiries in relation to the parcel, which had the same tracking number as that seized.</p> <p>Tran's computer and mobile phone showed he had purchased Bitcoin and had enabled access to the darknet. In a one-month period he had made Bitcoin transactions worth \$7,000.</p> <p><u>Breach SIO</u> Tran was part of an Asian gang who, along with other members, assisted an outlaw motorcycle gang in targeting a business, over a long period of time, with extensive demands for substantial sums of money.</p> <p>Tran attended the premises with the principal offenders on three separate occasions. He was described 'as a follower' who played 'only a peripheral role' in the offending.</p>	<p>dealer in MDMA and the drugs the subject of ct 1 were intended for sale to his circle of friends and acquaintances; ct 1 was not an isolated incident and the degree of his participation in the distribution of drugs into the community was at the very least not insignificant.</p> <p>The sentencing judge found the appellant's offending involved the use of the darknet and the anonymity it provided, demonstrated his criminal conduct was calculated and well organised.</p> <p>The sentencing judge had regard to the fact the appellant committed the offences on the ind only days after he was placed on the susp term; the offences on the ind and the breach of SIO 'two very distinct and separate courses of conduct, both of which were serious.</p> <p>No demonstrated remorse</p>	<p>These measures may be properly characterised as sophisticated. ... it may fairly be said that the offending was brazen.</p> <p>At [85] ... The darknet and Bitcoin were used to anonymise, and thus to conceal, the appellant's actions. It is evident from the web searches undertaken by the appellant and the WhatsApp chats that the appellant deliberately sought out the ... MDMA pills and that he did so with the intention of selling them ...</p> <p>At [86] ... the appellant stood to gain commercially from the sale of the pills, at least to the extent that he was able to fund his own consumption of the drug. The fact that the appellant had such an intention does not detract from the commercial nature of the offence ...</p> <p>At [87] The offending took place against the background that the</p>	
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				and no responsibility for his wrongdoing.	appellant had, in the past, sold or supplied prohibited drugs to others. ... the fact that ct 1 was committed against the background of previous drug dealing underscores the need for personal deterrence. ... At [88] There were favourable aspects to the appellant's personal circumstances, but when weighed against the fact that ct 1 was committed while the appellant was subject to the SIO and the need for personal and general deterrence, their weight is limited. ...	
106.	<i>Oziewicz v The State of Western Australia</i> [2018] WASCA 81 Delivered 24/05/2018	34 yrs at time sentencing. Convicted after early PG (20% discount). Prior criminal history; previous convictions for manufacturing prohibited drugs. Good employment history; trade qualifications. In a relationship; three	Cts 1 & 2: Att manufacture methyl. Ct 3: Poss methyl wiss. 23.74g at 6% - 65% purity. Ct 4: Poss MDA 10.15g at 22% purity. <u>Ct 1</u> A search of premises found chemicals and apparatus. Several of the items contained methyl and pseudoephedrine, indicating they had earlier been used to manufacture methyl. Oziewicz's fingerprints were on several items. <u>Ct 2</u> About six mths later Oziewicz's home	Ct 1: 3 yrs imp (cum) Ct 2: 3 yrs 10 mths imp (cum). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 8 mths imp (cum). TES 7 yrs 6 mths imp. EFP. The sentencing judge found the quantity of the drug the subject of ct 3 significant; there was a	Dismissed. Appeal concerned length of sentence (cts 1 and 2) and totality principle. At [90] ... The first att manufacture of methyl occurred about six months before he committed the second such offence. ... that called for an element of accumulation in the sentences for cts 1 and 2. Further, the appellant's	33.89 g.

		<p>children from earlier relationship.</p> <p>Long history of illicit substance abuse; methyl addiction time offending; partner also methyl user.</p>	<p>was searched. Chemicals and apparatus and items consistent with the manufacture of methyl were found.</p> <p><u>Cts 3 and 4</u> During the search brown powder, two separate bags of white powder and 20 capsules were located.</p> <p>Analysis found methyl and MDA components of the brown powder and 15 of the capsules. MDA and methyl were found in five of capsules. A bag of white powder contained methyl, the other a component of methyl.</p> <p>Scales, clip seal bags and a tick list were also found, along with a loaded sawn-off shotgun and ammunition.</p>	<p>commercial purpose behind the offences and it was the appellant's intention to sell the drugs; the offending could not be described as uncharacteristic.</p> <p>Credit given for participation in drug rehabilitation programs on remand.</p>	<p>offences of poss of methyl and of MDA were each distinct from his att to manufacture. ... a further degree of accumulation was warranted. The offence of poss of methyl wiss was itself a serious offence ...</p> <p>At [93] ... we are not satisfied that the TES was disproportionate to the overall criminality involved in all of the offences viewed in their entirety ...</p>	
105.	<p><i>Kirkup v The State of Western Australia</i></p> <p>[2018] WASCA 102</p> <p>Delivered 29/06/2018</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No relevant prior criminal history.</p> <p>Parents separated aged 5 yrs; little contact with father.</p> <p>Supportive family and friends.</p>	<p>1 x Sold MDMA 34.31g at 40%-45% purity.</p> <p>At a pre-arranged location Kirkup met with a person and agreed to sell him a quantity of MDMA. Unbeknown to Kirkup he was an UCO.</p> <p>Kirkup gave the UCO two bags of MDMA powder for \$4,000 cash. One bag contained 7.01g at 45% purity and the other 27.3g at 40% purity.</p>	<p>18 mths imp.</p> <p>EFP.</p> <p>The sentencing judge accepted the offence was an isolated act of offending and that the appellant committed the offence in order to clear the drug debt he had incurred.</p> <p>The sentencing judge found the offence so serious that only a term of</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned type and length of sentence.</p> <p>At [25] The appellant's offending stemmed from his long-term use of MDMA. ...</p> <p>At [26] ... personal deterrence remained relevant and was an important sentencing consideration. ...</p>	34.31 g.

		<p>Completed yr 12.</p> <p>Consistent employment.</p> <p>Illicit drug use from aged 19-20 yrs.</p>		<p>imp was appropriate.</p> <p>Positive steps taken towards rehabilitation; remorseful; acceptance of responsibility and demonstrated insight into his offending.</p>	<p>At [31] ... The 'one-off' nature of the offending does not mean the offending was not serious. In order for the appellant to commit the offence, he contacted his supplier and arranged for the provision of a reasonably substantial quantity of MDMA ... The fact that the appellant's offending was motivated by a desire to repay a drug debt does not detract from the commercial nature of the sale, and is in no way mitigating.</p> <p>At [32] ... The purity of the MDMA sold by the appellant was reasonably high.</p>	
104.	<p><i>Sakhie v The State of Western Australia</i></p> <p>[2017] WASCA 103</p> <p>Delivered 01/06/2017</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Prior criminal history; including previous convictions for possession of weapons.</p> <p>Born in Afghanistan; family members killed in</p>	<p>Ct 1: Poss modified handgun, whilst not being the holder of a licence or permit.</p> <p>Ct 2: Poss methyl wiss 13g of 70% purity.</p> <p>Ct 3: Poss cocaine wiss 23g of 52% purity</p> <p>Sakhie was riding a motorcycle. When called upon to stop he sped way. After a short chase he abandoned his motorcycle, fled on foot and was apprehended a short time later.</p> <p>At the time of arrest Sakhie threw an object over a fence. The item was</p>	<p>Ct 1: 12 mths imp (cum).</p> <p>Ct 2: 2 yrs imp (cum).</p> <p>Ct 3: 2 yrs imp (cum).</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>Aggregate sentence reduced from 6 yrs imp).</p> <p>The sentencing judge found the appellant a mid-</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of sentence; totality and claims of duress.</p> <p>At [20] ... the onus is on the appellant to prove ... that he committed the offences as a result of pressure placed on him by others: ... A mere assertion that the appellant has been</p>	36.00 g.

		<p>conflict; lived Pakistan aged 1-10 yrs before emigrating to Australia.</p> <p>Supportive family; parents separated; father suffers drug and mental health problems.</p> <p>Difficulties at high school due to limited English; completed yr 12.</p> <p>Employed; trainee bricklayer.</p> <p>Commenced cannabis used in yr 9-10; methyl at 16-17 yrs old; \$15,000 drug debt at time of arrest.</p> <p>At time of PG ceased using methyl; distanced himself from negative peer influences.</p>	<p>recovered and found to be a modified 8mm handgun, fitted with a silencer and with the serial numbers removed.</p> <p>Later than morning a search of his home located methyl and cocaine hidden in the house.</p> <p>If sold in points the methyl and cocaine each had an estimated value of \$13,500.</p>	<p>level dealer; the drugs were of high purity and high value and was indicative of the level of his involvement.</p> <p>The sentencing judge found the gun was not intended for protection and those who deal in illicit drugs are frequently found in poss of firearms and are 'one of the frequently seen tools of the drug trade'.</p> <p>Good prospects of rehabilitation.</p>	<p>assaulted or threatened, without reference to any specific incident, is not admissible.</p> <p>At [22] ... the appellant's recent claims of duress are inconsistent with the submissions made on his behalf at the sentencing hearing.</p> <p>At [31] ... The fact that the appellant, on his own admission, had run up a \$15,000 drug debt is indicative of his level of involvement. It was also accepted that the weapons were used in the context of drug dealing. There are dangers inherent in drug dealing, but the carrying of weapons in this context increases the possibility of serious violence as they can be used to threaten or coerce. The firearms offence was also made more serious by the fact that the handgun had been modified, not only to remove its serial number, but to enable the fitting of a silencer.</p>	
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<p>103.</p>	<p><i>Staiger v The State of Western Australia</i></p> <p>[2020] WASCA 99</p> <p>Delivered 23/06/2020</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after late PG (15% discount ct 1; 20% discount ct 2).</p> <p>No significant prior criminal history.</p> <p>Born New Zealand; good upbringing.</p> <p>Navy service many yrs; productive working life.</p> <p>Significant depression following financial difficulties; when the victim of fraud or theft; his marriage breakdown and injury after an accident.</p> <p>Significant improvement in mental health following treatment after his arrest.</p> <p>Entrenched methyl dependence; use of illicit drugs to self-medicate.</p>	<p>Ct 1: Poss methyl wiss 6.83g. C 2: Poss methyl wiss 29.51g at 77% purity.</p> <p><u>Ct 1</u> A search of Staiger's residence located methyl in various locations in his bedroom.</p> <p><u>Ct 2</u> Some weeks later, whilst on bail in respect of ct 1, Staiger was riding his motorcycle when stopped by police. In a satchel strapped to his leg police located a ball of electrical tape containing 28g, or an ounce, of methyl with a purity of 77%. A further 0.72 g of methyl was found in a glass pipe in the saddlebag of the motorcycle.</p> <p>A later search of his home located a further 1.15 g of methyl.</p>	<p>Ct 1: 8 mths imp (cum). Ct 2: 3 yrs imp (cum).</p> <p>TES 3 yrs 8 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the methyl was predominately for the appellant's own use; that he was not dealing for profit; however there was a 'small element of commerciality' in that he would occasionally share the drug with others and also sell the drug in order to recoup some of the costs of his own methyl habit.</p> <p>The sentencing judge found the fact the appellant was on bail in respect of ct 1 at the time of committing ct 2 a significant agg factor.</p> <p>Credit given for 'very minimal cooperation' with police.</p>	<p>Dismissed.</p> <p>Appeal concerned length; type of sentence and totality principle and error (failed to consider appellant's major depressive disorder).</p> <p>At [8] ... The sentencing judge expressly took the appellant's mental health condition into account ... and cannot be said to have failed to give appropriate weight to that sentencing consideration. ...</p> <p>At [11] The sentencing judge was correct to conclude that a mental health disorder could not be regarded as causative of the offences of poss of methyl wiss ...</p> <p>At [15] There was nothing in the particular circ of this case which could arguably make an ISO, or a susp or conditionally susp sentence of imp, appropriate sentencing options. ...It would not have been open to the sentencing judge to</p>	<p>36.34 g.</p>
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					<p>have imposed sentences other than immediate imp for these offences.</p> <p>At [16] ... it is not reasonably arguable that either the individual sentences or the TES were so long as to be unreasonable or plainly unjust. It cannot arguably be inferred that the sentencing judge erred by imposing sentences longer than those which were commensurate with the seriousness of the appellant's offending.</p>	
102.	<p><i>Greenfield v The State of Western Australia</i></p> <p>[2019] WASCA 29</p> <p>Delivered 14/02/2019</p>	<p>48 yrs at time offending. 49 yrs at time sentencing.</p> <p>Convicted after trial (ct 1). Convicted after late PG (ct 2).</p> <p>Prior criminal history; including drug related offending; on bail for present offences when charged and convicted of poss cannabis.</p> <p>Regularly employed until 2015; on becoming</p>	<p>Ct 1: Poss methyl wiss 32.1g at 85% purity. Ct 2: Poss cannabis wiss 5.46g.</p> <p>On the execution of a search warrant at Greenfield's home police located methyl and cannabis.</p> <p>Also located in his car were two sets of scales containing traces of the drugs.</p>	<p>Ct 1: 4 yrs imp (cum). Ct 2: 6 mths imp (cum).</p> <p>TES 4 yrs 6 mths imp. EFP.</p> <p>The sentencing judge found the 'very significant quantity of high purity drug in crystal form' was capable of being broken down and distributed widely into the community; the high purity of the methyl suggested the appellant was close to the source,</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 2) and totality principle.</p> <p>At [32] Ct 2 involved the poss of what can properly be described as a small quantity of cannabis wiss it to another. The offence was committed in the context that the appellant dealt in 1 oz quantities of cannabis, and that he was a commercial dealer in the drug over a period of time.</p>	37.56 g.

		<p>unemployed commenced dealing in cannabis on a commercial basis.</p> <p>History of illicit drug use; past drug counselling undertaken and prior to sentence.</p>		<p>and seemingly trusted to be supplied with drugs of such purity for sale.</p> <p>The sentencing judge determined that the seriousness of the offending was such that the only appropriate disposition was terms of imp.</p> <p>No demonstrated remorse or evidence of cooperation; steps taken towards rehabilitation.</p>	<p>He was also dealing in cannabis at the same time as he was dealing in methyl. ... cannabis is not a harmless drug. It has deleterious effects upon those who use it, and it is often associated with, or is a gateway to, more harmful drugs.</p> <p>At [34] ... there is very little that can be said in mitigation for the appellant, save that he had undertaken some counselling ... prior to being sentenced. Even that is somewhat dubious in light of the fact that while ... on bail for the present offence, he was found in poss of a quantity of cannabis.</p> <p>At [39] ... a fine would have been an inappropriate sentencing option in this case, and ... the only appropriate sentencing option was a term of immediate imp. ... As to its length, we regard the 6 mths that was imposed ... within the range of an appropriate exercise of the</p>	
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					<p>sentencing discretion. ... The sentence is not manifestly excessive.</p> <p>At [41] Ct 1 was a serious offence of its type. ... the appellant possessed a reasonably substantial quantity of methyl with a high purity. The high purity is of importance because, ... it gave rise to the potential for the methyl to be 'broken down', thus broadening the potential harm to the community. It is also the case that the appellant was close to the source of the methyl. The appellant possessed the drug with the intention of distributing it into the community for commercial gain.</p> <p>At [45] ... The cumulation of the 6-mth sentence on ct 2 with the sentence on ct 1 was appropriate to reflect that the appellant was dealing with two different illicit drugs. Additional punishment was appropriate in order to properly reflect the greater</p>	
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					criminality involved in the appellant's dealing in cannabis. ...	
101.	<p><i>ANM v The State of Western Australia</i></p> <p>[2019] WASCA 155</p> <p>Delivered 02/10/2019</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Prior criminal history; multiple drink driving and poss prohibited drug convictions.</p> <p>Supportive family and friends.</p> <p>Completed mechanical apprenticeship on leaving school; working life spent in arboriculture; successful tree-logging business.</p> <p>Alcohol use from aged 14 yrs; heavy user of methyl; described himself as a 'fully functional addict'.</p> <p>No psychiatric conditions.</p>	<p>Ct 1: Poss methyl wiss 24.69g at 66% and 79% purity.</p> <p>Ct 2: Poss diphenidine wiss (43 tables, 6.77g).</p> <p>Ct 3: Poss unlawfully obtained property (\$5,205 cash).</p> <p>Ct 4: Poss methyl wiss 11.53g 82% purity.</p> <p><u>Breach of CSIO</u> Poss of methyl wiss 7.06g.</p> <p>A search warrant executed at ANM's home found numerous clipseal bags containing a crystal substance. Analysis determined the bags contained methyl (ct 1).</p> <p>Several clipseal bags containing 43 tablets and fragments were also located. The tablets were determined to be diphenidine (ct 2).</p> <p>Also found was \$5,205 in cash, being the proceeds of sales of prohibited drugs (ct 3).</p> <p>While on bail for the above offences police observed ANM in a carpark and tried to speak with him. He walked away, dropping a small tin out of his hand. He then kicked it under a nearby vehicle in an</p>	<p>Ct 1: 3 yrs imp (cum).</p> <p>Ct 2: 1 yr imp (conc ct 1).</p> <p>Ct 3: 1 yr 6 mths imp (conc ct 1).</p> <p>Ct 4: 2 yrs imp (cum).</p> <p><u>Breach of CSIO</u> 8 mths imp (cum).</p> <p>TES 5 yrs 8 mths imp.</p> <p>EFP.</p> <p>The appellant's convictions on the indictable charges also breach a further susp imp order imposed by the Magistrates Court for a variety of offences, including a further offence of poss methyl wiss.</p> <p>The sentencing judge found an agg feature of the offending was that it was committed while the appellant was subject to susp imp orders and also (ct 4) whilst on bail.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and totality principle.</p> <p>At [30] The appellant was engaged in selling dangerous prohibited drugs to fund his own drug use and, as such, his motive was commercial in nature. The quantity of methyl the subject of ct 1 was reasonably significant and its purity was reasonably high.</p> <p>At [34] ..., the sum of \$5,205 was a reasonable sum of money which was derived from drug dealing.</p> <p>At [35] A significant agg feature was that cts 1, 2 and 4 were committed in breach of not one, but two susp imp orders, and the appellant committed ct 4 while he was on bail for similar offending.</p>	42.99 g.

			<p>att to conceal the object. When recovered the tin was found to contain methyl in two clipseal bags. One bag contained 11.5g of the drug with a purity of 82% and another 0.03g (ct 4).</p> <p><u>Breach of CSIO</u> ANM was driving a vehicle when he was stopped by police. The vehicle was searched, during which he admitted poss of methyl. In a bag five clipseal bags containing the drug were discovered, along with scales, cash and some empty clipseal bags.</p> <p>ANM was sentenced in the District Court to 12 mths imp, sups for 12 mths on conditions (CSIO).</p>	<p>The sentencing judge found the quantity of methyl the subject of ct 1 was significant and of relatively high purity; the appellant's drug dealing, while motivated to enable him to purchase drugs for his own use, was nevertheless commercial in nature.</p> <p>Remorseful and some insight into his offending; efforts taken towards rehabilitation; wants to undertake drug rehabilitation upon release from prison.</p>	<p>At [37] We are not persuaded that any of the individual sentences imposed upon the appellant were manifestly excessive. ...</p> <p>At [38] ... Some accumulation of the individual sentences was required in order to reflect that the appellant's offending was not isolated. In other words, the appellant possessed prohibited drugs on a number of occasions over a reasonably extended period of time, with an intention to sell or supply them to others. Further, his offending was persistent and committed, ... in the face of two susp imp orders ... Moreover, a cumulative sentence was required in respect of the offence the subject of the CSIO which he breached.</p>	
100.	<p>Zheng v The State of Western Australia</p> <p>[2016] WASCA 224</p>	<p>41 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No relevant prior criminal history.</p>	<p>1 x Poss methyl wiss 49.85g of 77%-82% purity.</p> <p>Zheng operated a retail business. Police and Australian Customs and Border Protection Services executed a search</p>	<p>4 yrs 3 mths imp. EFP.</p> <p>The sentencing judge found the large quantity and high purity of the drugs, along with the</p>	<p>Dismissed – on papers.</p> <p>Appellant challenged length of sentence.</p> <p>At [15] The appellant's</p>	49.85 g.

	Delivered 13/12/2016	<p>Born and educated in China.</p> <p>Aged parents; siblings and eldest daughter in China.</p> <p>Lived in Australia 2001-2004 and since 2007.</p> <p>Twice married; in a relationship at time of offending; two daughters; 20 yrs and 2 mths at time offending.</p>	<p>warrant at the property.</p> <p>Zheng's handbag was located and found to contain \$10,345.00 in cash and two clipseal bags containing methyl.</p>	<p>large amount of cash indicated the appellant was in contact with those close to the upper levels of the chain of distribution.</p> <p>The sentencing judge took into account the mitigating effect imp would have on the appellant's daughter, aged 2 yrs at time of sentencing.</p> <p>No remorse or insight into the seriousness of her offending.</p>	<p>offending was serious ...</p> <p>The appellant was found not to be a user of methyl and it is evident that she intended to distribute it into the community for commercial gain.</p>	
99.	<p><i>Barnes v The State of Western Australia</i></p> <p>[2014] WASCA 49</p> <p>Delivered 28/02/2014</p>	<p>Convicted after Trial.</p> <p>Appellant was on bail for another drugs offence when he committed the second.</p> <p>Spent almost 293 days in custody for this offence.</p>	<p>Poss methyl wiss 51.23g.</p> <p>On 12 August 2011 the appellant was sentenced to 6 yrs imp for poss methyl wiss. The sentence was backdated to commence 20 June 2011 (The "first sentence").</p> <p>On 8 September 2011 the appellant was sentenced the appellant to 6 yrs 6 mths imp for a separate offence of poss methyl wiss. This sentence was ordered to be served concurrently with the first sentence and backdated to commence 20 June 2011 (The "second sentence").</p> <p>The appellant subsequently appealed the</p>	<p>6 yrs 6 mths imp (conc with "first sentence").</p> <p>TES 6 yrs 6 mths imp.</p>	<p>Dismissed.</p> <p>Sole ground of appeal - material change to the appellant's circumstances justifying a new sentence being imposed.</p>	51.23 g.

			<p>conviction imposed in relation to the first sentence and a new trial was ordered. On 11 June 2013 the appellant was re-sentenced to 4 yrs 10 mths imp in relation to the offence the subject of the first sentence.</p> <p>The result being that the appellant now served an additional 20 mths in relation to the second sentence.</p>			
98.	<p><i>MRSA v The State of Western Australia</i></p> <p>[2018] WASCA 217</p> <p>Delivered 07/12//2018</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Parents divorced when aged 9-10 yrs old; one of three children to the union; two older half-brothers.</p> <p>Mother in new abusive relationship; partner imp for assaulting her; resulting witness protection program created significant instability and separation from his father.</p> <p>Struggled but completed high school.</p> <p>Employed labouring</p>	<p>2 x Supply MDMA 11.2g at 7% purity and 44.6g at 8% purity.</p> <p>MRSA was approached in a nightclub by an UCO who asked him to get him some pills. MRSA agreed and they subsequently met and exchanged drugs for cash.</p> <p>On one occasion MRSA met the UCO and supplied him with 50 MDMA tables in exchange for \$1,100 cash (ct 1).</p> <p>On another occasion MRSA met the UCO and supplied him with 200 MDMA tablets in exchange for \$3,800 cash (ct 2).</p>	<p>Ct 1: 6 mths imp (cum). Ct 2: 2 yrs imp (cum).</p> <p>TES 2 yrs 6 mths imp. EFP.</p> <p>The sentencing judge found the appellant the principal offender in the drug dealing; he was not a mediator, he was the drug dealer who supplied the drugs in exchange for cash.</p> <p>The sentencing judge found the appellant appreciated the seriousness of what he was doing and rejected the suggestion he was motivated by a desire to ingratiate himself with a new friend (UCO).</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence ct 2 and error in sentencing discount on account of remorse.</p> <p>At [41] ... on the whole of the material before the sentencing judge, it was well open to her Honour not to be satisfied that the appellant should be given a significant discount for remorse.</p> <p>At [42] ... The existence of some evidence of remorse does not compel a judge to accept that an offender is remorseful.</p> <p>At [47] The judge did not overlook what was said in the references relied on by</p>	55.80 g. (250 pills)

		<p>roles; good work record.</p> <p>Supportive partner.</p> <p>Undergoing counselling; periods of anxiety and depressive symptoms.</p>		<p>Some genuine remorse; but no proper recognition of the harm to the wider community in what he had done.</p>	<p>the appellant. The judge rightly concluded that the weight to be given to those references was diminished by the appellant's continuing attempts to justify his actions, blame the UCO to some extent, and deny his appreciation of the seriousness of his offending.</p> <p>At [57] MDMA is a harmful illicit drug which has the same high level of seriousness as methyl, cocaine and heroin.</p> <p>At [59] The appellant's offending involved commercial drug dealing in which the appellant was the principal offender and not, as he claimed, a mediator. His offending in relation to ct 2 was not an isolated offence or an aberration in that, by then, the appellant had committed ct 1. The appellant evidently had access to sources with substantial quantities of MDMA. ...</p> <p>At [64] ... the sentence of 2</p>	
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					yrs immediate imp cannot be said to reveal implied error. The sentence was not unreasonable or plainly unjust. ...	
97.	<p><i>Krispyn v The State of Western Australia</i></p> <p>[2020] WASCA 136</p> <p>Delivered 27/08/2020</p>	<p>48 yrs at time offending.</p> <p>Convicted after PG.</p> <p>Significant criminal history.</p> <p>Managed auto-wrecking and towing company.</p> <p>Regular methyl user.</p>	<p>24 cts, most of which related to sales of, or offers to sell, methyl.</p> <p>Cts 22 & 24: Att to sell or supply methyl 3.75g. Cts 10; 16 & 19: Sell or supply methyl 51.03g.</p> <p>Krispyn was in the business of drug dealing and actively engaged in offering for sale on, a regular basis, quantities of methyl. He offered to sell quantities of methyl, between half a point and half a gram.</p> <p>The amount offered increased to 1.75g on two occasions (cts 22 and 24).</p> <p>On three further occasions Krispyn also sold 3.42g of methyl (ct 10); 6.61 g of methyl (ct 16) and 41 g of methyl (ct 19).</p> <p>Krispyn claimed he was selling and supplying the drug to others to fund his longstanding methyl habit and for financial gain.</p>	<p>TES 5 yrs 10 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was able to supply significant quantities of methyl on a regular basis; he was not merely a user/dealer, however the low purity indicated he was certainly not anywhere near the top of the hierarchy of drug distribution.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned errors (failing to find moral culpability not reduced by fact he was selling to support his own habit and he was not ‘merely a user/dealer’).</p> <p>At [5] This court has recognised that the fact that an offender may have been motivated to deal in methyl to support his or her own drug habit is not a mitigating factor and does not reduce the seriousness of the offence. ...</p> <p>At [8]-[9] ... her Honour did not arguably err in failing to find that the appellant was ‘merely a user/dealer’. Nor is there any proper basis for the appellant’s contention that an offender must be regarded as ‘merely a user/dealer’, and sentenced</p>	54.78 g.

					on that basis, ... on the admitted facts, the appellant sold methyl to a person who on-sold to another on a number of occasions. The appellant had offered to sell quantities of 1.75 g on two occasions, and had sold quantities of 3.42 g, 6.61 g and 41 g ... These facts indicated that he was not at the 'bottom of the drug distribution hierarchy', and so was not 'merely a user/dealer' in the sense the sentencing judge indicated ...	
96.	<i>EDU v The State of Western Australia</i> [2019] WASCA 55 Delivered 05/04/2019	42 yrs at time sentencing. <u>Ind X</u> Convicted after PG (20% discount). <u>Ind Y</u> Convicted after PG 25% discount). Extensive prior criminal history; substantial record for drug; dishonesty and traffic offences. Reasonably good childhood; father died when aged 9 yrs.	<u>Ind X</u> Ct 1: Poss methyl wiss 24.87g at 40%-44% purity. <u>Ind Y</u> Ct 1: Poss methyl wiss 27.4g at 63% purity. Ct 2: Poss MDA wiss 3.6g (20 tablets) at 9% purity. <u>Ind X</u> Police stopped EDU driving a motor vehicle. A search revealed cipseal bags containing methyl hidden in a sock down the front of his pants. <u>Ind Y</u>	<u>Ind X</u> 2 yrs 3 mths imp. <u>Ind Y</u> Ct 1: 3 yrs imp (cum sentence on ind X). Ct 2: 12 mths imp (conc). TES 5 yrs 3 mths imp. EFP. The sentencing judge found the appellant was actively involved in the sale or supply of methyl on a wide and regular basis; he engaged in the	Dismissed. Appeal concerned totality principle. At [33] ... It is sufficient to note that the TES imposed on the appellant is broadly consistent with the sentencing pattern for offences of the kind he committed, ... At [34] The appellant's overall offending was very serious. ... The	55.87 g. (20 tablets)

		<p>Performed well at school; completed Yr 12; tertiary studies.</p> <p>Regularly employed when not in prison.</p> <p>Single at time sentencing; no dependants.</p> <p>Heavy drug user; entrenched addiction.</p>	<p>The offences the subject of this ind were committed when on bail for the offence the subject of Ind X.</p> <p>Police approached EDU carrying a bag. He att to hide the bag and then fled. He was apprehended after a chase.</p> <p>The bag was found to contain quantities of methyl and MDA tablets. Also found in the bag was 97g of the cutting agent MSM; digital scales, clipseal bags and a 'tick list' on his mobile phone.</p>	<p>offending for commercial purposes; he had ready access to significant quantities of methyl and he was a user/dealer in the upper mid-level of the drug distribution chain.</p> <p>Some demonstrated remorse; significant risk of reoffending.</p>	<p>appellant was a dealer, as well as a user, in the upper mid-level of the drug distribution chain. The offending was for commercial purposes. ...</p> <p>At [35] ... the egregiousness of the offences the subject of ind Y was aggravated in that, when he committed those offences, the appellant was on bail for the offence the subject of ind X. ...</p>	
95.	<p><i>Wright v The State of Western Australia</i></p> <p>[2019] WASCA 183</p> <p>Delivered 15/11/2019</p>	<p>27 yrs at time offending. 28 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Criminal history; minor drug offences.</p> <p>Positive upbringing; happy childhood.</p> <p>Completed Yr 12; trade certificate.</p> <p>Work related injury; increased methyl use while receiving worker's compensation; escalated drug use on breakdown of</p>	<p>Ct 1: Poss methyl wiss 46.18g. Ct 2: Escaping lawful custody. Ct 3: Poss methyl wiss 2.89g. Ct 4: Poss stolen or unlawfully obtained property. Ct 5: Poss methyl wiss 7.97g. Ct 6: Poss stolen or unlawfully obtained property.</p> <p>Wright's car was stopped and searched by police. Two small clipseal bags containing 4.94g and 0.14g of methyl (ct 1) were located, along with a smoking implement, further clipseal bags, electronic scales and \$2,150 cash. He was arrested and handcuffed, however escaped and fled when police discovered a further 41.1g of methyl in a metal lockbox in the footwell of the vehicle (ct 2).</p>	<p>Ct 1: 3 yrs imp. Ct 2: 12 mths imp (cum). Ct 3: 12 mths imp (cum). Ct 4: 18 mths imp (cc). Ct 5: 12 mths imp (cum). Ct 6: 18 mths imp (cc).</p> <p>TES 6 yrs imp. EFP.</p> <p>The sentencing judge found that the appellant was engaged in selling drugs for commercial purposes, even though he was selling to fund his own methyl habit or to reduce the debt he had to his supplier.</p>	<p>Dismissed.</p> <p>Appeal against length of sentence and totality principle.</p> <p>At [37] ... the appellant willingly agreed to deliver, on behalf of his supplier, 41g of methyl to another, thereby significantly assisting the distribution of a reasonably substantial quantity of the drug into the community. He then, in an act involving distinctly different criminality, escaped legal custody...</p> <p>At [38] ... the TES</p>	57.04 g.

		<p>parent's marriage.</p> <p>Completed counselling and drug and alcohol program to address substance abuse and addiction.</p>	<p>Wright remained on the run for two wks until located in a shack at a caravan park. A search of his person located \$2,310 in cash and 0.19g of methyl.</p> <p>A search also revealed 2.7g of methyl in a bedroom, along with unused clipseal bags. Also located were small quantities of cannabis and MDMA, half a tablet of LSD mixed with methyl, a smoking implement and digital scales containing traces of methyl (cts 3 & 4).</p> <p>Whilst on bail for the above offences he was stopped riding a bicycle. He was seen dropping a bag next to a bush. It was recovered and found to contain 7.97g methyl, digital scales, a smoking implement, empty clipseal bags and \$2,000 cash (cts 5 & 6).</p>	<p>The sentencing judge considered that while the appellant had undertaken counselling and made efforts towards rehabilitation, she was unable to conclude that he did not present any risk of reoffending.</p> <p>The sentencing judge observed that the appellant's escape from police after arrest was a 'serious thing to do', even if he did so out of panic and did not assault anyone or damage police property.</p>	<p>imposed ... bore a proper relationship to the overall criminality involved in all of the offences, viewed in their entirety and having regard to all relevant facts and circumstances, including those referable to the offender personally ...</p>	
94.	<p><i>McConnell v The State of Western Australia</i></p> <p>[2020] WASCA 59</p> <p>Delivered 24/04/2020</p>	<p>29 yrs at time offending.</p> <p>Convicted after late PG (15% discount).</p> <p>Prior criminal history; subject of a Pre-Sentence Order at time offending.</p> <p>Troubled childhood.</p> <p>Very supportive mother; partner and friends.</p>	<p>Ct 1: Poss methyl wiss 60.94g at 81% and 77% purity.</p> <p>Ct 2: Poss MDMA 2.5g at 15% purity.</p> <p>McConnell and his two co-offenders were travelling in a car. McConnell was a passenger.</p> <p>The vehicle was stopped by police and searched.</p> <p>In the driver's footwell 3.41g of methyl (81% purity) was located, along with a set</p>	<p>Ct 1: 5 yrs 9 mths imp (conc).</p> <p>Ct 2: 2 yrs imp (conc).</p> <p>TES 5 yrs 9 mths imp.</p> <p>EFP.</p> <p>Co-offenders convicted after trial ct 1; acquitted ct2; each sentenced to 2 yrs 8 mths imp.</p>	<p>Allowed (parity only).</p> <p>Appeal concerned length of sentence (cnt 1) and parity principle.</p> <p>Resentenced:</p> <p>Ct 1: 4 yrs 8 mths imp (conc).</p> <p>Ct 2: 2 yrs imp (conc).</p> <p>EFP.</p>	63.44 g.

		<p>Young child previous relationship.</p> <p>Good work history; employed number of jobs; good worker; not working time offending.</p> <p>History of illicit substance use.</p> <p>Mental health issues; diagnosed with depression aged 17 yrs.</p>	<p>of electronic scales.</p> <p>In a container in the compartment of the driver's door was a glass pipe and 0.27g of methyl.</p> <p>In the glove box in two separate cipseal bags were 55.7g (77% purity) and 1.56g of methyl. In a third cipseal bag were nine MDMA tablets weighing 2.5g.</p> <p>Also found was a quantity of powder (0.19g), containing benzocaine, cocaine and lidocaine.</p> <p>In addition a 'tick list' containing a list of names and money owed was found.</p>	<p>The sentencing judge found the offending very serious and the appellant a user-dealer and the MDMA was for his personal use.</p> <p>Remorseful; insight into his offending; positive steps towards rehabilitation and engaged in programs and counselling to address his illicit substance abuse while in custody.</p>	<p>At [61] There was a marked disparity between the sentence of immediate imp imposed on the appellant ... and that imposed on his co-offenders ... The disparity is marked in both absolute terms ... and proportional terms ...</p> <p>At [62] This is a case where the part the appellant played in the criminal enterprise justified a difference in his sentence as against the sentences imposed on his co-offenders.</p> <p>At [63]-[64] ... the appellant was the organiser and principal offender. The appellant made the arrangements to purchase the methyl. He was participating in the criminal conduct for commercial gain with the intent of profiting financially. By contrast, [the co-offenders] were sentenced on the basis that they were aiding and assisting the appellant to</p>	
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					<p>commit the offence. The appellant recruited Mr Lauder to drive the car and invited Mr Brennan, his brother, to come for the drive to provide support.... In those circumstances the culpability of the appellant's offending was materially greater than that of both Mr Lauder and Mr Brennan. ... it was to be expected that a greater sentence would be imposed on the appellant based on the seriousness of his offending ...</p> <p>At [67] ... we are satisfied that, even allowing for the discount of his PG, the appellant should have received a greater term of immediate imp than either of his co-offenders.</p> <p>At [72] The appellant's higher degree of culpability justified a higher sentence being imposed on him relative to Mr Lauder. However, the differences in the circumstances of the offending, and the two offenders' personal</p>	
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					circumstances, were not such as could justify a disparity of the magnitude as evinced by the sentencing outcomes that have occurred. ... There has been an infringement of the parity principle.	
93.	<p><i>Slade v The State of Western Australia</i></p> <p>[2019] WASCA 65</p> <p>Delivered 24/04/2019</p>	<p>22 yrs at time offending. 24 yrs at time sentencing.</p> <p>Convicted after trial (cts 4; 6; 8-9 & 11). Convicted after PG (cts 1-3; 517 & 10) (5% discount).</p> <p>Prior criminal history; no prior convictions involving dealing in drugs.</p> <p>Troubled childhood; parents separated aged 12 yrs; mother struggled to cope and abused prescription drugs; difficult relationship with her son; led him to live with his aunt.</p> <p>Supportive family; relationship with mother now improved; close relationship with his</p>	<p>Ct 1: Offer to sell cannabis 1 kg. Ct 2: Offer to sell cannabis (\$4,000 worth). Ct 3: Offer to sell cannabis 907g. Ct 4: Offer to sell methyl 28g. Ct 5: Offer to sell cannabis 454g. Ct 6: Sell methyl 28g. Ct 7: Poss cannabis wiss 4.99kg. Ct 8: Poss methyl wiss just under 10g. Ct 9: Poss unlawfully obtained property (\$3,179 cash). Cts 10-11: Failing to comply with data access order.</p> <p>Slade was engaged in the sale of cannabis and methyl on a wholesale basis. Intercept warrants were obtained for the telephone services he was using.</p> <p><u>Cts 1-3</u> Slade received a telephone call and agreed to supply a kilo of cannabis, saying he had it 'right here now'. During another telephone call the same day he agreed to supply to another person a quantity of cannabis for \$4,000. A few days later he called another person and offered to</p>	<p>Cts 1-3 & 5: 10 mths imp (conc). Ct 4: 2 yrs 10 mths imp (cum). Ct 6: 3 yrs 6 mths imp (cum). Ct 7: 2 yrs 6 mths imp (conc). Ct 8: 18 mths imp (conc). Ct 9: 2 mths imp (conc). Ct 10: 5 mths imp (conc). Ct 11: 6 mths imp (cum) (reduced from 10 mths imp on totality grounds).</p> <p>TES 6 yrs 10 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was trafficking cannabis and methyl in a reasonably sophisticated enterprise for a commercial purpose; his activities were highly profitable; the substantial</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality principle.</p> <p>At [46] ... the appellant's offending involved a reasonably sophisticated commercial enterprise supplying both methyl and cannabis for substantial profit. The appellant supplied both users and lower-level suppliers.</p> <p>At [47] ... his offending was far from isolated, persisting over several months and reflecting an ongoing enterprise.</p> <p>At [48] ... the appellant's offending was aggravated by the fact that he committed cts 8 and 9 while he was on bail for other drug-dealing</p>	66.00 g.

		<p>father.</p> <p>Single; no dependents.</p> <p>Completed trade apprenticeship; prior work history.</p> <p>Undertook drug counselling; no serious problem with drug addiction.</p>	<p>deliver 2 lb (907g) of cannabis for \$4,200 per pound.</p> <p><u>Ct 4</u> On another occasion Slade received a request for ½ ounce of methyl. In response he offered a full ounce and tried to persuade the person this was a better deal.</p> <p><u>Ct 5</u> The following day Slade called a person and offered to supply them with a pound of cannabis for \$4,000.</p> <p><u>Ct 6</u> On a further occasion a co-accused and another attended Slade’s apartment and collected an ounce of methyl. This offence was part of a regular process of supply of methyl by Slade to the co-accused.</p> <p><u>Ct 7</u> In a self-storage locker used by Slade, but in the name of a co-accused, police found 11 lb of cannabis in vacuum-sealed individual one-pound bags. A money-counting machine was also located.</p> <p><u>Cts 8-9</u> While on bail for some of the drug offences outlined above Slade was stopped by police. He was found in possession of \$3,179 in cash, an iPhone; a</p>	<p>amount of cannabis in the self-storage locker was kept for the purpose of commercial distribution; the methyl found on him was also intended for commercial distribution, allowing for the possibility that a small amount may have been for personal use.</p> <p>No demonstrated remorse or genuine steps taken towards rehabilitation; courses completed by appellant on remand considered by sentencing judge to be a cynical att to mislead the jury and for the purposes of sentencing; not satisfied the appellant was a person who needed assistance with respect to drug and alcohol issues.</p>	<p>offences.</p> <p>At [49] ... the judge was satisfied that the cash found in the appellant’s possession was the proceeds of his drug dealing.</p> <p>At [50] ... the appellant committed two offences of unlawfully disobeying a data access order. ... those offences rightly attracted a degree of accumulation. ...</p>	
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			<p>BlackBerry and just under 10g of high-purity methyl.</p> <p><u>Cts 10-11</u> Without reasonable cause Slade failed to comply with data access orders by refusing to provide police with the PIN numbers for both the iPhone and Blackberry.</p>			
92.	<p><i>The State of Western Australia v Charles</i></p> <p>[2016] WASCA 108</p> <p>Delivered 29/06/2016</p>	<p>26 yrs at time offending. 27 yrs at time sentencing.</p> <p><u>Ind 1</u> PG (20% discount). <u>Ind 2</u> Early PG (25% discount).</p> <p>Previous criminal history, no previous sentences of imp.</p> <p>Supportive family and friends.</p> <p>Parents separated when a child; left home at 16 yrs.</p> <p>Young child from former partnership.</p> <p>Good employment history; opportunities to work upon release.</p> <p>Illicit substance use,</p>	<p><u>Ind 1</u> Ct 1: Poss methyl wiss 2.31g, 1.73g at 78% purity and 0.58g at 80% purity. Ct 2: Poss methyl wiss 54.3g at 72% purity.</p> <p><u>Ind 2</u> Ct 1: Poss methyl wiss 9.95g, 3.37g at 46% purity; 3.47g at 52% purity and 2.88g at 65% purity. Ct 2: Poss cash reasonably suspected to have been unlawfully obtained.</p> <p><u>s32 Notice</u> Ct 1: Poss prohibited weapon. Ct 2: Poss cannabis 1g. Ct 3: Poss drug paraphernalia. Ct 4: Driving disqualified MDL.</p> <p>TES 22 mths imp. EFP.</p> <p><u>Ind 1</u> Charles' car was stopped and searched by police. Two small cipseal bags containing methyl (ct 1) and a cooler bag containing methyl (ct 2), along with digital scales and</p>	<p><u>Ind 1</u> Ct 1: 18 mths imp. Ct 2: 18 mths imp (conc).</p> <p><u>Ind 2</u> Ct 1: 4 mths imp (cum). Ct 2: 1 mths imp (conc).</p> <p><u>s32 Notice</u> Ct 1: 1 mths imp (conc). Ct 2: \$200 fine Ct 3: \$200 fine Ct 4: 9 mths MDL disqual; \$1,000 fine.</p> <p>TES 22 mths imp. EFP.</p> <p>The sentencing judge observed the purity of the drugs was "at or near what is commonly called the theoretical maximum purity for methyl".</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence and totality principle.</p> <p>Sentences in respect of ct 2 on first indictment set aside and ct 1 on second indictment set side. Orders for cumulacy set aside.</p> <p>Re-sentenced to: <u>Ind 1</u> Ct 2: 3 yrs imp. <u>Ind 2</u> Ct 1: 1 yr 6 mths imp (cum with 3 yr term above).</p> <p>TES 4 yrs 6 mths imp. EFP.</p> <p>At [36] ... the respondent had in his possession a substantial quantity of high purity methyl. ... was no</p>	66.56 g.

		<p>escalated on relationship breakup and loss of employment. Undertook drug rehabilitation on remand.</p>	<p>clipseal bags were located. At his home a further quantity of clipseal bags containing MSM were also found.</p> <p><u>Ind 2</u> Underneath a mattress at Charles' home four clipseal bags containing methyl (ct 1) and \$500 cash (ct 2) was located. Two sets of electronic scales, various clipseal bags, some containing traces of a crystal substance or mixing agent, and a smoking implement were also found.</p> <p><u>s.32 Notice</u> At the time Charles was driving under demerit point suspension (ct 4). At his home a taser (ct 1), a clipseal bag of cannabis (ct 2) and three glass smoking implements (ct 3) were found.</p>		<p>mere bailee or courier – he had far more of the drug than was required to feed his addiction, and this disparity is even greater when the high likelihood that the 54.3 g would be cut is considered. The respondent was primarily motivated by commercial gain. His addiction to the drug affords no mitigation.</p> <p>At [48] The high purity of the methyl, and the fact that the respondent committed the offence whilst on bail for identical offences, were seriously aggravating circumstances.</p>	
91.	<p><i>Evans v The State of Western Australia</i></p> <p>[2017] WASCA 225</p> <p>Delivered 06/12/2017</p>	<p>36 yrs at time sentencing.</p> <p><u>Ind 553</u> Convicted after late PG (12.5% discount).</p> <p><u>Ind 179</u> Convicted after early PG (20% discount).</p> <p>Substantial criminal history; prior drug offending and sentence of imp.</p>	<p><u>Ind 553</u> Ct 1: Manufacture methyl 27.19g Ct 2: Poss methy wiss 29.4g at 59% purity. Ct 3: Poss methy wiss 10.34g, 2.72g at 52% purity.</p> <p><u>Ind 179</u> Ct 1: Att manufacture methyl.</p> <p><u>Ind 553</u> Evans was found in possession of a total of \$1,613 in cash. A search of the boot of his car located two jerry cans containing a</p>	<p><u>Ind 553</u> Ct 1: 3 yrs 4 mths imp (cum). Ct 2: 2 yrs 10 mths imp (conc). Ct 3: 1 yr 8 mths imp (cum).</p> <p><u>Ind 179</u> 3 yrs 2 months imp (cum).</p> <p>TES 8 yrs 2 mths imp.</p> <p>EFP.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality, individual sentences not challenged.</p> <p>At [28] The appellant's overall criminality was high, particularly having regard to the persistence and commerciality of the offending. ...</p> <p>At [29] ... The offending</p>	66.93 g.

		<p>Stable childhood.</p> <p>Completed apprenticeship.</p> <p>Twice married, two young children to current partner.</p> <p>History of illicit drug use; methyl use after first marriage breakup; significant dependency.</p> <p>No serious or treatable mental health issues.</p>	<p>biphasic liquid, the upper layer found to be ephedrine and methyl. Laboratory apparatus and chemicals constituting a clandestine drug laboratory were also discovered. Ephedrine and methyl were detected on some of the equipment (ct 1).</p> <p>Located inside the vehicle in a clipseal bag a quantity of methyl was also found. Along with a set of scales and a large quantity of clipseal bags (ct 2).</p> <p>Whilst on bail for the above offences a search of Evans' home located a quantity of methyl (5.37g) in his shed. In his house a further quantity of methyl (4.97g) was also found, along with \$1,000 in cash and a set of digital scales on which methyl was detected. (ct 3)</p> <p><u>Ind 179</u> Evans absconded from bail. In bushland police located items consistent with the clandestine manufacture or attempted manufacture of methyl. A forensic examination located his DNA. A search of his home found items consistent with the manufacture of methyl, including packaging similar to that found at the laboratory site and instructions on how to manufacture the drug.</p>	<p>The sentencing judge found there was a commercial element and 'sheer persistence' to the offending.</p>	<p>the subject of the second ind was separate in time and place to the offending in the first ind. It was particularly serious because it was committed while the appellant was in effect a fugitive from justice, having breached bail. In order to reflect its seriousness, it warranted a separate and additional punishment.</p>	
90.	<i>Harvey v The State of Western Australia</i>	<p>41 yrs at time sentencing.</p> <p>Convicted after trial.</p>	<p>Ct 1: Poss LSD wiss 34 tabs. Ct 2: Poss methyl wiss 59.7g of 60% purity. Ct 3: Poss methyl wiss 11g.</p>	<p>Ct 1: 12 mths imp (conc). Ct 2: 4 yrs 10 mths imp. Ct 3: 2 yrs 6 mths imp (conc.)</p>	<p>Dismissed – on papers.</p> <p>At [32] ...the appellant was engaged in drug dealing,</p>	<p>70.70 g. 34 tabs.</p>

<p>[2015] WASCA 146</p> <p>Delivered 28/07/2015</p>	<p>Significant criminal history, including convictions for supplying methyl and dishonesty offences.</p> <p>Three adult children.</p> <p>History of using illicit substances.</p> <p>History of depression; normal at time sentencing.</p> <p>Poor emotional and stress resilience skills.</p> <p>On bail at time offending for ct 3.</p>	<p>Ct 4: Att to PCJ.</p> <p><u>Cts 1-2</u> Police executed a search warrant at Harvey's home and found 34 LSD tabs, a clipseal bag containing 47.5g of methyl at 60% purity and 11 clipseal bags containing a total of approx. 12g of methyl.</p> <p>Police also found electronic scales with a calculator, empty clipseal bags, a taser gun, a cutting agent, CCTV security system, several mobile phones with text messages about purchasing and sourcing drugs and tick lists.</p> <p><u>Ct 3</u> Four mths later police executed another search warrant at Harvey's home and found three clipseal bags containing a total of 11g of methyl.</p> <p><u>Ct 4</u> After ct 3, Harvey was refused bail. For the purpose of persuading a court to release her on bail she submitted to the Magistrates Court a letter prepared with her daughter N's name on it stating that the drugs were 'possibly hers'. The letter was untrue, unsigned and had not been prepared by N. Bail was refused.</p> <p>Harvey then emotionally and financially pressured her daughter L to swear a false</p>	<p>Ct 4: 2 yrs 6 mths imp (cum).</p> <p>TES 7 yrs 4 mths imp.</p> <p>EFP.</p> <p>The sentencing judge noted the purity of the 47.5g of methyl and found that appellant must have been reasonably close to a source of the methyl.</p> <p>The sentencing judge found that the appellant intended to cut the large quantity of methyl; appellant was a user of methyl and was selling drugs to make money.</p>	<p>primarily for profit...It is clear that the appellant intended to cut the larger quantity of methyl. Many of the typical accoutrements of a commercial drug dealer were present. The smaller quantities of methyl were already packaged for sale or supply.</p> <p>At [33] The commission of ct 3 shows that the appellant was a persistent and determined dealer in drugs, thus underscoring the need for personal deterrence.</p> <p>At [36] The learned sentencing judge was correct to impose a substantial and wholly cum term of imp for the offence of att to PCJ. That offending was separate from, and of a different nature to her drug offences.</p>	
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			<p>statutory declaration taking responsibility for the drugs. L was 17 yrs old and had substance and mental health issues. Harvey also offered L rewards. The false statutory declaration was tendered to the Magistrates Court and Harvey was released on bail.</p>			
89.	<p><i>North v The State of Western Australia</i></p> <p>[2020] WASCA 6</p> <p>Delivered 15/01/2020</p>	<p>Convicted after late PG (10% discount).</p> <p>Long and serious criminal history; considerable portion of life spent in custody.</p> <p>Born UK; came to Australia aged 15 yrs; father died when a young child.</p> <p>Left school aged 16 yrs; sale and supply of drugs his primary source of income.</p> <p>Five children from two relationships; two youngest aged 9 and 12 yrs at time sentencing; partner seriously ill time offending; deceased by time of sentencing.</p> <p>Poor history of community supervision;</p>	<p>Cts 1-4: Poss heroin wiss 74.66g of 74-78% purity.</p> <p>Ct 5: Poss unlawfully obtained property.</p> <p>North was on home detention bail in respect of other offences so he could care for his partner.</p> <p>North decided to make some quick money selling drugs</p> <p>North was staying in a third-floor hotel room, which he was using a base for the sale of drugs, when police attended to arrest him for breach of his home detention bail conditions. He refused to open the door. He removed three packages of heroin from the room's safe and threw them from the balcony.</p> <p>Police were delayed entry to the room due to an internal security device. On entering they saw the balcony doors open and North walking away from the doors.</p> <p>Two bags of heroin were located in the garden below the room. One bag contained 28.01g of heroin with a purity</p>	<p>Ct 1: 3 yrs 6 mths imp (conc).</p> <p>Ct 2: 2 yrs 6 mths imp (conc).</p> <p>Ct 3: 3 yrs 6mths imp (cum).</p> <p>Ct 4: 1 yr 6 mths imp (conc).</p> <p>Ct 5: 2 yrs imp (conc).</p> <p>TES 7 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant had not managed to get on top of his drug addiction nor was he interested in undertaking any offers of assistance and steps towards rehabilitation; past unwillingness to participate in intervention programs and reports demonstrate he is reluctant to do so in the future.</p>	<p>Dismissed.</p> <p>Appeal concerned error in sentence (information as to the appellant's past attempts at rehabilitation); error at law (separate charges on indictment for each package of heroin) length of individual sentences and totality principle.</p> <p>At [42]-[43] ... the appellant has not proffered any evidence in this appeal demonstrating that he has actually undertaken rehabilitation programs in the past. ... If the appellant has undertaken rehabilitation programs in the past, they clearly have not been effective. Whether or not the appellant has undertaken programs in the past was immaterial, in a context where the</p>	74.66 g.

		<p>parole cancelled numerous occasions.</p> <p>Entrenched drug addiction; no formal drug treatment undertaken.</p>	<p>of 75% (ct 1). The second bag contained 14.1g of heroin with a purity of 74% (ct 2).</p> <p>A third bag, containing 28.2 g of heroin with a purity of 78% was later located by hotel staff on the retaining wall below the balcony (ct 3).</p> <p>A search of the hotel room located a further bag, containing 4.35g of heroin with a purity of 78% (ct 4), along with \$4,700 in cash, the proceeds of drug sales (ct 5).</p> <p>Also found were a set of scales with traces of heroin; unused clip seal bags; a mobile phone and a pair of binoculars.</p>	<p>Appellant not remorseful; poor history of community supervision; parole cancelled numerous occasions; studying towards degree in art whilst in custody.</p>	<p>appellant's offending behaviour continues and the appellant indicated he was not prepared to undertake rehabilitation programs in the future.</p> <p>At [51] The State's choice to charge separately in respect of each packet of heroin should not have affected the total penalty which the appellant received. If ... convicted of a single offence of possessing 74.66 g of heroin it would have been expected that he would have received a sentence for that individual ct which was significantly higher than any of the individual sentences he received on cts 1 - 4 Whether there were two or five cts, the court would be required to assess the overall criminality involved in all of the offending in fixing a TES for the drug offence(s) and the offence involving the cash.</p> <p>At [59] The TES ... was a significant sentence given</p>	
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					<p>the scale of the appellant's operation and the amount of drugs ... and cash ... involved. However, there are a number of aggravating features of the appellant's offending. [He] was knowingly undertaking a commercial operation for reward. He was well aware of the type and quantities of prohibited drugs he was selling. The fact that the appellant committed the offences while on home detention bail was a significant aggravating factor. ...</p> <p>At [60] ... it is not reasonably arguable that either the individual sentences or the TES were unreasonable or plainly unjust. Inferred error has not been arguably established.</p>	
88.	<p><i>Franklin v The State of Western Australia</i></p> <p>[2017] WASCA 102</p> <p>Delivered</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No relevant prior criminal history.</p>	<p>Ct 1: Att poss of MDMA 1.91g. Ct 2: Att poss of MDMA 32g at 29% purity. Ct 3: Poss MDMA wiss 3.26g at 87% purity. Ct 4: Att poss of MDMA 6.9g at 83-86% purity. Ct 5: Att poss of MDMA 33.7g at 25%</p>	<p>Ct 1: 4 mths imp (conc). Ct 2: 3 yrs imp (cum). Ct 3: 6 mths imp (cum). Ct 4: 15 mths imp (conc). Ct 5: 3 yrs imp (conc).</p> <p>TES 3 yrs 6 mths imp.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of individual sentences on cts 2 and 5 and totality.</p> <p>At [30] The appellant's overall offending was</p>	77.77 g.

<p>01/06/2017</p>	<p>Supportive family and girlfriend.</p> <p>Left school yr 10; recently commenced tertiary studies.</p> <p>Good employment history; started apprenticeship; before working manual labour positions.</p> <p>History of drug use; commenced aged 15 yrs; increased following relationship breakup.</p>	<p>purity.</p> <p>A parcel addressed to Franklin was identified at an Australia Post mail centre. It contained approx 100 banana-shaped MDMA tablets. These tablets were substituted with an inert substance (ct 2).</p> <p>Two days later two further parcels addressed to Franklin were identified. One parcel contained a quantity of MDMA powder (ct 1).</p> <p>The same day Franklin attended the post office and collected all three parcels. He was arrested and conveyed to his home address. A search of his home located a further quantity of MDMA powder (ct 3).</p> <p>Meanwhile a further search of the mail centre identified another parcel addressed to Franklin. This parcel contained a quantity of MDMA powder (ct 4).</p> <p>The following day another package addressed to Franklin was found. The package contained approx 100 yellow banana-shaped MDMA tablets (ct 5).</p> <p>Franklin admitted he would share the drugs with friends and would sell some to fund his own use and that he purchased illegal items, including drugs, over the dark net.</p>	<p>EFP.</p> <p>The sentencing judge noted the quantity and purity of the drugs; found the appellant intended to both supply his friends and to 'make money' and the offending too serious to permit suspension of the terms.</p> <p>Cooperative; remorseful; positive prospects for rehabilitation.</p>	<p>serious. The appellant conducted a calculated and well-organised drug dealing enterprise. While the scale of the appellant's enterprise was relatively small by comparison to other cases ... it was by no means insignificant and was calculated to, in part, make a profit.</p> <p>At [31] The appellant sourced MDMA in both tablet and powder form ... to protect his identity. He did so in small batches and had then sent to a post office box. Both of these measures were taken to avoid detection. ... it was of a very high purity and had the potential to be cut further for distribution ... The pills could not be said to be of low purity.</p> <p>At [32] While the appellant cannot be sentenced for uncharged offences, it is clear from his admissions ... that the offences for which he was charged and convicted were not isolated occurrences.</p>	
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<p>87.</p>	<p><i>Dias v The State of Western Australia</i></p> <p>[2017] WASCA 49</p> <p>Delivered 17/03/2017</p>	<p>31 yrs at time offending.</p> <p>Early PG (25% discount).</p> <p>Prior criminal history, including drug offences.</p> <p>Supportive family.</p> <p>Completed school at yr 10.</p> <p>Good employment history.</p> <p>Long term cannabis and methyl user.</p> <p>Unaddressed mental health issues; poor coping mechanisms and decision-making skills.</p>	<p>Indictment</p> <p>Ct 1: Poss cannabis wiss 39.57g.</p> <p>Ct 2: Poss methyl wiss 7.16g of 78% purity.</p> <p>Ct 3: Poss dexamphetamine 32.4g.</p> <p>Ct 4: Poss money unlawfully obtained.</p> <p>Section 32 Notice</p> <p>Ch 1: Poss ammunition.</p> <p>Ch 2: Poss MDMA.</p> <p>Ch 3-4: Poss drug paraphernalia.</p> <p>Ch 5: Poss prohibited weapon.</p> <p>Ch 6: Fail to obey data access order.</p> <p>Ch 7: Poss methyl.</p> <p>Indictment</p> <p>Dias was stopped driving in vehicle. A search of his car located cannabis inside a backpack in two plastic containers (ct 1).</p> <p>Also in the backpack in a container were five clipseal bags containing a total of 6.89g of methy and numerous unused clipseal bags, a calculator and a 'tick list'. At his home a further clipseal bag containing 0.27g of methyl and a set of scales were found. He admitted using the scales to weigh drugs (ct 2).</p> <p>A bottle containing 74 dexamphetamine tablets were also found in his vehicle. At his home another bottle containing 88 tablets were found (ct 3).</p> <p>In Dias' wallet \$1,205 cash was found,</p>	<p>Indictment</p> <p>Ct 1: 3 mths imp (cum).</p> <p>Ct 2: 18 mths imp (cum).</p> <p>Ct 3: 12 mths imp (conc).</p> <p>Ct 4: 3 mths imp (conc).</p> <p>Section 32 Notice</p> <p>Ch 1: 1 mth's imp (conc).</p> <p>Ch 2: \$300 fine.</p> <p>Ch 3-4: \$200 fine.</p> <p>Ch 5: \$100 fine.</p> <p>Ch 6: 9 mths imp (conc).</p> <p>Ch 7: 3 mths imp (cum with cts 1 and 2 on ind).</p> <p>TES 2 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the offending towards 'the lower end of the scale'; but he was prepared to disseminate a number of different types of prohibited drugs to others in order to obtain money. The substantial tick lists showed the extent and scale of the appellant's operation. His drug dealing was not a one-off aberration but an on-going business.</p> <p>Sought counselling and hope of rehabilitation.</p>	<p>Dismissed – on papers.</p> <p>Appellant appealed length of sentence and concerned totality.</p> <p>At [27] ... the appellant's drug-related offending was not an isolated aberration but an ongoing street-level operation conducted for personal gain. He dealt in a variety of prohibited drugs. The presence of clipseal bags, scales, weapons, tick lists and cash showed a degree of organisation and persistence. The fact that the appellant was also a drug user and dealt in drugs to support his habit did not reduce the seriousness of his offending.</p>	<p>79.13 g.</p>
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			<p>along with \$600 in cash at his home (ct 4).</p> <p>Section 32 Notice During the search of his home police located ammunition and a shot gun round; two MDMA tablets of 0.59g; and two smoking implements.</p> <p>In his vehicle a knuckleduster or kubotan with a dagger blade inside was found.</p> <p>Dias refused to provide police with the unlock codes of two mobile phones. A data access order was obtained, but he failed to comply with it.</p> <p>Some months later Dias' vehicle was stopped and searched. Three clipseal bags containing less than a gram of methyl were located behind the dashboard.</p>			
86.	<p><i>Bui v The State of Western Australia</i></p> <p>[2014] WASCA 168</p> <p>Delivered 09/09/2014</p>	<p>42 yrs at time of sentencing.</p> <p>Convicted after early PG.</p> <p>Born in Vietnam; lived in Malaysia; spent 3 years in refugee camp before entering Australia.</p> <p>Full time employment.</p> <p>Methyl addiction; at time of offending was a heavy user of methyl.</p>	<p>Ct 1: Sell methyl 26.4g of 40% purity. Ct 2: Sell methyl 53.3 g of 30% purity.</p> <p><u>Ct 1:</u> An UCO arranged a meeting with Bui to purchase methyl. The UCO met with Bui at his house and offered to sell him an ounce of methyl for \$13,000. The UCO handed \$13,000 cash and received the methyl in returned.</p> <p><u>Ct 2:</u> In the following days the UCO and Bui arranged a further meeting. On arrival there was discussion about the UCO</p>	<p>Ct 1: 3 yrs imp. Ct 2: 3 yrs imp (conc).</p> <p>TES 6 yrs imp.</p> <p>Offered assistance to police that had no practical use; sentencing judge's assessment was that whilst offer made, appellant declined to provide further information when asked.</p> <p>The sentencing judge</p>	<p>Dismissed – on papers.</p> <p>At [24] Discounts for cooperation can be given even when the information is of limited value and sometimes where it is of no value.</p> <p>At [25] In this case the offer of assistance did not produce any information of value to the authorities.</p> <p>At [23] The sales were</p>	79.70 g.

		<p>Twice married; presently single; four children.</p> <p>Family support.</p> <p>Participated in prison programmes addressing offending behaviour and drug and alcohol.</p>	<p>meeting his supplier. Bui produced a smoking implement and smoked some methyl in the presence of the UCO. A short time later another person arrived and Bui collected a bag from that person. Inside the bag was a cigarette packet which contained a clip seal bag. The UCO handed \$26,000 to Bui and received the clip seal bag of drugs in return.</p> <p>On both occasions Bui was paid for his role by way of a small amount of methyl that was taken from the quantity to be sold to the UCO. Bui did not receive any of the money paid by the UCO, all of which went to a third-party supplier.</p>	<p>found the appellant had facilitated sales of significant quantities of drugs and could not be described as a low level intermediary.</p>	<p>clearly commercial in nature.</p>	
85.	<p><i>Papp v The State of Western Australia</i></p> <p>[2020] WASCA 125</p> <p>Delivered 13/08/2020</p>	<p>41 yrs at time sentencing.</p> <p>Convicted after early PG (cts 1; 3 & 12) (22% discount; 25% discount ct 12).</p> <p>Convicted after late PG (6 & 13) (10% discount).</p> <p>Prior criminal history.</p> <p>Supportive family and partner; daughter aged 19 yrs.</p> <p>Qualified jeweller; employed parents' jewellery business 16 yrs; then worked in carpentry.</p>	<p>Ct 1: Selling methyl 10.7 g. Ct 3: Selling methyl 10.4 g. Ct 6: Selling methyl 55.2 g. Ct 12: Poss methyl 4.1g. Ct 13: Poss stolen or unlawfully obtained property (\$3,550 cash).</p> <p>Papp was engaged in the business of selling drugs. As a seller of methyl he had established business relationships with the co-offenders P; JV and BV.</p> <p>On one occasion Papp supplied P with 10.7 g of methyl. On a further occasion he supplied him with 10.4 g of methyl. P subsequently supplied these drugs to an UCO.</p> <p>On another occasion Papp agreed to sell P</p>	<p>Ct 1: 2 yrs 3 mths imp (cum). Ct 3: 2 yrs 3 mths (conc). Ct 6: 4 yrs imp. Ct 12: 3 mths (conc). Ct 13: 7 mths (conc).</p> <p>TES 6 yrs 3 mths imp. EFP.</p> <p><u>Co-offender P</u> Charged on same ind with three cts of selling methyl (cts 2, 4 & 7). Convicted after PG (17% discount). TES 4 yrs imp.</p> <p>The sentencing judge found the offences were</p>	<p>Dismissed.</p> <p>Appeal concerned parity principle (co-offender Mr P).</p> <p>At [58] ... in our view the disparity between the respective sentences is justified by the difference in the criminality of the appellant's overall offending and that of [P].</p> <p>At [61] The sentencing judge found that the appellant sold drugs as part of an ongoing business, not simply in isolated incidents.</p>	80.40 g.

		<p>Significant drug addiction.</p> <p>No mental or physical health issues.</p>	<p>a quantity of methyl. It was agreed P would then sell the drug to another person. P gave Papp \$15,000, being payment in advance from the purchaser. Papp then contacted BV, who arranged for JV to deliver 55.2 g of methyl to Papp at his home. Papp purchased the drug for \$11,950. P was then given the methyl, who gave the drug to the customer who initially provided the \$15,000.</p> <p>As payment for facilitating the deal Papp kept the remaining \$3,050.</p> <p>A search warrant was executed at Papp's home. During the search 4.1 g of methyl was located and he declared \$3,050 cash in a draw and a further \$500 cash in his wallet.</p>	<p>not isolated incidents, but occurred as part of a business dealing in drugs of significant quantities on a regular basis; he was a 'middleman' who took a substantial cut of the profits.</p> <p>The sentencing judge found the offending was agg as the appellant was selling drugs for commercial gain; he received significant amounts of money in relation to each of the offences and he was selling drugs to people he knew were planning to deal in drugs themselves, extending the scope of the harmful effects that drugs can have in the community.</p> <p>Remorseful, risk of reoffending unless substance abuse issues are resolved; no steps taken towards rehabilitation or into addressing his substance abuse issues.</p>	<p>Her Honour described the appellant's role as a middleman, negotiating the sale and taking a significant cut of the profits – just over 20%. The judge rightly found that the fact that the appellant sold drugs for commercial gain was an agg factor.</p> <p>At [66] None of the serious features of the appellant's offending outlined in [61] were mirrored in [P's] offending. ... [P] ... was not part of an ongoing drug dealing operation ... and ... he did not gain financially from the transactions.</p> <p>At [67]-[68] ... the judge's conclusions that the appellant was above [P] in the distribution chain and that [P's] culpability was significantly less than that of the appellant were well-founded. ... Moreover, the appellant committed two additional offences - cts 12 and 13 – for which he received additional terms of imp. ...</p>	
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					At [72] ... we are not persuaded that there is a marked and unjustifiable disparity between the individual sentences imposed on the appellant for cts 1, 3 and 6 and those imposed for the corresponding offences on [P]. ... Nor are we persuaded that there is a disparity of this kind between the appellant's and [P's] respective TESs. ...	
84.	<p><i>YLT v The State of Western Australia</i></p> <p>[2020] WASCA 217</p> <p>Delivered 24/12/2020</p>	<p>22 yrs at time offending. 23 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Limited prior criminal history.</p> <p>Difficult childhood; absent mother; parents separated when young; migrated to Australia with his father.</p> <p>Supportive parents and girlfriend.</p> <p>Complement equivalent of yr 10 high school.</p>	<p>1 x Poss methyl wiss 82.2 g at 73-76% purity.</p> <p>YLT was driving a motor vehicle when he was stopped for speeding. A roadside drug test returned a positive result for methyl.</p> <p>A search of YLT's vehicle located a bag containing a package wrapped tightly in tape. The package contained three clip seal bags of methyl weighing 27.4 g, 27.5 g and 27.3 g.</p> <p>Also located in the vehicle was a smoking implement, a tick list, digital scales and empty clip seal bags.</p> <p>YLT provided police with the code to unlock his mobile telephone. Text messages indicated he was selling methyl</p>	<p>4 yrs 8 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant's mobile telephone clearly showed he was carrying on a commercial drug dealing business, selling drugs.</p> <p>The sentencing judge found the appellant would have used at least part of the drugs in question himself; he was selling the drug to fund his own habit, but he had well in excess of what he required for personal use;</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and errors in finding appellant not of good character and commercial dealing agg factor.</p> <p>At [45] None of the facts and circumstances ... either individually or in combination, required her Honour to find that the appellant was 'of otherwise good character'. Her Honour did not err in failing to treat the appellant ... as a person of prior good character.</p>	82.2 g.

		<p>Employed number of trades since leaving school; resigned from his employment shortly before his arrest.</p> <p>Prior relationship with illicit drug user; break-up serious impact on his emotional well-being; resulting in homelessness and depression; medicated after his arrest.</p> <p>History of illicit drug abuse; commenced using cannabis, progressed to methyl; escalated use of methyl after his relationship breakdown.</p>	<p>at \$300 for a half weight (0.5 g), \$500 for a gram, \$700 for a half-ball (1.75 g) and \$1,300 for a ball (3.5 g).</p>	<p>the tick list indicated he was dealing in large quantities of the drug; the text messages showed he was a very busy dealer, dealing in amounts of more than just points or street level dealing and the fact he was dealing commercially in methyl was an aggravating factor.</p> <p>Demonstrated genuine remorse; willingness to facilitate the course of justice; significant steps taken to address his illicit drug use.</p>	<p>At [59] ... It was open to the sentencing judge, ... to characterise the appellant's 'commercial dealing' in methyl as a factor which increased the appellant's culpability; that is, as a factor which aggravated his offending.</p> <p>At [76] The appellant's offending was very serious. It involved 82.2 g of methyl with a high degree of purity. The offending was not isolated or an aberration. [He] had been carrying on a thriving business of selling methyl. ... The quantity of 82.8 g was almost three times the trafficable quantity of methyl. This quantity was well in excess of what [he] required for his personal use. [He] was not merely operating at the level of street dealing.</p> <p>At [81] In our opinion, the sentence ... was broadly consistent with the sentences which have been imposed in reasonably comparable cases, having</p>	
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					regard, in particular, to the increase in the max penalty on 18 September 2017 and the appellant's mitigating factors.	
83.	<p><i>Grant v The State of Western Australia</i></p> <p>[2017] WASCA 162</p> <p>Delivered 31/08/2017</p>	<p>26-27 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Advantage of good secure upbringing; supportive family and friends.</p> <p>Completed yr 12; completed plumbing apprenticeship; self-employed; annual turnover of approx \$500,000.</p> <p>Long term illicit drug use.</p>	<p>Ct 1: Manufacture methyl. Ct 2: Poss methyl wiss 33.1g. Ct 3: Poss cocaine wiss 3.7g. Cts 4-5: Poss dexamphetamine wiss 47.24g.</p> <p>Search warrants were executed at Grant's business premises and home.</p> <p>At the business premises equipment consistent with the manufacture of methyl, and which contained traces of ephedrine and methyl, were located. A number of containers holding large quantities of reaction waste were also found and established methyl manufactured. Although quantity unknown.</p> <p>At Grant's home two bags of cocaine and two bottles containing 94 (18.8g) and 142 (28.44g) dexamphetamine tablets were located. In addition items associated with dealings in prohibited drugs were found, including sets of digital scales; a vacuum sealing machine; money counting machines; empty clipseal bags and written directions for the manufacture of methyl and \$1,400 cash.</p>	<p>Ct 1: 3 yrs 6 mths imp (cum). Ct 2: 3 yrs imp (cum). Ct 3: 12 mths imp (conc). Cts 4-5: 6 mths imp (conc).</p> <p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>Manufacturing occurred over an unknown period of time.</p> <p>Whether or not the appellant was the 'cook' or was in overall charge of the manufacture could not be determined, however he played 'an integral role'. He provided premises, organised others, obtained ingredients and had some involvement in the actual manufacturing process.</p> <p>It was a commercial effort directed at production for</p>	<p>Dismissed.</p> <p>Appeal concerned first limb of totality principle.</p> <p>At [80] ... the appellant was engaged in a serious course of criminal conduct. He played a significant part in manufacturing an unknown quantity of methyl by providing the premises at which the manufacture occurred, by organising others, by obtaining and providing the necessary ingredients and by some involvement in the actual manufacturing process.</p> <p>At [81] ... this was a reasonably sophisticated manufacturing enterprise that was pursued for commercial profit. The quantities of drugs ... showed that he was in the business of selling or supplying a range of drugs.</p>	84.04 g.

			<p>Grant had earlier purchased a quantity of isopropanol alcohol, a solvent used in the manufacture of methyl.</p> <p>A computer and mobile phone belonging to Grant also contained information relating to the manufacture of methyl. In telephone calls he used code words to reference methyl and dexamphetamine and instructions to an associate made reference to the manufacture of drugs.</p> <p>Grant's DNA was found on some items located at his business premises, including from a mixed profile inside a pair of gloves.</p>	<p>on-sale and not primarily, or even significantly, for his own use. The objective seriousness was towards the upper end of the middle of the scale of seriousness.</p> <p>No remorse or contrition.</p>	<p>Though the quantities were not particularly high, all the evidence suggested that these were simply the drugs that the appellant had on hand at the time. The poss offences needed to be seen in the context of a continuing involvement in the manufacture, sale and supply of drugs.</p> <p>At [83] ... Four cases is a small sample from which to discern patterns of sentences customarily imposed.</p> <p>At [96] Having regard to all the relevant circumstances there is no reasonable basis for the claim that the total sentence was disproportionate to the total criminality of the offending having regard to all relevant circumstances ...</p>	
82.	<p><i>Lenton v The State of Western Australia</i></p> <p>[2017] WASCA 224</p>	<p>47 yrs at time sentencing.</p> <p>Convicted after very late PG; first day of trial (5% discount).</p> <p>Long criminal history; prior drug and firearm</p>	<p>Ct 1: Reckless driving.</p> <p>Ct 2: Poss MDMA 2.09g.</p> <p>Ct 3: Poss methyl wiss 84.15g at 37%-52% purity.</p> <p>Ct 4: Poss cocaine wiss 1.98g.</p> <p>Ct 5: Poss MDA 0.5g (2 tablets).</p> <p>Ct 6: Agg poss firearm.</p> <p>Ct 7: Fail to obey data access order.</p>	<p>Ct 1: 12 mths imp (cum).</p> <p>Ct 2: 1 mths imp (conc).</p> <p>Ct 3: 6 yrs imp (head).</p> <p>Ct 4: 6 mths imp (conc).</p> <p>Ct 5: 1 mths imp (conc).</p> <p>Ct 6: 12 mths imp (cum).</p> <p>Ct 7: 6 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned totality. Individual sentences were not challenged.</p> <p>At [61] The possession of a variety of drugs and a</p>	88.72 g.

<p>Delivered 04/12/2017</p>	<p>related offences; prior sentences of imp.</p> <p>Unsettled childhood during period of parents separation aged 2 yrs. Close and supportive family.</p> <p>Attended numerous schools; completed yr 12; completed first yr of university degree.</p> <p>Employed various roles; including intermittent work in family business prior to imp for present offences.</p> <p>Divorced; no dependents.</p> <p>Long history of illicit substance abuse; methyl and cocaine from age 29; periods of abstinence with gradual relapsed into drug use; little effort made to address his substance abuse problems.</p> <p>Medicated and counselled for post-traumatic stress disorder.</p>	<p>Lenton was driving a motorcycle when police signalled for him to pull over. He did not do so and instead accelerated and fled from police. The pursuit continued for several km, during which he travelled at high speed and through two red traffic lights.</p> <p>When attempting to evade a second police vehicle he lost control of the motorcycle and was apprehended.</p> <p>Lenton's backpack and satchel were searched. Clipseal bags containing various quantities of MDMA were located (ct 2), along with a container holding various quantities of methyl (ct 3). A clipseal bag of cocaine (ct 4) and two MDA tablets were also found (ct 5).</p> <p>An unlicensed .32 calibre five-shot revolver containing one round of live ammunition was also found (ct 6).</p> <p>Lenton was also found in possession of \$767 cash, \$4,000 cash, a flick knife, four mobile phones; tick lists; a set of electronic scales and a laptop computer. The tick lists listed names, amounts owing (in excess of \$100,000) and references to pounds and ounces.</p> <p>The four mobile telephones and laptop were locked and he failed to obey a data</p>	<p>TES 8 yrs imp.</p> <p>The sentencing judge found ct 3 the most serious offence and based on the cash; tick lists; weapons; scales and mobile phones found the appellant was actively engaged in commercial drug dealing and that his involvement was at a much higher level than that of a street dealer or person selling drugs to pay for their own consumption.</p>	<p>relatively large quantity of cash together with tick lists and a firearm led to the inevitable conclusion that the appellant was playing a significant role in the sale and delivery of prohibited drugs and that this involvement had occurred in the context of a continuing commercial criminal enterprise.</p> <p>At [62] The possession of a loaded firearm was a particularly serious feature of his overall offending ... A cumulative sentence for this offence was necessary to properly reflect the criminality involved in the drug and firearm offences.</p> <p>At [63] The reckless driving also entailed additional criminal behaviour and put the safety of other road users, and the police officers involved, at risk. ... His attempt to explain this conduct as caused by PTSD was rightly viewed as secondary to his desire to avoid discovery of the</p>
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			access order to reveal the PIN or pass codes for the devices (ct 7).		<p>drugs. A cumulative sentence for this offence was also appropriate.</p> <p>At [64] ... The finding of four mobile telephones and a laptop computer in the appellant's possession was consistent with these items being used in connection with the sale of drugs. Data contained on such items may provide evidence of other offences. There is often a strong incentive for offenders in the appellant's position not to comply with a data access order. That incentive should be countered by appropriate deterrent sentences. ...</p> <p>At [71] The TES ... imposed on the appellant bears a proper relationship to the overall criminality involved in all of the offences ...</p>	
81.	<i>Leckie v The State of Western Australia</i> [2018] WASCA 91	28 yrs at time sentencing. Convicted after PG (15% discount). Prior minor criminal history NT and QLD;	Ct 1: Att poss MDA wiss 99.2g at 8% - 12% purity. Ct 2: Poss MDMA wiss 2.43g at 85% purity. <u>Ct 1</u> An envelope containing 314 tablets was	Ct 1: 3 yrs imp (cum). Ct 2: 12 mths imp (cum). TES 4 yrs imp. EFP.	Dismissed. Appeal concerned length of individual sentences and totality principle. At [39] ... the seriousness	101.63 g.

	<p>Delivered 12/06/2018</p>	<p>traffic related history WA.</p> <p>Previously performed poorly under supervision.</p> <p>Normal and stable childhood.</p> <p>Served armed forces 4-5 yrs; dishonourably discharged; personal trainer and labouring roles since.</p> <p>Prior bitter family dispute with former partner; denied access to young daughter.</p> <p>Suffers from depression.</p> <p>History of heavy gambling and excessive drinking; MDMA user.</p>	<p>intercepted at an Australia Post facility. The tablets were replaced with an inert substance and the envelope conveyed to the addressed person. On delivery Leckie accepted the envelope and acknowledged it was intended for him.</p> <p>A search of his home located the partially opened envelope. Also located were unused resealable bags, a list of drug values and a document of drug codes. Leckie's mobile phone also evidenced the sale of prohibited drugs and that he was regularly dealing in 'grams, eight-balls and double eight-balls'.</p> <p>The tablets were worth between \$9,420 and \$6,280 if sold individually.</p> <p><u>Ct 2</u> Also found were 24 capsules of MDMA in two clip-seal bags.</p>	<p>The sentencing judge found the material on the appellant's phone constituted evidence of his involvement in the drug world; he was selling MDA on a commercial basis for profit and not just to fund a drug habit.</p> <p>Overwhelming case; little or no remorse; no demonstrated understanding of impact of drug dealing on wider community.</p>	<p>of the appellant's offending was elevated by the fact that it was part of an ongoing busy commercial operation in respect of both the MDA and the MDMA. While the sentencing judge appropriately took account of the low purity of the MDA which the appellant att to possess, the appellant had no way of knowing the purity before taking possession of the tablets.</p> <p>At [40] ... it cannot be concluded that either the individual sentences or the TES imposed on the appellant were unreasonable or plainly unjust.</p>	
80.	<p><i>Jenkin v The State of Western Australia</i></p> <p>[2014] WASCA 226</p> <p>Delivered 04/12/2014</p> <p>Co-offender of</p>	<p>29 yrs at time offending. 34 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Criminal history including drug-related convictions.</p> <p>History of substance abuse.</p>	<p>Ct 1: Poss methyl wiss 54.8g of 20-21% purity. Ct 2: Poss MDMA wiss 58.7g of 23% purity.</p> <p>Jenkin and another (Forman) were involved in the routine distribution of drugs in Geraldton for profit. Jenkin had established a relationship with a drug dealer in Perth (Pittard).</p>	<p>Ct 1: 5 yrs 6 mths imp. Ct 2: 6 mths imp (cum). TES 6 yrs imp. EFP.</p> <p>The trial judge found the appellant was involved in the planning and</p>	<p>Dismissed.</p>	<p>103.50 g.</p>

	<p><i>Pittard v The State of Western Australia</i></p> <p>[2013] WASCA 126</p>	<p>After being charged stopped using illicit drugs; disassociated himself from adverse influences and resumed employment.</p> <p>Co-offender Forman charged with 11 Cts on indictment and 6 Cts on s32 notice. PG to all and sentenced to TES 6 yrs imp. EFP.</p> <p>Co-offender Pittard charged with 2 x sell/supply methyl and MDMA and poss cannabis wiss. Convicted after trial and sentenced to TES 7 yrs imp. EFP</p>	<p>Jenkins arranged for Pittard to supply Forman with methyl and MDMA.</p> <p>Forman drove from Geraldton to Perth and collected from Pittard methyl and 199 MDMA tablets. When he returned to Geraldton he was stopped by police who seized the drugs.</p>	<p>organising of the ‘drug run’ carried out by Forman, who acted at the appellant’s direction.</p>		
79.	<p><i>Pitassi v The State of Western Australia</i></p> <p>[2014] WASCA 231</p> <p>Delivered 12/12/2014</p>	<p>25 yrs at time of offending. 26 yrs at time of sentencing.</p> <p>Convicted after late PG.</p> <p>No relevant prior convictions.</p> <p>Good work ethic.</p> <p>Regular user of illicit drugs.</p>	<p>Ct 1: Possess cocaine wiss 104g of 2% purity. Ct 2: Agg possess firearm without licence. Ct:3: Possess ammunition.</p> <p>Police executed a search warrant at the appellant’s home. The police found a wall cavity in the kitchen behind a small plastic ventilation grate. There was 104g of powder in the cavity later analysed as cocaine with a purity of about 2% and methyl with a purity of about 4%.</p> <p>Police also located MSM, \$60,000 cash, a</p>	<p>Ct 1: 3 yrs imp. Ct 2: 12 mths imp (cum). Ct 3: 6 mths imp.</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>Very low remorse.</p> <p>Sentencing judge satisfied appellant possessed the illicit drugs as part of a commercial drug dealing</p>	<p>Dismissed.</p> <p>At [45] The total effective sentence of 4 years’ imprisonment was within the range reasonably open to the sentencing judge on a proper exercise of his discretion.</p>	104.00 g.

		<p>Low intelligence.</p> <p>About 9 mths following the commission of these offences was charged in relation to a separate offence of possess stolen or unlawfully obtained property (being \$120,000).</p>	<p>loaded pistol, tick lists, an elaborate surveillance system, a money counting machine, a number of weapons including a Taser device, pepper spray, a cattle prod and a baton, 11 mobile telephones, a bundle of sandwich bags, 120 rounds of ammunition and a plate on which there was a card and a \$50 note wrapped as a straw, both of which were covered with powder.</p> <p>The appellant was also charged with possess stolen or unlawfully obtained property, possess prohibited weapon (two charges), possess controlled weapon and possess prohibited drug (two charges) and sentenced separately.</p>	<p>operation.</p> <p>Sentencing judge said was 'at a higher position in the drug distribution network than a low level street dealer' and 'involved in a fairly significant enterprise'.</p>		
78.	<p><i>Rossi v The State of Western Australia</i></p> <p>[2014] WASCA 189</p> <p>Delivered 21/10/2014</p>	<p>38 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p><u>Ind 1182</u> Cts 1 & 3 accepted in full satisfaction of indictment.</p> <p><u>Indictment 790</u> Subject to negotiations 3, charges discontinued.</p> <p>Significant criminal history including AOBH, poss drugs, poss smoking utensil, stealing, traffic offences and breach of susp imp.</p>	<p><u>Ind 1182</u> Ct 1: Possess methyl wiss 12.19g of 56% purity. Ct 3: Possess methyl wiss 48.91g of 0.3-82% purity.</p> <p><u>Section 32 notice 1182/12</u> Ct 1: Possess stolen or unlawfully obtained property. Ct 2: Possess unlawfully obtained property. Ct 3: Possess smoking utensil. Ct 4: Possess cannabis. Ct 5: Possess MDMA.</p> <p><u>Indictment 790</u> Ct 1: Offer to sell methyl 28g.</p>	<p><u>Ind 1182</u> Ct 1: 2 yrs 2 mths imp (cum). Ct 3: 3 yrs 6 mths imp (head sentence).</p> <p><u>Section 32 notice 1182/12</u> Ct 1: 5 mths imp (conc). Ct 2: 7 mths imp (conc). Ct 3: 1 mth imp (conc). Ct 4: 1 mth imp (conc). Ct 5: 1 mth imp (conc).</p> <p><u>Indictment 790</u> Ct 1: 2 yrs 4mths imp (cum) Ct 2: 6 mths imp (conc).</p>	<p>Dismissed.</p> <p>Discusses scope of s9AA <i>Sentencing Act, Criminal Procedure Act</i> and appearance framework.</p> <p>At [77] The appellant pleaded guilty at the fourth or fifth disclosure/committal hearing. The sentencing judge did not err by failing to make a finding that the appellant's pleas of guilty to charges in Indictment 790 were entered at the first reasonable opportunity.</p>	105.08 g.

		<p>Lengthy history of prohibited drug use.</p> <p>In a de facto relationship for 2 yrs.</p> <p>Diagnosed with systemic sclerosis and severe pulmonary arterial hypertension.</p> <p>Despite twice being arrested, charged and bailed the appellant continued to engage in drug dealing. Some of the offending occurred when he was on a suspended term of imprisonment.</p>	<p>Ct 2: Offer to sell methyl 1g. Ct 3: Sold methyl 6.98g of 44% purity. Ct 4: Offer to sell methyl 1g. Ct 5: Offer to sell methyl 3.5g. Ct 6: Offer to sell methyl 3.5g.</p> <p><u>Section 32 notice 790/13</u> Ct 1: Possess smoking utensil. Ct 2: Possess prohibited weapon. Ct 3: Possess methyl.</p> <p><u>Breach of CSIO</u> No authority to drive.</p> <p><u>Indictment 1181 & associated offences</u> Police executed a search warrant at Rossi's home and located methyl in a safe. Police also located cash, drug paraphernalia and a notepad recording his drug dealing activities. He was arrested and released on bail. About 4 mths later police executed a search warrant where Rossi was residing. Methyl was located in the master bedroom. Police also found cash, smoking implements with traces of methyl, a small quantity of cannabis, 1 MDMA tablet and drug paraphernalia.</p> <p><u>Indictment 790 and associated offences</u> Whilst on bail for those offences police intercepted calls where, with the exception of ct 3, Rossi offered to sell methyl. In one instance he sold 6.98g of methyl to another. The purchaser was stopped by police immediately after</p>	<p>Ct 3: 12 mths imp (conc). Ct 4: 6 mths imp (conc). Ct 5: 9 mths imp (conc). Ct 6: 9 mths imp (conc).</p> <p><u>Section 32 notice 790/13</u> Ct 1: 1 mth imp (conc). Ct 2: 1 mth imp (conc). Ct 3: 3 mths imp (conc).</p> <p><u>Breach of CSIO</u> 8 mths imp (conc). TES 8 yrs imp.</p> <p>The sentencing judge found was a 'significant operative in the commercial distribution of methyl in the community'.</p> <p>Accepted that offending was driven by drug addiction.</p> <p>The sentencing judge concluded that ill health of partner did not have any significant impact on the sentencing process.</p> <p>Head sentenced reduced for each offence by one half (12.5%) of the</p>	<p>They were not.</p> <p>At [87] The need for personal deterrence was a very weighty sentencing consideration for this case. The only significant mitigating factor was the appellant's plea of guilty. The sentencing judge was correct to conclude that any hardship to the appellant's partner should have no significant impact on the length of the sentence.</p>	
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			<p>leaving Rossi's home. Police executed a search warrant at Rossi's house and located a smoking utensil, and a Taser disguised as a torch. He had 0.5g of methyl in his pocket.</p> <p><u>Breach of CSIO</u> Rossi drove whilst disqualified/suspended for which a term of 8 mths susp for 12 mths was given. The commission of offences subject of Cts 5 & 6 in ind 790 and associated s32 notice was a breach of this order.</p>	<p>maximum allowed under s 9AA of the <i>Sentencing Act</i>.</p>		
77.	<p><i>The State of Western Australia v Delaney</i></p> <p>[2020] WASCA 93</p> <p>Delivered 15/06/2020</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Significant criminal history; persistent offending particularly from 2014 – 2018.</p> <p>Raised by his mother; lived with his father from aged 14; traumatised by death of his father, a heroin dealer, unlawfully killed when he was aged 18.</p> <p>No contact with his mother; limited contact with his siblings.</p>	<p>Ct 1: Poss methyl wiss 111.51 g at 70-78% purity.</p> <p>Ct 2: Poss unlawfully obtained property (\$1,750 cash).</p> <p>Delaney was driving his motor vehicle when stopped by police. He was found in possession of \$1,750 in cash.</p> <p>A search of Delaney's home located 38.24 g of methyl in a box, contained in two clipseal bags and some gladwrap. The first clipseal bag contained 1.44 g of methyl; a second smaller bag 25.2 g and the gladwrap 11.6 g.</p> <p>In a fake rum can 5.77 g of methyl was also found.</p> <p>A food storage container was also located buried in the back yard. It contained 67.5 g of methyl in three clipseal bags, two</p>	<p>Ct 1: 3 yrs 2 mths imp (conc).</p> <p>Ct 2: 10 mths imp (conc).</p> <p>TES 3 yrs 2 mths imp. EFP.</p> <p>The sentencing judge characterised the respondent's role as that of a user-dealer engaged in selling drugs for profit; his primary motivation was selling methyl for financial independence to provide for his 10-yr-old daughter.</p> <p>Remorseful and insight into his offending; positive steps taken towards rehabilitation; to</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence ct 1.</p> <p>Resentenced:</p> <p>Ct 1: 4 yrs 9 mths imp (conc).</p> <p>Ct 2: 10 mths imp (conc).</p> <p>TES: 4 yrs 9 mths imp. EFP.</p> <p>At [34] The respondent was the principal offender conducting a drug dealing business for profit. He was in possession of ..., approx four times the trafficable quantity. The offending was not fleeting or</p>	111.51 g.

		<p>Average student at school; employed various positions.</p> <p>De facto relationship; shared custody of 10 yr-old daughter from former partner.</p> <p>History of illicit substance abuse; long struggle with methyl addiction.</p>	<p>containing 27.18 g and the third 11.8 g.</p> <p>A tick list, several sets of electronic scales, smoking implements and numerous clipseal bags were also found. A number of weapons, including a flick-knife, were also found throughout the house.</p> <p>A surveillance system was established at the home, consisting of CCTV cameras with a large TV screen to show the CCTV footage.</p> <p>Text messages on Delaney's mobile phone also indicated he was buying methyl.</p>	<p>commence studies whilst in custody at time sentencing.</p>	<p>unplanned, but involved steps to secrete the drugs and establish surveillance of the premises from which business was conducted. The offence was a relatively serious example of its type.</p> <p>At [36] ... at the point of sentence, no demonstrated steps towards rehabilitation (whether by undertaking treatment programs, education programs or otherwise) had been shown. The prospects of rehabilitation were based on the respondent's aspirational statements as to his future conduct. ... Those aspirational statements do not make this an exceptional case. ...</p> <p>At [37] The respondent committed a serious drug offence. The sentence he received was significantly below the range of sentences customarily imposed for this kind of offending, ...</p> <p>At [39]-[40] ... in this case</p>	
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					there was little more than a statement of the steps which the respondent intended to take in the future. ... and a plan to turn his life around. ... there is nothing exceptional about the respondent's personal circumstances which, while not wholly irrelevant, remain a subsidiary consideration in the sentencing process for a serious drug offence. ... Having regard to all of the circumstances of this case, and all relevant sentencing considerations, in our view the sentence ... imposed for the drug offence was unreasonable and plainly unjust. ... the sentence was manifestly inadequate.	
76.	<i>Barton v The State of Western Australia</i> [2016] WASCA 196 Delivered 18/11/2016	37 yrs at time sentencing. Convicted after early PG (25% discount). Prior criminal history; multiple offences of poss prohibited drugs; no previous sentences of imp. Two long-term	Cts 1 & 2: Poss stolen property. Ct 3: Poss methyl wiss 33.6g of 68% purity and 25.4% purity. Ct 4: Poss MDMA wiss 5.57g. Ct 5: Poss cocaine wiss 6.29g of 69% purity. Ct 6: Poss methyl wiss 5.6g. Ct 7: Poss thing reasonably suspected to be unlawfully obtained. Ct 8: Poss methyl wiss 61.46g of 82% and 81% purity.	Cts 1 & 2: 6 mths imp each ct (conc). Ct 3: 2 yrs 7 mths imp (conc). Ct 4: 10 mths imp (conc). Ct 5: 10 mths imp (conc). Ct 6: 10 mths imp (conc). Ct 7: 6 mths imp (conc). Ct 8: 3 yrs 3 mths imp (cum with ct 3). TES 5 yrs 10 mths imp.	Dismissed – on papers. Appeal concerned totality principle. Individual sentences not challenged. At [38] ... the appellant's drug dealing offences were, no doubt, serious. ... The quantity and purity of the drugs the subject of cts 3 and 8 were significant.	112.52 g.

		<p>relationships, including a prior marriage.</p> <p>Self-employed; unlikely to be able to continue working as a mortgage broker.</p> <p>Illicit drug user.</p> <p>History of anxiety and ADHD; prescribed medication.</p>	<p>Police recovered from Barton's home two stolen iPads (cts 1 & 2). A search located two cipseal bags containing 26.7g and 6.9g of methyl (ct 3), along with 23 MDMA tablets and power (ct 4). In addition 5.24g and 1.05g of cocaine were found (ct 5).</p> <p>Barton was on bail for the above offences when he was stopped driving a vehicle. A search of the car located a quantity of methyl (ct 6); \$1,185 in cash (ct 7) and two mobile phones containing messages relating to prohibited drugs. A further search of his home located two cipseal bags, each containing 27.5g of methyl, and an additional 6.46g of methyl (ct 8). Digital scales, plastic straw scoops, spoons, cipseal bags in various sizes and 'tick lists' were also located.</p>	<p>The sentencing judge found the appellant was a willing and motivated vendor of drugs into the community and his offending was for 'commercial gain' based on the presence of the tick lists, cash and phone messages.</p> <p>The appellant accepted responsibility for his offending and was addressing his drug addiction.</p>	<p>At [43] ... it was necessary, in order properly to mark the appellant's overall criminality in committing eight offences on two disparate occasions, to accumulate the individual sentences for cts 3 and 8.</p>	
75.	<p><i>Stoysich v The State of Western Australia</i></p> <p>[2014] WASCA 208</p> <p>Delivered 10/11/2014</p>	<p>39 yrs at time of offending. 40 yrs at time of sentencing.</p> <p>Convicted after late PG.</p> <p>Prior criminal history; irrelevant prior convictions.</p> <p>Strong work ethic.</p> <p>Illicit drug addiction.</p>	<p>Ct 1: Sold methyl 26.8g of 40-42% purity. Ct 2: Sold methyl 56.4g of 34-36% purity.</p> <p>Stoysich provided services as a driver and surveillance for his co-offenders to meetings with an UCO where methyl was sold on two occasions for \$32,000.</p>	<p>Ct 1: 6 mths imp. Ct 2: 3 yrs 6 mths imp (cum).</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>Made limited admissions to police.</p> <p>The sentencing judge noted the appellant had 'some knowledge of the scale and the extent of the</p>	<p>Dismissed.</p> <p>Discusses parity principle.</p>	113.20 g.

		<p>Following his arrest participated in a rehabilitation programme and ceased using drugs.</p> <p>Co-offender Noakes PG and sentenced to 5 ½ yrs imp.</p> <p>Co-offender Duthie PG and sentenced to 2 ½ yrs imp.</p>		<p>criminality’.</p> <p>No commercial gain; but given methyl.</p> <p>Some insight into his offending; degree of remorse.</p>		
74.	<p><i>The State of Western Australia v Hunter</i></p> <p>[2014] WASCA 87</p> <p>Delivered 24/04/2014</p>	<p>42 yrs at time of sentencing.</p> <p>Convicted after trial.</p> <p>Criminal history; mostly dishonesty and drug offences.</p> <p>At aged 3 was placed in care of friends; also spent time with mother and family; left home at 15 yrs.</p> <p>Limited formal education.</p> <p>Has grown up child.</p> <p>In relationship for 11 yrs; partner currently incarcerated; also user of</p>	<p><u>Indictment</u></p> <p>Ct 1: Poss methyl wiss – 110g of 42-53% purity.</p> <p>Ct 2: Poss methyl wiss – 5.22g of 27-82% purity.</p> <p><u>Section 32</u></p> <p>Ct 1: Poss cannabis.</p> <p>Ct 2: Poss smoking implement.</p> <p>Ct 3: Poss smoking implement.</p> <p>Police executed a search warrant on Hunter’s home and found in the walk-in robe of the master bedroom, a plastic tub. In the tub was methyl split into 4 plastic bags – 27.7g, 27.8g, 27.7g and 27.7g respectively. The value of each bag was \$14,000.</p> <p>Police also found a safe in the walk-in wardrobe. Inside Police found \$38,500 in cash and 2 plastic bags containing 2.13g and 3.09g of methyl respectively.</p>	<p><u>Indictment</u></p> <p>Ct 1: 3 yrs 8 mths imp.</p> <p>Ct 2: 12 mths imp (conc).</p> <p><u>Section 32 notice</u></p> <p>Ct 1: 2 mths imp (conc).</p> <p>Ct 2: 2 mths imp (conc).</p> <p>Ct 3: 2 mths imp (conc).</p> <p>TES 3 yrs 8 mths imp.</p> <p>EFP.</p> <p>Prepared to engage in rehabilitation.</p> <p>Took over as the principal in the drug business after her partner’s incarceration.</p> <p>Primary motive was</p>	<p>Allowed.</p> <p>Re-sentenced to 5 yrs 6 mths imp.</p> <p>At [29] The respondent’s offending was not a ‘one-off’ aberration. It was an offence committed in the context of an ongoing drug dealing business which had been in existence for some months.</p> <p>At [32] A consideration ‘of the cases’ reveals that the sentence here is inconsistent with the range of sentences imposed in those cases and points towards manifest inadequacy.</p>	115.22 g.

		<p>illicit substances. Habitual user of illicit substances including heroin and methyl.</p> <p>Long term alcohol problem.</p> <p>Prior to sentencing undertaken some psychological treatment.</p>	<p>In addition police located a number of items commonly associated with drug dealing. This included the cutting agent MSM, 2 tick lists, CCTV cameras installed around the house, 2 sets of scales and numerous plastic clip seal bags.</p>	<p>profit.</p>	<p>At [38] The sentence was not just merely lenient. It was substantially outside the range open to the trial judge to impose on a proper exercise of her discretion.</p>	
73.	<p><i>Doherty v The State of Western Australia</i></p> <p>[2014] WASCA 142</p> <p>Delivered 06/08/2014</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history including some drug offences.</p> <p>Whilst on bail for possession of MDMA and methyl wiss the appellant committed cts 3 – 6.</p> <p>Stable employment history.</p> <p>Commenced using methyl two years prior; soon began using on a daily basis.</p> <p>Significant steps taken to rehabilitate himself whilst in custody.</p>	<p>Ct 1: Possess MDMA wiss 6.84 grams of 19% purity. Ct 2: Possess methyl wiss 95.2 grams of 51-73% purity. Ct 3: Possess methyl wiss 16.03 grams of 48% purity. Ct 4: Agg possess firearm. Ct 5: Agg possess firearm. Ct 6: Agg possess firearm.</p> <p><u>Cts 1 & 2:</u> Police executed a search warrant at Doherty's home and found a bag in which was a quantity of methyl contained within a number of clip seal bags. The amounts ranged from 1.71g and 3.62g. Another larger bag contained 57.6g. The total quantity seized was 95.2g.</p> <p>Also located in the bag were four bags containing various quantities of MDMA. The total weight being 6.84 g.</p> <p>A number of items indicative of drug</p>	<p>Ct 1: 12 mths imp. Ct 2: 3 yrs 9 mths imp (conc). Ct 3: 12 mths imp (cum). Ct 4: 6 mths imp (cum). Ct 5: 6 mths imp (conc). Ct 6: 6 mths imp (conc).</p> <p>TES 5 yrs 3 mths imp.</p> <p>Some remorse.</p> <p>The appellant claimed drug use had caused him to incur a drug debt and he was pressured into selling drugs to repay the debt – the sentencing judge said that this was not a mitigating factor and did not lesson his culpability.</p>	<p>Dismissed – on papers.</p> <p>At [24] It is very difficult for an appellant to succeed on a ground that alleges that too little weight was given to a particular factor.</p> <p>At [25] Any delay between being charged and being sentenced is not, in itself, a mitigating factor. However, progress towards rehabilitation that occurs in such a period should be taken into account.</p> <p>At [27] Progress towards rehabilitation is a factor personal to an offender. Personal factors have less weight in regard to drug trafficking offences because of the importance</p>	118.07 g.

		Character references spoke well of the appellant.	<p>dealing were also found. They included two electronic digital scales, numerous unused clip seal bags, mobile telephones, SIM card packets and notebooks containing names and amounts.</p> <p><u>Cts 3 – 6</u> About six mths later police again attended Doherty’s house and conducted a search warrant. They located two clip seal bags containing a total of 16.03g of methyl, \$7,000 in cash was also found together with a number of unused clip seal bags and a quantity of bulking agent, electronic scales, more clip seal bags, three mobile telephones and \$5420 cash.</p> <p>A number of firearms were also located.</p>	<p>The sentencing judge characterised offences as serious and as indicating a significant commercial enterprise.</p> <p>Only mitigating factor was that the appellant had PG at an early stage.</p>	of general deterrence.	
72.	<p><i>The State of Western Australia v Tran</i></p> <p>[2014] WASCA 26</p> <p>Delivered 31/01/2014</p>	<p>22 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Substantial criminal history; including convictions of doing an unlawful act with intent to harm and burglary.</p> <p>Good upbringing; supportive family.</p> <p>At time of offending was employed in family bakery and friend’s restaurant.</p>	<p>Ct 1: Sell methyl 41g of 57-62% purity. Ct 2: Offer to sell methyl 3 ounces (85g).</p> <p>Tran sent a text message to an UCO (unbeknown to him). A series of coded text messages followed and as a result he sold to the officer two clip seal bags of methyl totalling 41g.</p> <p>A few days later the UCO contacted Tran by text message. The two communicated in code. They discussed the purchase of 3 ounces of methyl.</p> <p>Two days later Tran and the UCO were due to meet however Tran did not attend. A couple of hrs later Tran was arrested at</p>	<p>Ct 1: 2 yrs imp. Ct 2: 15 mths imp (conc).</p> <p>TES 2 yrs imp.</p> <p>EFP.</p> <p>The State characterised the respondent as a ‘mid-range drug dealer, dealing for commercial profit’.</p> <p>The sentencing judge found the respondent was close to the supplier ‘of large quantities of reasonably pure</p>	<p>Allowed.</p> <p>Re-sentenced to : Ct 1: 3 yrs imp. Ct 2: 2 yrs imp.</p> <p>Ct 2 to commence 18 mths after the commencement of ct 1.</p> <p>TES 3 yrs 6 mths imp.</p> <p>At [30] ... The notion that someone is not a drug dealer because that person’s commercial activities occurred over a short</p>	126.00 g.

		<p>Influenced by his negative peer associations including with two known street gangs.</p> <p>Had incurred \$12,000 criminal injuries compensation liability for a prior offence – facilitated the sale of methyl on behalf of supplier in return for the supplier to pay the debt.</p>	<p>a café, close to where he was supposed to meet with the UCO. At the time of his arrest no illicit drugs were found in his possession. A subsequent search of Tran's house found no illicit drugs or drug dealing paraphernalia.</p>	<p>methylamphetamine'; respondent's actions were not just a one-off transaction.</p>	<p>period of time cannot be accepted. A person may deal in a commodity such as illicit drugs even if the dealing occurs in a brief space of time...</p> <p>At [45] ... The circumstances of each offence were serious, the sentences imposed were inconsistent with established sentencing patterns by some way, and the respondent's personal circumstances could not reasonably justify the lenient nature of the sentences. ... the individual sentences were not proportionate to the gravity of the offending and did not properly reflect the seriousness of what the respondent did ...</p>	
71.	<p><i>The State of Western Australia v Baldini</i></p> <p>[2015] WASCA 39</p> <p>Delivered 06/03/2015</p>	<p>19 yrs at time offending.</p> <p>Convicted after PG.</p> <p>No prior criminal history.</p> <p>Had taken steps to rehabilitate before sentencing.</p>	<p><u>Ind</u></p> <p>Ct 1: Sell MDMA (65 tablets).</p> <p>Ct 2: Poss MDMA wiss 129.57g of 19-31% purity (490 tablets).</p> <p><u>Section 32 notice</u></p> <p>Ct 1: Poss unlawfully obtained property.</p> <p>Police arrested Baldini after observing him leave his home address. Police</p>	<p><u>Ind</u></p> <p>Ct 1: 12 mths imp (conc).</p> <p>Ct 2: 18 mths imp (conc).</p> <p><u>Section 32 notice</u></p> <p>Ct 1: 3 mths imp (conc).</p> <p>TES 18 mths imp, susp on conditions 18 mths; \$4,000 global fine.</p>	<p>Allowed – conditional susp terms and fine set aside.</p> <p>TES 18 mths imp substituted.</p> <p>EFP.</p> <p>At [28] There can be no doubt that children and</p>	129.57 g.

		<p>Stable family support; good character; stable employment.</p> <p>Began using prohibited drugs at 16; engaged in gambling and excessive alcohol use at time offending.</p>	<p>searched him and seized \$600 cash and two mobile phones. One phone contained messages relating to sale of prohibited drugs and notes detailing money owed.</p> <p>A search warrant was executed at Baldini's home. He declared he was in possession of MDMA tablets and cash. He told police he purchased 500 MDMA tablets for \$16.50 each a week prior. He admitted he sold 65 MDMA tablets for \$30 each.</p> <p>Police also found 490 MDMA tablets in Baldini's bedroom inside a locked box with cipseal bags, digital scales and \$3,200 cash. He admitted poss of MDMA wiss and that some of the cash was from the sale of drugs.</p>	<p>The sentencing judge found the respondent was a modest/street dealer; selling for commercial gain; profit would have been approx. \$5,000.</p> <p>Remorsful; cooperated with police; on the road to rehabilitation; moderate risk of reoffending.</p>	<p>youths are well and truly in the target market of drug dealers.</p> <p>At [29] The application of accepted sentencing principles for the offences committed by the respondent leads to only one conclusion, being that a term of immediate imprisonment is the only appropriate sentencing option.</p> <p>At [30] The circumstances of the offending are towards the higher end of the scale of seriousness.</p> <p>At [39]-[46] Discussion of the residual discretion.</p> <p>At [45] ... the long accepted sentencing principles that apply to drug dealing offences...are not abandoned when it comes to the residual discretion stage.</p>	
70.	<p><i>King v The State of Western Australia</i></p> <p>[2016] WASCA</p>	<p>31 yrs at time offending.</p> <p>PG (20% discount).</p> <p>Minor criminal history;</p>	<p>Ct 1: Att poss alpha-PBP wiss 49.25g</p> <p>Ct 2: Att poss alpha-PVP wiss 20.3g</p> <p>Ct 3: Poss alpha-PVP wiss 66.98g</p> <p>Alpha-PBP and alpha-PVP are derivatives</p>	<p>Ct 1: 3 yrs 2 mths imp (conc).</p> <p>Ct 2: 1 yr 2 mths imp (cum).</p> <p>Ct 3: 4 yrs imp (cum).</p>	<p>Dismissed.</p> <p>Appealed concerned totality principle.</p>	136.53 g.

	<p>96</p> <p>Delivered 14/06/2016</p>	<p>limited to disorderly conduct and traffic offences.</p> <p>Disadvantaged childhood.</p> <p>Educated to yr 12.</p> <p>Good and steady work history.</p> <p>Married with seven children. Wife diagnosed from bipolar disorder.</p>	<p>of MDPV</p> <p><u>Ct 1</u> King ordered 50g of alpha-PBP over the internet. The package was addressed to his wife. It was intercepted and replaced with an inert substance. An UCO, acting as a courier, delivered the package. King's wife signed for the item and took possession of it in his presence. A later search located the package, which he admitted to opening.</p> <p><u>Ct 2</u> A letter addressed to King's wife was intercepted and found to contain two vacuum-sealed foil sachets of "alpha-PVP."</p> <p><u>Ct 3</u> King directed police to a plastic bag, containing clipseal bags and a quantity of loose alpha-PVP.</p> <p>Alpha-PVP was detected on a set of digital scales. Packaging labelled alpha-PVP; four smoking implements and a piece of paper with names and amounts on it were also found.</p> <p>King admitted previous delivery of the drug. His mobile phone revealed messages consistent with drug dealing.</p>	<p>TES 5 yrs 2 mths imp.</p> <p>EFP.</p> <p>The sentencing judge had regard to the difficulties the appellant's family would encounter while he was imprisoned, but it did not fall into the category of exceptional hardship.</p> <p>The appellant was not a simple user/dealer, but sold the drugs for profit.</p> <p>Co-operative, but minimised his culpability and showed no true acceptance of responsibility.</p>	<p>At [28] ... the appellant attempted to possess, or actually possessed, 136.53g of alpha-PBP and alpha-PVP. He did so predominantly for commercial gain. The appellant's offending was committed against a background of prior dealing, at least in alpha-PVP.</p> <p>At [30] Some accumulation of the individual sentences imposed was appropriate, having regard to the different drugs found at the appellant's house and the fact that more drugs were in transit.</p>	
<p>69.</p>	<p><i>Nguyen v The State of Western</i></p>	<p>48 yrs at time sentencing.</p>	<p>1 x Poss methyl wiss 164g at 82%.</p>	<p>5 yrs 10 months imp.</p>	<p>Dismissed.</p>	<p>164.00 g.</p>

<p><i>Australia</i></p> <p>[2018] WASCA 162</p> <p>Delivered 19/09/2018</p>	<p>Convicted after trial.</p> <p>Lengthy prior criminal history; convictions for drug offending; previous sentences of imp.</p> <p>Born in Vietnam; arrived in Australia aged 15 yrs.</p> <p>Completed schooling in Australia; employed fishing and building industries.</p> <p>Long term relationship; two children aged 9 and 6 with health and behavioural difficulties.</p> <p>Two adult children from previous relationship.</p> <p>History of alcohol and methyl use; at time sentencing had not used illicit drugs for 3-4 yrs.</p>	<p>Nguyen and his co-offender were stopped by police in a motor vehicle. A search of their car located the methyl.</p>	<p>EFP.</p> <p>The trial judge found the appellant and the co-offender were both in poss of the methyl and they both played some role in the packaging of the drug.</p> <p>The trial judge found although the appellant and co-offender were not the beneficial owners of the drug they were delivering it to an unknown person or persons for 'significant' financial reward.</p> <p>Risk of further drug-related offending.</p> <p>No demonstrated remorse or responsibility for his offending.</p>	<p>Appeal concerned length of sentence and parity principle.</p> <p>At [18] ... taking into account: ... the maximum penalty for the offence; the serious nature of the offending; ... the sentences imposed in previous cases ...; the place which the appellant's criminal conduct occupies on the scale of seriousness of offences of this kind; ... the important of appropriate punishment and personal general deterrence ...; the sentence ... was not unreasonable or plainly unjust.</p> <p>At [24] ... The most significant factors in the sentencing of the appellant and the co-offender were appropriate punishment and personal and general deterrence. The differences between their respective prior criminal records were not, in all the circumstances, of any significance for sentencing purposes. ... His Honour</p>	
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					<p>was entitled to afford the co-offender the discount of three months to recognise his 'particularly difficult start in life'.</p> <p>At [25] ... We are satisfied that the disparity cannot be characterised as marked or unjustified. ...</p>	
68.	<p><i>Vidich v The State of Western Australia</i></p> <p>[2020] WASCA 171</p> <p>Delivered 23/10/2020</p>	<p>35-36 yrs at time sentencing.</p> <p>Convicted after PG (cts 9 & 11) (5% discount). Convicted after trial (cts 5; 8 & 10).</p> <p>Prior criminal history; traffic offences; common assault and poss drug paraphernalia.</p> <p>Uneventful upbringing; supportive family; parents separated when aged 12 yr; lived with his father; ongoing relationship with his mother; close to his eight siblings.</p> <p>Completed yr 10; employed various roles; unemployed since 2015.</p>	<p>Ct 5: Sold methyl 55.2 g at 61% purity. Ct 8: Poss methyl wiss 111 g at 76% purity. Cts 9-11: Poss unlawfully obtained property (\$11,950; \$21,095 and \$81,650 cash).</p> <p>Vidich was contacted by his cousin, who had negotiated the sale of some methyl, asking him to deliver the drugs.</p> <p>On being provided with the drug Vidich drove to a home and exchanged 55.2 g of methyl for \$11,950 (ct 5).</p> <p>Vidich then drove to the residence of a Mr Breedon. Shortly after arriving police forced entry to the home and arrested Vidich in possession of 111 g of methyl which he intended to sell to Mr Breedon (ct 8). The sum of \$23,000 in cash was also found, being payment for the 111 g of methyl or a previous sale of methyl to Mr Breedon.</p>	<p>Ct 5: 4 yrs 6 mths imp (conc). Ct 8: 6 yrs imp. Ct 9: 11 mths imp (conc). Ct 10: 18 mths (cum). Ct 11: 2 yrs (conc).</p> <p>TES 7 yrs 6 mths imp.</p> <p>The trial judge found the appellant was, and had for some time, been dealing for commercial gain in trafficable quantities of methyl; he played a significant role in the distribution of the drug into the community.</p> <p>The trial judge found the appellant was dealing in drugs to generate income, rather than to support his methyl habit and he was selling drugs to Mr</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle and error of fact (selling drugs on his own account). Individual sentences were not challenged.</p> <p>At [43] ... we agree with her Honour's conclusion that the evidence establishes, beyond reasonable doubt, that the appellant was conducting his own business ... and that he proposed to sell the 111 g of methyl to Mr Breedon on his own account.</p> <p>At [51] Having regard to the nature of the appellant's commercial enterprise, a TES of 7 yrs 6 mths' imp</p>	166.2 g.

		<p>Difficult breakdown of long-term relationship five yrs prior to sentencing; five children.</p> <p>Methyl use; not a daily user.</p>	<p>A search of Vidich's vehicle parked outside the address located \$11,950 in the storage compartment of the driver's door (ct 9). This was the money he had earlier received from the sale of the methyl the subject of ct 5. A further \$21,095 was found concealed in the dashboard of his vehicle (ct 10).</p> <p>Vidich's home was searched and \$81,650 in cash was found in various locations (ct 11), as well as a 'tick list' and other items associated with drug dealing.</p> <p>The tick lists showed the amounts of drugs delivered to and money owed by eight persons, including three occasions Vidich sold 4 ounces of methyl to Mr Breedon for \$12,200, \$22,400 and \$22,400 respectively.</p>	<p>Breedon on his own account.</p> <p>No demonstrated remorse; continued to deny offending.</p>	<p>may be regarded as high. However, account must be taken of the fact that the appellant pleaded not guilty to most of the offences, and showed no remorse for his conduct. The large sum of cash generated by the appellant's drug dealing business ... totalled over \$102,000, indicating the revenue being generated by the appellant's business. ... we are satisfied that the TES ... imposed in this case was not unreasonable or plainly unjust. ...</p>	
67.	<p><i>Musulin v The State of Western Australia</i></p> <p>[2020] WASCA 18</p> <p>Delivered 17/02/2020</p>	<p>36 yrs at time offending and sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Lengthy criminal history; prior convictions for poss drugs; numerous convictions for breaching bail; CBOs; on parole for serious drug offences at time offending; offences committed four months 22 days after release to</p>	<p>Ct 1: Poss methyl wiss 178.2 g at 68%-82% purity.</p> <p>Ct 2: Poss unlawfully obtained property (\$125,305).</p> <p>A search warrant was executed at Musulin's home. He was found in his bedroom throwing items out of the window into the yard. On the floor a cipseal bag containing a quantity of methyl was located; along with a tin containing two further cipseal bags of methyl.</p> <p>The total amount of methyl seized was</p>	<p>Ct 1: 7 yrs imp.</p> <p>Ct 2: 1 yr imp (cum).</p> <p>TES 8 yrs imp.</p> <p>EFP.</p> <p>Sentence conc with term of imp already serving.</p> <p>The sentencing judge found the appellant's criminality was high; he was an important and trusted member of a</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 1) and totality principle.</p> <p>At [54]-[57] ... the appellant's offending constituted a very serious example of an offence of the kind in ct 1, for three reasons. ... the appellant was in poss of over six times the trafficable quantity of methyl, and</p>	178.20 g.

		<p>parole.</p> <p>Parents involved with drug use; nevertheless stable upbringing; provided with love and support; positive peer groups.</p> <p>Completed yr 10; boilermaker apprenticeship.</p> <p>Not in a relationship at time of sentencing; no children.</p> <p>Fairly consistent employment history; primarily in construction industry.</p> <p>Ongoing health condition; managed by medication; no mental health issues.</p> <p>History of illicit substance use; cannabis from aged 20 yrs; daily user of methyl; drug free after release to parole.</p>	<p>178.2 g; 27.5 g (68% pure); 111 g (82% pure) and 39.7 g (80% pure).</p> <p>A large quantity of cash was located on the bedroom floor and three bundles of \$50 notes were found in the yard. The total amount of cash seized amounted to \$125,305.</p> <p>Musulini claimed the drugs and money located did not belong to him; he was storing them for others as a means of repaying a drug debt.</p>	<p>distribution network; his participation was for commercial purposes, even if limited to extinguishing a pre-existing debt.</p> <p>The sentencing judge found the appellant was aware he was storing a considerable amount of drugs and money and he would have appreciated he was part of a large-scale drug distribution network; he was an indispensable link in the distribution of drugs into the community and his actions allowed those higher up in the chain of distribution to avoid detection.</p> <p>Appellant remorseful.</p>	<p>most of it was of 80% purity or more. While the quantity of the drugs involved is not determinative, it is nevertheless a highly relevant factor in assessing the seriousness of the offending. While ... sentenced on the basis that he was storing the drug for others, that role, in respect of such a large quantity of drugs and at a very high level of purity, sustained the finding made by the learned sentencing judge that he was clearly a trust member of a distribution network. ... the appellant engaged in the offending for commercial reasons. His culpability is not reduced by the fact that those reasons were limited to extinguishing a pre-existing drug debt. ... the appellant engaged in the offending shortly after commencing parole for earlier drug offences, including poss of methyl wiss. ... The fact that [he] committed the present offences whilst on parole</p>	
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					<p>for earlier offences, including an offence for poss of methyl wiss, added significantly to the overall criminality of the offending ...</p> <p>At [84] The offending the subject of ct 2 added to the overall criminality of the appellant's conduct. A large sum of money was involved, which, by his plea, the appellant accepted was reasonably suspected of being unlawfully obtained. That offence was committed whilst he was on parole. ...</p> <p>At [85] ... it was well open to the learning sentencing judge to order that the sentence for ct 2 be served cum with that for ct 1, so that the TES properly reflected the additional criminality involved in ct 2.</p>	
66.	<p><i>Le v The State of Western Australia</i></p> <p>[2014] WASCA 120</p> <p>Delivered</p>	<p>31 yrs at time offending. 33 yrs at time sentencing.</p> <p>Convicted after late PG (first day of trial).</p> <p>Extensive criminal</p>	<p>Ct 1: Poss altered firearm w/o licence. Ct 2: Poss methyl wiss 16.46g of 78-85% purity. Ct 3: Poss cannabis wiss 14.7g. Ct 4: Poss MDPV wiss 6.64g. Ct 5: Poss methyl wiss 56.17g of 69-72%. Ct 6: Att poss MDMA wiss 46.65g.</p>	<p>Ct 1: 12 mths imp. Ct 2: 2 yrs 4 mths imp. Ct 3: 6 mths imp. Ct 4: 18 mths imp. Ct 5: 4 yrs 2 mths imp. Ct 6: 2 yrs 4 mths imp. Ct 7: 12 mths imp.</p>	<p>Dismissed.</p> <p>At [42] s 6(1)(a) applies to a person who is in possession of a prohibited drug merely as a bailee for another.</p>	207.52 g.

	<p>13/06/2014</p>	<p>history; including possess prohibited drugs wiss, possess prohibited drugs and carried a prohibited weapon.</p> <p>Family from Vietnam; appellant born in Australia.</p> <p>Childhood marred by domestic violence; parents later separated.</p> <p>Seven yr old daughter from previous relationship.</p> <p>Completed Year 12.</p> <p>Regularly employed in various occupations.</p> <p>Long history of illicit drug abuse; commenced using cannabis at 14 yrs; heroin at 18 yrs; methyl at 20 yrs; occasional user of ecstasy.</p>	<p>Ct 7: Poss cannabis wiss 55.3g. Ct 8: Poss methyl wiss 11.6g of 80%.</p> <p>Le's mother contacted police after discovering a firearm and a bag containing white powder in his bedroom in her house. A police search discovered a 410 gauge shotgun with a shortened barrel; 16.46g of methyl; 14.7g of cannabis and 6.64g of MDPV, a derivative of methyl. Police also discovered \$36,000 cash in two shotgun cartridges. Le was arrested, charged and released on bail.</p> <p>The prosecution conceded that the firearm and drugs were owned by another person and that Le was holding them for that person. Also conceded \$36,000 cash was the same owner and that Le was holding the cash for the owner.</p> <p>About six mths later, police searched a house where Le was living with his girlfriend. Police located 56.17g of methyl; 14.65g of tablets which resembled MDMA but later analysis revealed they did not contain any illicit substances and 55.3g of cannabis.</p> <p>Later that same day, police again searched the home of Le's mother and located 11.6g of methyl and other items associated with drug dealing.</p>	<p>Ct 8: 2 yrs 6 mths imp.</p> <p>Ct 2 cum on ct 5.</p> <p>All other sentences conc with ct 5.</p> <p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The appellant had been engaging in the distribution of illicit drugs for at least a month before his second arrest.</p> <p>The sentencing judge accepted that cts 1-4 the appellant had been acting as a bailee for a friend, he had received no benefit for holding the firearm, drugs and cash.</p> <p>The sentencing judge accepted cts 5-8 that five men had demanded that the appellant repay the value of the property seized by the police (earlier charges) had threatened him and his family with violence if he did not comply.</p>	<p>At [45] His primary motivation in dealing with the drugs was to repay a debt to the owner of the drugs seized during the first search.</p> <p>At [51] The appellant's role in relation to the drugs was important. He was concealing a significant quantity of an illicit drug on behalf of a person who wanted to distance himself from the drugs. The appellant knew the drugs were intended for distribution into the community.</p> <p>At [65] At two different times and in two different ways, the appellant was prepared to facilitate the dissemination into the community of substantial quantities of illicit drugs.</p>	
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<p>65.</p>	<p><i>Carlucci v The State of Western Australia</i></p> <p>[2019] WASCA 37</p> <p>Delivered 22/02/2019</p>	<p>38 yrs at time offending. 40 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>Minor criminal history; prior drug offences incurring fine penalties.</p> <p>Three siblings; subjected to traumatic incidents aged 7-8 yrs; discovered not her father's biological daughter aged 20 yrs.</p> <p>Completed yr 10; good work history.</p> <p>One long-term relationship; married 6 yrs; separated aged 28 yrs; one child from union.</p> <p>History of recreational methyl use; increased drug use in att to cope with imp of sister; eventually smoking methyl daily; commenced selling methyl to pay drug debts.</p> <p>Unemployment and living in a car at time offending.</p>	<p>Cts 1 & 4: Poss methyl wiss 108.7 g and 123.9 g (total 232.6 g) at 71-89% purity. Ct 2: Poss MDMA wiss 2.72 g Ct 3: Poss unlawfully obtained property (\$33,690).</p> <p><u>Ct 1</u> A search warrant was executed at an address, where Carlucci was living in an old bus.</p> <p>Inside the bus three bags of methyl bundled together were located. The bags contained 27.4 g, 27.3 g and 27.4 g of methyl. A further bundle containing 26.6 g of methyl was also found.</p> <p>Carlucci admitted during the search she had obtained the methyl 'on tick' and she believed the drug was worth about \$40,000.</p> <p>The accused was charged and released on bail.</p> <p><u>Cts 2 - 4</u> Approximately 7 months later Carlucci was stopped by police driving a motor vehicle. A search of the vehicle located bundles of \$50 and \$100 notes, totalling \$33,690 in cash.</p> <p>Smoking implements, mobile phones, sets of scales and clipseal bags were also found inside the vehicle.</p>	<p>Ct 1: 3 yrs imp (cum). Ct 2: 1 yr imp (conc). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 5 yrs imp (cum).</p> <p>TES 8 yrs imp. EFP.</p> <p>The sentencing judge found the offending a serious example of its type; the appellant was dealing in high quantities of methyl of high purity; she was mid to high level in the drug hierarchy and was motivated principally by commercial gain.</p> <p>The sentencing judge found an aggravating feature was the offences the subject of cts 2 - 4 were committed while she was on bail for the offence the subject of ct 1.</p> <p>Some demonstrated remorse and acceptance of responsibility.</p>	<p>Allowed.</p> <p>Appeal concerned totality principle.</p> <p>Individual sentences not disturbed. Resentenced:</p> <p>Ct 1: 3 yrs imp (cum). Ct 2: 1 yr imp (conc). Ct 3: 2 yrs 6 mths imp (conc). Ct 4: 5 yrs imp (cum). To commence after serving 18 mths of sentence for ct 1.</p> <p>TES 6 yrs 6 mths imp. EFP.</p> <p>At [50] The appellant's offending was undoubtedly very serious. She persisted in conducting a drug-dealing business involving the sale of significant quantities of methyl for commercial gain. The sentencing judge correctly regarded the fact that cts 2 - 4 were committed while on bail as a significant aggravating feature of the offence. ...</p> <p>At [52] ... the TES ... is</p>	<p>235.32 g.</p>
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		No history of mental illness.	The next day a further search of Carlucci's vehicle was undertaken. Drug detection dogs located a box, secreted in the driver's door, containing 123.9 g of methyl in twelve clipseal bags, along with 0.5 g of MDMA powder and eight MDMA tablets, weighing a total of 2.72 g.		disproportionate ... While the scale of her business was significant, the appellant's parlous circumstances at the time of the offending indicated that the cash which is generated for her personal benefit was limited. Her drug dealing, conducted from her car, did not have the level of sophistication of the operations in a number of the cases to which we have referred. It was relevant to note that the appellant had pleaded guilty, and the psychiatrist assessed her amphetamine use disorder as being in extended remission. She did not have a serious prior record, and there appeared to be some prospect of rehabilitation. Having regard to all of the circumstances ... it was not open to the sentencing judge to conclude that a sentence of 8 yrs' imp bore a proper relationship to the overall criminality involved in all of the offences. ...	
64.	<i>Davies v The State of Western</i>	41 yrs at time sentencing. Conviction after late PG –	Supply MDMA x 1 – 246g of 10-16% purity (940 tablets).	3 yrs imp. EFP.	Dismissed – on papers. At [30] The differences	246.00 g.

	<p>Australia</p> <p>[2015] WASCA 14</p> <p>Delivered 22/01/2015</p>	<p>TOI to resolve dispute as to appellant's role.</p> <p>No relevant criminal history.</p> <p>Born in WA; lives with wife in Melbourne.</p> <p>Co-offender Rogers charged with supply MDMA. Convicted after PG and sentenced to 2 yrs imp susp 2 yrs with supervision and programme conditions.</p> <p>Co-offender Mellican charged with 2 x poss MDMA, poss LSD and cultivate cannabis. Convicted after PG and sentenced to 2 yrs 9 mths for poss 940 MDMA tablets. TES 4 yrs 9 mths imp.</p> <p>Co-offender Gok charged with supply MDMA. Convicted after trial and sentenced to 3 yrs imp.</p>	<p>Davies made arrangements to supply Mellican with a quantity of MDMA. Davies lived in Melbourne and Mellican lived in Perth.</p> <p>Davies asked Gok, a friend in Perth, to arrange for the MDMA to be delivered to Mellican. Gok arranged for Rogers to make the delivery. Gok asked Davies whether he needed him to collect payment for the drugs and he responded that this was 'sorted'.</p> <p>Several days later police observed Rogers and Mellican meet in a car park. After Rogers left, police arrested Mellican in poss of 940 MDMA tablets. Several weeks later Davies flew to Perth and was arrested.</p> <p>Davies maintained that his role was limited to coordinating the arrangement for the supply of the drugs. He denied having any ownership interest in the drugs. He claimed Gok was the principal offender. Davies' DNA was found on the wrapping of one parcel containing MDMA.</p>	<p>The sentencing judge found at TOI that the appellant planned and organised the supply of drugs for his own commercial benefit.</p> <p>The sentencing judge concluded that on the basis of telephone intercept material, the appellant discussed quality, price and volume of the drugs with Mellican. The appellant exercised a degree of control over Gok.</p> <p>Treated Mellican and the appellant as equals in drug dealing hierarchy.</p>	<p>between the sentences imposed on the appellant and the co-offenders were justified by their different circumstances.</p> <p>At [36] Even taking the most beneficial view of the circumstances it is difficult to see how the appellant could have deserved more than the 10% discount that the sentencing judge granted him.</p>	
63.	<p>Dillon v The State of Western Australia</p>	<p>46 yrs at time of sentencing.</p> <p>Convicted after trial cts 2;</p>	<p><u>Indictment</u></p> <p>Ct 2: Poss methyl wiss 112 g.</p> <p>Ct 4: Att poss methyl wiss 112 g.</p> <p>Ct 5: Poss unlawfully obtain property</p>	<p><u>Indictment</u></p> <p>Ct 2: 5 yrs imp (cum).</p> <p>Ct 4: 5 yrs imp (conc).</p> <p>Ct 5: 18 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned error in sentence (breach of SIO)</p>	249.00 g.

<p>[2020] WASCA 24 Delivered 28/02/2020</p>	<p>4-5. Convicted after late PG ct 11 (5% discount). Prior criminal history; convictions for poss methyl wiss. Single; divorced; three adult children with whom he has limited contact; supportive parents. Good employment history; successful carpentry business. Methyl use since 2012.</p>	<p>(\$11,560). Ct 11: Att poss methyl wiss 25 g at 70% purity. <u>Breach of SIO</u> All offences were committed while Dillon was subject to a SIO. Dillon was served with a VRO protecting his former partner. He breached the VRO by sending her text messages; emails; phone calls and voice messages, yelling obscenities in some of the voice messages. Charged with 19 cts of breaching the VRO, each ct relating to a separate day on which the conduct occurred. Convicted on PG. Sentenced to a TES of 14 mths imp; susp 15 mths. <u>Indictment</u> Regular shipments of methyl were sent to Dillon from NSW. The drugs were sent to a Post Office by a Mr Marshall. Generally, a Mr Wood would then collect and deliver the packages to Dillon, who sold the drugs at street level in 'points, grams and half-weights'. Dillon received packages containing about 112 g of methyl on five uncharged occasions. <u>Ct 2</u> On one occasion Dillon collected a package of methyl posted by Mr Marshall.</p>	<p>Ct 11: 2 yrs imp (cum). <u>Breach of SIO</u> 14 mths imp. (cum). TES 8 yrs 2 mths imp. EFP. The trial judge found the appellant was involved in extensive drug dealing activities for some months; his offending was persistent and deliberate and he was part of a syndicate distributing methyl from NSW to Exmouth; he was a mid-level user-dealer, operating for commercial gain and he had obtained substantial quantities of methyl on at least seven occasions; his offending was not isolated but was part of a pattern of offending behaviour. The trial judge found the quantity and purity of the methyl the subject of ct 11 meant it could be further cut and distributed and he stood to make</p>	<p>and totality principle. At [33] ... the appellant relies on the different character of his subsequent offending ... that it would be unjust to require him to serve the susp sentences. The subsequent offending was of a different character to that for which SIOs were made. However, the character of the subsequent offending was significantly more serious. Substantial terms of immediate imp were the only appropriate sentences for the subsequent offending. ... At [34] Further, the subsequent offending was not an isolated or out-of-character event. ... the appellant was involved in extensive drug dealing activities ... [and] had persistently engaged in a commercial drug dealing operation, from a point in time shortly after the susp imp orders had been made. ... At [36] ... the fact that the</p>	
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			<p>As payment Dillon posted him \$29,000 in cash. The money was intercepted at a Perth Mail Centre. Telephone calls discussing the payment were intercepted by police.</p> <p><u>Ct 4 & 5</u> Several wks later police intercepted another parcel containing methyl addressed to Mr Wood. The methyl was replaced with an inert substance and delivered to the Post Office. Mr Wood was arrested after collecting the parcel. Dillon was arrested at his property shortly afterwards. At the time of his arrest \$11,560 in cash was located on his property.</p> <p><u>Ct 11</u> Dillon instructed another to post him a package containing a car door, in which 25g of methyl at 70% purity had been concealed. The package was intercepted by police and the methyl secreted inside the door was found.</p> <p>This offending occurred while Dillon was on bail for the charges the subject of cts 4 and 5.</p>	<p>significant amounts of money selling drugs at street level.</p> <p>Limited admissions made; no remorse or insight into his offending.</p>	<p>appellant had engaged in extensive drug dealing activities was sufficient to preclude a finding that it was unjust to require the appellant to serve the susp sentences. ...</p> <p>At [43] ... The appellant engaged in the persistent commercial distribution of methyl ... and stood to make a significant profit from the activity. The offending was aggravated by being committed while [he] was subject to susp imp orders. ... It was also an aggravating feature of ct 11 that the offence was committed while [he] was on bail in respect of the offending charged in cts 4 and 5. The drug offending occurred quite separately to the restraining order offences, and at least some degree of accumulation of the sentences for the different groups of offending was appropriate.</p> <p>At [45] ... while the magistrate indicated a TES for the restraining order</p>	
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					<p>offences, the question of the degree of accumulation of the sentences for all offences was a matter for the trial judge, ... While not bound by the magistrate's views, it was open to the trial judge to conclude that the susp sentences for the restraining order offences should be accumulated in the manner contemplated by the magistrate when imposing the susp sentences.</p>	
62.	<p><i>RIN v The State of Western Australia</i></p> <p>[2015] WASCA 51</p> <p>Delivered 17/03/2015</p> <p>Subject to a confidentiality order.</p>	<p>Convicted after PG.</p> <p>Prior criminal history including 2 x poss methyl wiss and 2 x poss heroin wiss.</p>	<p><u>Indictment X of 2012</u></p> <p>Ct 1: Sold methyl 55.7g of 49% purity. Ct 2: Sold methyl 55.6g of 76% purity. Ct 3: Sold methyl 116.6g of 73% purity. Ct 4: Sold heroin 13g of 65% purity.</p> <p>About a month before ct 1, RIN called Crime Stoppers with vague information about another man. RIN then sold methyl and heroin to an UCO on three occasions.</p> <p><u>Indictment Z of 2013</u></p> <p>Ct 1: Poss methyl wiss 13.7g of 83% purity. Ct 2: Poss methyl wiss 55.5g of 86.9% purity.</p> <p>RIN claimed that she was directed by her husband to pick up one of the amounts of methyl and the other amount of methyl</p>	<p><u>Indictment X of 2012</u></p> <p>Ct 1: 3 yrs 9 mths imp (conc). Ct 2: 3 yrs 9 mths imp (conc). Ct 3: 5 yrs 8 mths imp. Ct 4: 1 yr 4 mths imp (conc).</p> <p>TES 5 yrs 8 mths imp.</p> <p>EFP.</p> <p>Sentencing judge found appellant was selling as a representative of her husband at the least; drug dealing for personal gain; acting under some pressure from husband,</p>	<p>Dismissed.</p> <p><u>Indictment X of 2012</u></p> <p>At [64] On my findings of fact, the nature and extent of any assistance or cooperation given by the appellant to the authorities ... was not of any significance for sentencing purposes.</p> <p>At [65] The sentences imposed by his Honour were well within the range open on a proper exercise of the sentencing discretion.</p>	310.10 g.

			<p>was in the car. When police arrived, RIN ran away and threw the drugs into the bushes.</p> <p>RIN was on bail for other serious drug offences at time of offending.</p> <p>RIN claimed she was offending to assist police by getting more concrete information.</p> <p>RIN later drove around and pointed out drug related houses to police, but this did not result in any direct arrest or convictions.</p>	<p>but was actively involved.</p> <p>Appellant deflected blame; elevated risk of reoffending.</p> <p>PG demonstrated remorse and acceptance of responsibility for offending.</p> <p><u>Indictment Z of 2013</u> Ct 1: 4 yrs imp (conc with indictment X of 2012). Ct 2: 1 yr 4 mths imp (cum with indictment X of 2012).</p> <p>TES 7 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge did not accept appellant acting with a view to gaining information for police; appellant's assistance was not of great assistance in practical terms to investigations.</p>	<p><u>Indictment Z of 2013</u></p> <p>At [73] On my findings of fact, the nature and extent of any assistance or cooperation given by the appellant to the authorities ...was not of any significance for sentencing purposes.</p> <p>At [74] The sentences she received were well within the range open to his Honour on a proper exercise of the sentencing discretion.</p>	
61.	<i>Clarke v The State of Western Australia</i>	<p>31 yrs at time offending. 33 yrs at time sentencing. Convicted late after PG</p>	<p>Cts 1; 7; 10 & 12: Poss firearm. Cts 2; 6 & 9: Poss money suspected of being unlawfully obtained. Ct 4: Poss methyl wiss 28.54g at 82%-</p>	<p>Ct 1: 2 yrs 6 mths imp (cum). Cts 2; 8 & 11: 6 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual</p>	343.18 g.

<p>[2018] WASCA 190</p> <p>Delivered 29/10//2018</p>	<p>(5% discount).</p> <p>Prior criminal history; including convictions for drug possession and firearms and weapons offences; prior sentence of imp.</p> <p>Stable, secure and loving childhood; youngest of three children; toddler when parents separated; close relationship with his mother and step-father.</p> <p>Completed yr 10; reasonable grades; excelled in sport.</p> <p>Commenced but did not complete an apprenticeship; employed building and mining industries number of yrs.</p> <p>Lived and worked QLD five yrs; returned to WA to support step-father diagnosed with cancer; relationship with partner ending at this time; no children.</p> <p>History of amphetamine</p>	<p>83% purity.</p> <p>Ct 5: Poss MDMA wiss 314.64g at 84% purity.</p> <p>Cts 8 & 11: Poss ammunition.</p> <p>Clarke was stopped by police riding his motorcycle, having initially sought to evade them. He was found in poss of a loaded 9 mm pistol and \$31,180.05 cash (cts 1 & 2). He was also found to be carrying two Blackberry phones, a mobile phone and a smoking implement.</p> <p>Whilst on bail for cts 1 and 2 a motor cycle travelling at excessive speed was tracked by the police air wing to Clarke's home. Police attended the house to locate the rider. A search of the home located large quantities of drugs, cash and a loaded handgun. Methyl, comprising three separate quantities of 4.43g, 17.9g and 4.24g, and three further quantities between 0.27g and 0.97g were located in the house (ct 4).</p> <p>A vacuum sealed bag of MDMA powder weighing 313.82g was also located, along with a further 0.82g secreted inside a blowtorch (ct 5).</p> <p>A room in the home and been set up as a drug preparation area. This room contained scales, clipseal bags, a spoon and the monitor for a CCTV surveillance system installed at the home. A number of</p>	<p>Ct 4: 2 yrs 4 mths imp (conc).</p> <p>Ct 5: 5 yrs imp (cum).</p> <p>Ct 6: 1 yr 6 mths imp (cum).</p> <p>Cts 7 & 12: 2 yrs imp (conc).</p> <p>Ct 9: 8 mths imp (conc).</p> <p>Ct 10: 1 yr imp (cum).</p> <p>TES 10 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was a high level drug dealer and drug user; the drug dealing business in which he was engaged was a commercial enterprise and enabled him to support a comfortable lifestyle; in addition to the cash the subject of the charges, he admitted he had made \$90,404.50 profit in six months.</p> <p>The sentencing judge found the appellant's involvement in the distribution of drugs was substantial and his conduct in dealing in</p>	<p>sentences not challenged.</p> <p>At [68] ... the appellant was charged with offences committed on three separate occasions, committed over a period of between six and seven mths. Some degree of accumulation of the sentences imposed was therefore warranted. ... more significantly, the appellant committed offences on two separate occasions while he was on bail for the charges the subject of cts 1 and 2. ... The appellant's continued determined offending, over a period of six to seven months, meant that the overall criminality of his offending was of a very serious kind, and was far more serious than the individual offences, considered in isolation, ...</p> <p>At [77] ... offences of poss of prohibited drugs wiss, were, of themselves, very serious, having regard to the quantity and purity of the drugs involved. In</p>
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		<p>use; regular drug habit aged 21 yrs; drug free about five yrs; relapsed into drug-use following loss of step-father after six months illness and loss of support of his partner.</p>	<p>mobile phones and Blackberries were also located.</p> <p>A total of \$198,450.50 in cash was also found in six locations around the house (ct 6).</p> <p>Also located was a .22 handgun with 10 live rounds of ammunition (cts 7 & 8).</p> <p>Clarke fled the house by jumping a rear fence before he could be apprehended.</p> <p>Several weeks later police returned to Clarke's home and executed a search warrant. On this occasion a total of \$11,223.55 in cash was located (ct 9).</p> <p>A 9 mm semi-automatic handgun and a magazine containing 11 rounds of ammunition were also found hidden in the house (cts 10 & 11).</p> <p>A dismantled semi-automatic 12-gauge shotgun was also found (ct 12).</p> <p>Various other items consistent with drug-dealing were found in the house on this occasion, including three Blackberries and two mobile phones.</p>	<p>drugs was persistent, his apprehension had not deterred him from engaging in that conduct.</p> <p>The sentencing judge found the appellant's repeated firearms offences as very serious, and his repetition of those offences as a particularly grave matter; his possession of guns while participating in drug dealing activities was especially serious.</p> <p>The sentencing judge found the appellant's continued offending while on bail an aggravating factor.</p> <p>Remorseful; accepted responsibility for his offending; willing to undertake treatment for substance abuse; good prospects for rehabilitation.</p>	<p>addition, the MDMA was found in powder form, which suggests that it could be cut and pressed into tablets or put into capsules for wider distribution. ... The amount of cash, the firearms and ammunition, and the appellant's admissions, confirmed that he was engaged in a successful and profitable drug dealing business. The appellant's ability to obtain firearms of the kind involved here, ... also suggested a high level of involvement in drug-dealing.</p> <p>At [78] ... the offences of poss of unlicensed firearms and ammunition were, of themselves, very serious offences. The appellant's poss of the handguns was especially serious, because of the capacity to conceal them. Ct 1 was a particularly serious instance of that conduct, because the appellant had a loaded handgun ... which suggests that he took the gun with him when he was engaged</p>	
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					<p>in drug-dealing activities. ... The seriousness of that conduct was exacerbated by the inherent risk of injury or death generated by carrying firearms in such circumstances.</p> <p>At [79] ... the offences were not committed in an isolated incident of criminal conduct and could not be characterised as an aberration. ...</p>	
60.	<p>Ramsden v The State of Western Australia</p> <p>[2019] WASCA 179</p> <p>Delivered 15/11/2019</p>	<p>27 yrs at time offending. 30 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Appellant one of four children; parents separated when aged 4 yrs.</p> <p>Completed Year 10.</p> <p>Regularly employed in various occupations; work injury and later surgery led to online gambling habit.</p> <p>Prior traffic related offences.</p>	<p>Ct 1: Poss MDMA wiss 309.71g of 11-24% purity. Ct 2: Poss unlawfully obtained money. Ct 3: Poss methyl wiss 49.98g of 78-80% purity.</p> <p>Ramsden was stopped by police driving his motor vehicle. A search of his car revealed clipseal bags containing small amounts of methyl and ecstasy. He was also found to be carrying \$5,085 cash on his person.</p> <p>A search of Ramsden's home located a total of 309.71g of ecstasy in both tablet and powder form. Empty capsules were also located. Estimated value was between \$36,054 and \$51,950.</p> <p>A further quantity of methyl in three clipseal bags were discovered inside a hot</p>	<p>Ct 1: 6 yrs 3 mths imp. Ct 2: 15 mths imp (conc). Ct 3: 4 yrs imp (cum).</p> <p>TES 7 yrs 6 mnths imp.</p> <p>EFP.</p> <p>The trial judge found it was clear from the amount and purity of the drugs; the circumstances of their location, together with the large sum of money in the appellant's possession that he was involved in the distribution of drugs at least at the mid-level.</p> <p>The trial judge noted that</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and sentencing on an incorrect factual basis.</p> <p>At [43] ... the appellant was engaged in the commercial dealing of significant quantities of both methyl and ecstasy ... while there were a number of mitigating factors personal to the appellant, those factors carry less weight in light of the significance of general deterrence as a relevant sentencing consideration.</p> <p>At [45] ... it is not</p>	359.69 g.

			<p>water unit in a locked storage room. Estimated value was between \$19,600 and \$24,500.</p> <p>Digital scales, clipseal bags, a food saver machine, money counting machine and multiple mobile phones were also found. A further \$40,850 in cash was located in his bedroom.</p>	<p>the appellant's 'participation was for commercial reasons'. And further 'You may well have used drugs, but your profits, no doubt, went some considerable way to funding, not only your gambling habit, but also your lifestyle'.</p>	<p>reasonably arguable that either the individual sentences or the TES imposed on the appellant were unreasonable or plainly unjust. Inferred error is not able to be established.</p>	
59.	<p>Trajkoski v The State of Western Australia</p> <p>[2018] WASCA 176</p> <p>Delivered 12/10/2018</p>	<p>46 yrs at time sentencing.</p> <p><u>Ind 2015</u> Convicted after PG (15% discount cts 1-2; 25% discount cts 3-5).</p> <p><u>Ind 2016</u> Convicted after trial.</p> <p>Lengthy prior criminal history; including drug convictions; prior terms of imp.</p> <p>Offences the subject of ind 2016 committed while on bail for cts 3-4 on ind 2015.</p> <p>Daughter aged 12 yrs.</p> <p>Long history of drug use.</p>	<p><u>Ind 2015</u> Cts 1 & 2: Sold methyl 13.86g at 73-76% purity and 55.6g at 72-73% purity. Ct 3 & 4: Poss heroin wiss 2.09g at 76% purity and 8.33 g at 65% purity. Ct 5: Cultivation cannabis wiss 12 plants.</p> <p><u>Ind 2016</u> Ct 1: Poss methyl wiss 133g at 64-85% purity. Ct 2: Poss heroin wiss 175g at 84-88% purity.</p> <p>Trajkoski had regular access to and was dealing in drugs. The offences were committed on five separate occasions, spanning a period of almost four months.</p> <p><u>Ind 2015</u> Trajkoski sold methyl to an UCO for \$7,000 cash (ct 1).</p> <p>A week later Trajkoski sold a further quantity of methyl to the same UCO for \$25,000 (ct2).</p>	<p><u>Ind 2015</u> Ct 1: 15 mths imm (conc). Ct 2: 2 yrs 6 mths imp (head). Ct 3: 9 mths imp (conc). Ct 4: 12 mths imp (conc). Ct 5: 9 mths imp (conc).</p> <p><u>Ind 2016</u> Ct 1: 4 yrs imp (cum). Ct 2: 4 yrs imp (cum).</p> <p>TES 10 yrs 6 mths imp.</p> <p>The sentencing judge found the appellant was at the time a 'professional drug dealer for commercial gain specialising in methyl and heroin and had been for some time'; he was towards the top of the hierarchy of distribution and had benefited to a</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle.</p> <p>At [33] The appellant's offending had many serious elements: ...</p> <p>At [34] There is no merit in the appellant's assertion that the failure to order some concurrency between the two offences the subject of the 2016 ind reveals implied error. ...</p> <p>At [36] ... The sentence ... bears a proper relationship to the overall criminality involved in the appellant's offending, viewed in its circumstances as a whole, and taking into account his</p>	387.88 g.

			<p>Some days later Trajkoski was found in possession of a quantity of heroin and \$7,000. During a strip-search a further quantity of heroin was found in his underwear (cts 3-4).</p> <p>Several weeks later Trajkoski cultivated hydroponic cannabis, involving 12 cannabis plants and nine clones (ct 5).</p> <p><u>Ind 2006</u> A search of Trajkoski's home located quantities of methyl (ct 1) and heroin (ct 2) concealed in the ceiling. Also found was \$39,900 in cash. A further \$21,050 cash was found in his girlfriend's handbag.</p> <p>Other items associated with drug dealing were found at the home, which was fitted with a sophisticated CCTV security surveillance system.</p>	<p>significant extent from his drug dealing.</p> <p>The sentencing judge described the commission of the offences committed while on bail a 'seriously agg factor showing a flagrant disregard for the law'.</p>	personal circumstances. ...	
58.	<p><i>Lear v The State of Western Australia</i></p> <p>[2015] WASCA 90</p> <p>Delivered 07/05/2015</p>	<p>49 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Prior criminal history, including attempted manufacture of methyl and other drug offences.</p> <p>Separated from wife; four children, including two dependent children aged</p>	<p>Ct 1: Sold methyl 13.8g of 61% purity. Ct 2: Sold methyl 40.1g of 61-67% purity. Ct 3: Conspiracy to sell methyl 112g. Ct 4: Sold methyl 69.4g of 69% purity. Ct 5: Sold methyl 41.7g of 44% purity. Ct 6: Sold methyl 149.4g of 6-46% purity.</p> <p>Over three and a half mths Lear sold to an UCO 14g of methyl for \$8,000 (ct 1), 40.1g for \$24,000 (ct 2), 69.4g for \$40,000 (ct 4), 41.7g for \$24,000 (ct 5) and 149.4g for \$88,000 (ct 6).</p>	<p>Ct 1: 2 yrs imp (conc). Ct 2: 2 yrs imp (conc). Ct 3: 4 yrs imp (conc). Ct 4: 3 yrs 6 mths imp (cum). Ct 5: 3 yrs 6 mths imp (conc). Ct 6: 5 yrs 6 mths imp.</p> <p>TES 9 yrs imp. EFP.</p>	<p>Dismissed – on papers.</p> <p>At [27] Having regard to the quantity and quality of the drug sold by the appellant, it is clear that, although the appellant was not at the top of the hierarchy, he was the person who dealt directly with the customers and must have been trusted by</p>	426.40 g.

		<p>14 and 15yrs.</p> <p>Stable work history; financially vulnerable.</p> <p>Addicted to methyl; ceased using methyl in 2012.</p>	<p>In relation to ct 3, Lear arranged to sell 112g for \$66,000. After attempts over two wks, he was unable to source the methyl. He told the UCO that he couldn't supply the drugs.</p>	<p>The sentencing judge found offending motivated by financial difficulties; dealing for financial gain.</p> <p>The sentencing judge characterised appellant's role as being 'not at the top of the hierarchy'.</p> <p>Not out of character.</p>	<p>those above him.</p> <p>At [28] While the appellant's motivation for his offending was to pay his living expenses, the fact remains that he offended for commercial gain.</p> <p>At [29] ...I do not regard the TES imposed in the present case as being outside of the range customarily imposed.</p>	
57.	<p><i>Goddard v The State of Western Australia</i></p> <p>[2014] WASCA 59</p> <p>Delivered 21/03/2014</p> <p>Co-offender of <i>Ruvinovski v The State of Western Australia</i></p> <p>[2013] WASCA 204</p>	<p>22 yrs at time offending. 25 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Criminal history; minor offending.</p> <p>Stable background; in a positive and supporting relationship.</p> <p>History of illicit drug use; using illicit substances at time of offence.</p> <p>Suffers from ADHD.</p> <p><u>Co-offenders</u> Williams sentenced to 8 yrs 6 mths imp.</p>	<p>1 x Conspiracy to sell/supply prohibited drug (Methyl) 435g of 7% purity.</p> <p>Janakievski, Ruvinovski & Williams, conspired to transport methyl from NSW to WA and sell it.</p> <p>Janakievski was in NSW and had regular contact with Ruvinovski who lived in Perth. They both discussed Williams going to Sydney to collect methyl, which was to be transported back to WA and sold. Williams flew to Sydney and returned with 435g of methyl. Williams provided a sample to Ruvinovski who complained about the low purity.</p> <p>Williams was set the task of finding a local distributor to sell the drug. Williams and Goddard met on two occasions to discuss the distribution; giving him the</p>	<p>6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The appellant aware Williams smuggled the drug into WA and that Williams was a courier for others.</p> <p>The trial judge found the appellant had a lower level of participation in the offence than Williams.</p> <p>The trial judge noted the appellant's behaviour was part of a significant drug enterprise, and that his involvement was important in the sense that</p>	<p>Allowed – in part.</p> <p>Re-sentenced to 5 yrs 6 mths imp.</p> <p>At [42] ... There was such an insufficiently marked disparity in sentences to amount to error.</p> <p>At [69] ... Although the appellant was involved in the conspiracy for only two days, his role was nevertheless important.</p>	435.00 g.

		<p>Janakievski died before trial.</p> <p>Ruvinovski was discontinued as part of a plea negotiation.</p> <p>Jasa was acquitted.</p>	<p>first opportunity to find a buyer. Unbeknown to both, they were under surveillance.</p> <p>Goddard made one attempt to find someone who would purchase the drug but withdrew two days later. Williams then made contact with Jasa with a view to recruit him to sell the methyl. Police raided William's house while Jasa was present and the methyl was seized.</p>	<p>he was to supply it to a third party, and that he would have done so if the drug had been of sufficient purity; he was involved for monetary reward, although he was a drug user.</p>		
56.	<p><i>Sathitpittayayudh v The State of Western Australia</i></p> <p>[2015] WASCA 152</p> <p>Delivered 04/08/2015</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal history, including convictions for poss prohibited weapons, drugs and explosives.</p> <p>Born in Thailand; parents separated when aged three; raised by paternal grandmother until age 11; travelled to Australia at age 11 to join his mother.</p> <p>Completed school to yr 11; completed civil engineering course at TAFE and computer engineering.</p> <p>Worked as courier driver and powder coater.</p>	<p>Ct 1: Supply methyl 27.8g. Ct 2: Poss handgun, whilst not being the holder of a licence or permit. Ct 3: Poss methyl wiss 358g. Ct 4: Poss MDMA wiss 71.6g.</p> <p><u>Ct 1</u> Sathitpittayayudh supplied Evans with approx. 27.85g of methyl. Later that day Evans sold the drugs to an UCO for \$12,000. Some of that cash formed part of approx. \$600,000 located during a search of a property owned by Sathitpittayayudh's parents.</p> <p><u>Cts 2-4</u> Police executed a search warrant at Sathitpittayayudh's house and located a loaded .32 calibre handgun. He made some admissions regarding poss and ownership of the gun.</p> <p>Police also located 245g of methyl of more than 50% purity in a glass Pyrex</p>	<p>Ct 1: 3 yrs imp (cum). Ct 2: 12 mths imp (cum). Ct 3: 7 yrs imp (cum). Ct 4: 3 yrs imp (conc).</p> <p>TES 11 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found appellant was involved in commercial drug dealing and in the upper half of the pyramid of drug trafficking criminality, at quite a high level.</p>	<p>Allowed.</p> <p>TES set aside.</p> <p>Resentenced to: Ct 1: 3 yrs imp (conc). Ct 2: 12 mths imp (cum). Ct 3: 7 yrs imp (cum). Ct 4: 2 yrs 6 mths imp (cum).</p> <p>TES 10 yrs 6 mths imp.</p> <p>At [26] ...the sentencing judge made a factual error when including ct 4 in comments regarding lateness of the plea.</p> <p>At [27]... the appellant was caught red-handed and the prosecution case against him in respect of cts 2 to 4 was very strong. In these</p>	457.40 g.

		History of illicit drug use, including cannabis, methyl and MDMA; admitted to dealing commercially.	tray, 113g methyl in a large clipseal bag and 71.6g of MDMA rolled up inside a newspaper.		<p>circumstances an appropriate discount for ct 4 is 20%.</p> <p>At [36]-[39] Discussion of comparable cases.</p> <p>At [40] Whilst the other cases referred to involved larger quantities of methyl this needs to be seen in the context that the appellant admitted he was involved in commercial dealing in the drug... In these circumstances the methyl and MDMA located at his premises ... must be viewed as merely his stock in trade. Whilst he is not to be punished on the basis that he had more than this amount in his poss cts 3 and 4 need to be seen in the context of a continuing commercial enterprise. It was clear that the appellant was a principal in this enterprise and that it was a highly successful one.</p>	
55.	<i>Hoang v The State of Western Australia</i> [2015] WASCA	48 yrs at time sentencing. Convicted after PG. No criminal history.	Ct 1: Poss methyl wiss 130.5g of 73-75% purity. Ct 2: Poss methyl wiss 349.4g of 69-81% purity.	Ct 1: 2.5 yrs imp (cum). Ct 2: 6.5 yrs imp (cum). TES 9 yrs imp.	Dismissed. At [55] ... the appellant played a role, beyond mere courier, in relation to the	479.90 g.

<p>130</p> <p>Delivered 26/06/2015</p>	<p>Deprived background; little education.</p> <p>Reasonable but inconsistent employment history.</p> <p>Anxiety and depression.</p> <p>Gambling addiction.</p> <p>Has a partner with 2 small children.</p>	<p><u>Ct 1</u> Police stopped and searched Hoang's vehicle. They located five clipseal bags; each contained approx. 26g of methyl. Police also located \$6,200 cash in Hoang's wallet.</p> <p><u>Ct 2</u> On the same day, police searched the house where Hoang was staying. They located three clipseal bags, containing a total of 349.4g of methyl. Police also located \$34,000 cash concealed in a sofa.</p>	<p>EFP.</p> <p>The sentencing judge found that the appellant's role was not that of a courier but was, in effect, facilitating sales by someone above him in the hierarchy and that he was close to the source of the drugs.</p>	<p>sale of drugs in Perth prior to his arrest. It is not possible to determine beyond reasonable doubt the precise role which he played. That is, it is not clear, to the criminal standard of proof, whether he actually effected sales himself, or facilitated sales by someone else. However, I am satisfied beyond reasonable doubt ... that he warehoused the drugs found at the Maylands house, and also, he either effected sales himself or facilitated sales by another.</p> <p>At [56] I agree with the learned sentencing judge that the quantity and quality of drugs found in the appellant's possession support the conclusion that he was close to the source of the drugs.</p> <p>At [73] ... while the penalty imposed upon the appellant lies near the top of the range of a sound sentencing discretion, it does not fall outside that range.</p>	
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					At [75]-[80] Discussion of comparable cases.	
54.	<p><i>The State of Western Australia v Nillson</i></p> <p>[2017] WASCA 68</p> <p>Delivered 18/04/2017</p>	<p>23 yrs at time offending. 24 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No relevant prior criminal history. This offence was the first serious offending.</p> <p>Previously of good character.</p> <p>Supportive family.</p> <p>Excellent work history until made redundant.</p> <p>Drug user following redundancy; drug dealing to fund habit and lifestyle.</p> <p>Determined efforts at rehabilitation while remanded in custody.</p>	<p>Ct 1: Att poss of methyl 129g at 77% purity. Ct 2: Poss methyl wiss 121.41g at 47-81% purity. Ct 3: Poss MDMA wiss 9.74g. Ct 4: Poss cannabis wiss 96.9g. Cts 5 & 10: Poss unlawfully obtained money. Ct 6: Poss methyl wiss 127.24g at 68-74% purity. Ct 7: Poss 25C-NBOMe wiss 7.74g. Ct 8: Poss MDA wiss 0.84g. Ct 9: Poss MDMA wiss 0.37g.</p> <p><u>Ct 1</u> Police inspected an envelope containing methyl addressed to a James Willson at a post office box registered to Nillson. Police replaced the methyl with an inert substance and the envelope was delivered to Nillson's post office box. Nillson collected the envelope and returned home.</p> <p><u>Cts 2-5</u> Later that day, police executed a search warrant at Nillson's address and found him attempting to dispose of the inert substance in the shower.</p> <p>Police found 26 containers of methyl ranging from 0.05g to 32.7g (ct 2), 8.52g of MDMA and 5 MDMA pills weighing 1.22g (ct 3), cannabis (ct 4), \$23,635 cash</p>	<p>Ct 1: 30 mths imp (cum). Ct 2: 30 mths imp (conc). Ct 3: 9 mths imp (conc). Ct 4: 6 mths imp (conc). Ct 5: 12 mths imp (conc). Ct 6: 2 yrs imp (cum). Ct 7: 9 mths imp (conc). Ct 8: 3 mths imp (conc). Ct 9: 3 mths imp (conc). Ct 10: 12 mths imp (conc).</p> <p>TES 4 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found Nillson to be an active retail and midlevel drug dealer and the sole proprietor of the drug dealing business; there was evidence of a very organised, large-scale polysubstance drug dealing operation; Nillson's culpability was high; the set-up pointed to widespread retailing and deep market penetration and that Nillson must have been an important player in the Geraldton</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences for cts 1, 2 and 6, and totality.</p> <p>Nillson re-sentenced on cts 1, 2 and 6 only:</p> <p>Ct 1: 4 yrs 6 mths imp (cum). Ct 2: 4 yrs 6 mths imp (conc). Ct 6: 2 yrs imp (reduced from 4 yrs 6 mths imp for totality reasons) (cum on ct 1).</p> <p>TES 6 yrs 6 mths imp.</p> <p>Other sentences and orders remain.</p> <p>At [32] The sentencing judge was...mistaken in concluding that there had been a softening of approach ... such a conclusion was not one that could ordinarily be reached on the basis of an inference drawn from a comparison of three cases and it was</p>	493.24 g.

			<p>(ct 5), unused clipseal bags and plastic containers, digital scales, a brass weight, a tick list and approx. 200g of cutting agent.</p> <p><u>Cts 6-10</u> Police searched Nillson's car at a self-storage unit and found 16 containers of methyl (ct 6), 25C-NBOMe (ct 7), MDA (ct 8), MDMA (ct 9), \$12,150 cash (ct 10), unused clipseal bags, digital scales and cutting agent.</p>	<p>drug distribution business.</p> <p>The sentencing judge found good prospects of rehabilitation and that Nillson would not reoffend in a similar way.</p> <p>Remorse and acceptance of responsibility.</p>	<p>not one that could be reached in this instance, not least because it was based upon an erroneous analysis of those cases.</p> <p>At [35] The offending... was very serious. The respondent was aptly described by the sentencing judge as the sole proprietor of a 'very organised, large-scale polysubstance drug dealing operation'. The amount of methyl involved in each of cts 1, 2 and 6 was substantial and at a high level of purity. The drug dealing was a commercial operation carried on for profit to fund both the respondent's drug habit and his lifestyle, in circumstances where... the respondent was 'overwhelmed with greed' ... Apart from the PG... the only mitigating factor was the respondent's favourable personal circumstances, which was not a factor of great weight in the context of the offending.</p>	
53.	<i>LAT v The State</i>	43 yrs at time offending.	Ct 1: Att poss methyl wiss 483.36g.	Ct 1: 7 yrs imp (conc).	Dismissed.	499.01 g.

	<p><i>of Western Australia</i></p> <p>[2018] WASCA 215</p> <p>Delivered 07/12/2018</p>	<p>44 yrs at time sentencing.</p> <p>Convicted after relatively early PG (20% discount).</p> <p>Very limited criminal history; no prior sentences of imp.</p> <p>Left school yr 10.</p> <p>Completed apprenticeship; mostly self-employed; hardworking successful business owner until downturn in building industry; commenced methyl use and dealing drugs.</p> <p>Partner facing deportation; expecting first child together at time of sentencing; suffered death of partner's daughter in 2017.</p> <p>History of methyl use.</p>	<p>Ct 2: Att to wilfully destroy evidence. Ct 3: Poss methyl wiss 15.65g.</p> <p>LAT negotiated the purchase of 0.5kg of methyl for \$67,000 from his co-offender Ms G. Ms G arranged for her supplier to provide the drug.</p> <p>A few days later LAT arranged for a co-offender, Mr N, to obtain cash to facilitate the purchase of the drug. Late that day, LAT and the two co-offenders attended a pre-arranged meeting point where the supplier provided a quantity of white crystal material, later identified as sucrose (ct 1).</p> <p>LAT was arrested at the scene. Whilst being apprehended he threw the bag containing the white crystal material onto the road, causing it to break and spill (ct 2).</p> <p>A search of LAT's home located a quantity of methyl in four separate clipseal bags (ct 3).</p>	<p>Ct 2: 6 mths imp (conc). Ct 3: 1 yr 6 mths imp (conc).</p> <p>EFP.</p> <p>The sentencing judge found the appellant a commercial drug dealer; he was operating at mid-level or even higher and was not selling at street level.</p> <p>The sentencing judge found the appellant stood to profit \$40,000 - \$118,000; he did not accept that any significant proportion of the drug the subject of ct 1 would have been for the appellant's own use.</p> <p>The sentencing judge found the appellant's att to destroy evidence opportunistic and spontaneous; a very serious offence warranting a term of imp.</p> <p>No demonstrated real remorse.</p>	<p>Appeal concerned totality principle on basis of post-sentencing cooperation.</p> <p>At [39] The sole ground of appeal is fundamentally flawed, as it relies on events occurring after the completion of the sentencing process.</p> <p>At [40] ... In exercising the power to admit additional evidence, ordinarily at least, a distinction is drawn between matters which existed at the time of sentencing, but were not known, and matters which have come into existence since the time of the sentence. ...</p> <p>At [40]-[43] Discussion of comparable cases.</p>	
52.	<i>Hughes v The</i>	28 yrs at time sentencing.	Ct 1: Poss MDMA wiss 509g of 18%	Ct 1: 3 yrs imp (cum).	Dismissed.	509.00 g.

	<p><i>State of Western Australia</i></p> <p>[2015] WASCA 164</p> <p>Delivered 24/08/2015</p> <p>Co-offender of</p> <p><i>Guler v The State of Western Australia</i></p> <p>[2014] WASCA 83</p>	<p>Convicted after trial.</p> <p>No relevant criminal history.</p> <p>Two children from prior relationship; educated to 9th yr</p> <p>Owens a struggling roofing business.</p> <p>Co-offender Rizeq convicted after trial and sentenced to TES 10 yrs imp.</p> <p>Co-offender Guler convicted after early PG and sentenced to TES 8 yrs imp.</p> <p>Co-offender Sumner convicted after late PG and sentenced to TES 6 yrs imp.</p>	<p>purity (2,035 tablets). Ct 2: Poss methyl wiss 403ml of 80% purity.</p> <p>Hughes organised and coordinated an operation for drugs to be driven from NSW to WA.</p> <p>In Sydney, Hughes secreted the drugs in the compartment of the bull bar of a vehicle, along with 1.063kg of the cutting agent MSM. Rizeq prepared the vehicle mechanically. Guler assisted in re-installing the bull bar on the vehicle.</p> <p>Guler and Sumner drove the vehicle from Sydney to Perth. Hughes and Rizeq flew to Perth and stayed at a hotel.</p> <p>Police executed search warrants at the hotels that Hughes and his co-offenders were staying. They seized the vehicle and found the drugs and MSM in the bull bar.</p>	<p>Ct 2: 9 yrs imp (cum). TES 12 yrs imp.</p> <p>The trial judge found that the appellant hid the drugs in the bulbar; knew the exact composition of the drug consignment; had ready access to a significant commercial supply of prohibited drugs; and was in sole executive control of the enterprise.</p> <p>The trial judge found that the appellant was the organiser, coordinator and entirely autonomous leader and principal of the operation.</p> <p>The trial judge found that the appellant was at a high risk of reoffending in a similar way.</p>	<p>At [9] The liquid methyl would have been further processed and mixed with the MSM and was capable of producing at least a kilogram of good user-level methyl.</p> <p>At [83] Mr Hughes' involvement in, and culpability for, the offending was the highest of all the co-offenders.</p> <p>At [92] The individual sentences and the TES imposed on Mr Hughes are broadly consistent with the sentences customarily imposed in this jurisdiction.</p>	403 ml.
51.	<p><i>Guler v The State of Western Australia</i></p> <p>[2014] WASCA 83</p> <p>Delivered</p>	<p>28 yrs at time offending.</p> <p>Convicted after early PG.</p> <p>NSW criminal history of no relevance.</p> <p>Qualified spray painter.</p>	<p>Ct 1: Poss MDMA wiss – 509g of 18% purity (2,035 tablets). Ct 2: Poss methyl wiss – 403ml of 80% purity.</p> <p>Guler was recruited for the operation several days before departing from Sydney. He and two others drove from</p>	<p>Ct 1: 2 yrs imp. Ct 2: 6 yrs imp (cum). TES 8 yrs imp. EFP. The appellant deliberately</p>	<p>Dismissed.</p> <p>At [24] The venture was planned and well organised. The offence is a serious example of its type and the appellant bears substantial criminal culpability.</p>	509.00 g. 403 ml.

	<p>22/04/2014</p> <p>Co-offender of <i>Hughes v The State of Western Australia</i></p> <p>[2015] WASCA 164</p>	<p>Very good references.</p> <p>Not a user of illicit substances.</p> <p>Model prisoner whilst on remand.</p>	<p>NSW to WA with MDMA and methyl secreted inside the vehicle's bull bar, along with 1.063kg of the cutting agent MSM.</p> <p>A search warrant was later conducted on a hotel Guler and his co-offenders were staying where the drugs and MSM were found in the bull bar.</p>	<p>lied in his ROI, although did make some admissions, including he was promised \$5,000 for his efforts.</p> <p>The sentencing judge accepted the appellant was not principal offender and that offending was out of character.</p> <p>Purely motivated by commercial gain.</p> <p>Low risk of re-offending.</p>	<p>At [25] Although the appellant has good antecedents and poses little or no risk of further similar offending, general deterrence remains a very important sentencing factor.</p> <p>At [37] The so-called one transaction rule is not a rule at all. It is a handy rule of thumb. It does not have to be applied whenever an offender commits a number of offences which form part of one transaction. In the context of drug offending, it will not necessarily be the case that an offender who is found in possession of a number of different types of drugs at the one time will receive wholly concurrent sentences.</p>	
50.	<p><i>Hickling v The State of Western Australia</i></p> <p>[2016] WASCA 124</p> <p>Delivered 13/07/2016</p>	<p>41 yrs at time sentencing.</p> <p>PG (20% discount).</p> <p>No relevant criminal history.</p> <p>Born in NZ; arrived in Australia 1998.</p>	<p>Ct 1: Poss methyl wiss 7.01g at 37% purity.</p> <p>Ct 2: Poss cannabis wiss 515.07g.</p> <p>A search of Hickling and his car located two clip seal bags containing methyl (ct 1), two mobile phones and \$4,975 in cash. Text messages and a 'tick lists' on the phones recorded payments received and</p>	<p>Ct 1: 3 yrs imp.</p> <p>Ct 2: 6 mths imp (cum).</p> <p>TES 3 yrs 6 mths imp. EFP.</p> <p>The sentencing judge described the offending as serious and found the</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence on ct 1, totality and failure to take into account deportation as a consequence of imp.</p> <p>At [56] ... the Minister is</p>	522.08 g.

		<p>Permanent resident, not a citizen of Australia.</p> <p>Cannabis user from 15 yrs.</p> <p>Daily user of methyl and cannabis at time offending.</p>	<p>amounts owed.</p> <p>Records extracted from the mobile phones indicated that at the time Hickling was apprehended he was in the midst of a drug deal.</p> <p>A search of Hickling's home located cannabis in a vacuum-sealed plastic sleeve, as well as smaller amounts in plastic clipseal bags (ct 2).</p> <p>In addition police found drug paraphernalia; three dead 1m high mature cannabis plants; 12 dead immature seedlings and three living seedlings.</p>	<p>appellant undertook drug transactions on credit and had established a group of persons who purchased illicit drugs from him.</p> <p>The sentencing judge rejected the proposition that half the methyl was for personal use and the other half would have been sold, only to fund his habit and not for profit.</p> <p>Favourable prospects of rehabilitation and positive character references.</p>	<p>obliged to cancel the appellant's visa in light of the imposition of a term of imp of more than 12 mths, subject to the Minister's power to revoke such a decision.</p> <p>At [57] ... the appellant did not expressly ask this court to overrule <i>Dauphin</i> ... We respectfully agree with the reasoning of Steytler J in <i>Dauphin</i>.</p> <p>At [59] The court's sentencing discretion is not appropriately exercised by reference to predictions about how such an administrative discretion, which arises only after the appropriate sentence is imposed, may be exercised at some future time.</p> <p>At [62] ...the evidence ... about the appellant's prospect of deportation and hardship was 'limited'</p> <p>At [63] ... The prospect of deportation is not a mitigating circumstance in WA. In any event, in those</p>	
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					<p>States in which the potential of deportation may be taken into account as a mitigating circumstance, it is necessary for offenders to demonstrate hardship.</p> <p>At [71] ... the appellant was a user of illicit drugs; however, he was also dealing in drugs for profit. The appellant was deeply involved in the drug trade, even if that involvement was at the lower end of the hierarchy.</p> <p>At [72] ... The appellant was found in possession of a reasonably substantial quantity of cannabis in the context of being engaged in the cultivation of that drug for some time prior to his apprehension. The presence of seedlings indicates an ongoing intention to produce and distribute cannabis. Given the nature of this separate and additional offending, it was well open for his Honour to order that the sentence on ct 2 be served</p>
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					cum on ct 1.	
49.	<p><i>Nembousse v The State of Western Australia</i></p> <p>[2015] WASCA 68</p> <p>Delivered 1/4/2015</p>	<p>29 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal history including demanding property by oral threats.</p> <p>Moved to Australia from Nigeria in 1990; partially completed university degree; unemployed since 2012.</p>	<p><u>Indictment</u></p> <p>Ct 1: Poss cocaine wiss 31.6g of 20% purity.</p> <p>Ct 2: Poss methyl wiss 502.24g of 67-70% purity.</p> <p><u>Section 32 Notice</u></p> <p>13 charges.</p> <p>Police executed a search warrant at the appellant's home. They forced open a safe and found 31.6g of cocaine (ct 1) and \$13,750 cash (s 32). Police also found eight live rounds of ammunition, 14.3g cannabis and an anabolic steroid (s 32).</p> <p>On another date, police followed the appellant to his home. The appellant got out of the car carrying a bag and tried to dispose of the bag when challenged by police. Inside the bag were two clipseal bags, one containing 501g of methyl and the other 1.24g methyl (ct 2). The appellant was on bail for ct 1 when he committed ct 2. The appellant was also found in poss of \$4,605 cash, two cans of OC spray, a taser stun gun, 23 serepax tablets, digital scales, a smoking implement and grinder, cannabis and a radio jamming device (s 32).</p>	<p><u>Indictment</u></p> <p>Ct 1: 2 yrs 6 mths imp (cum).</p> <p>Ct 2: 6 yrs imp (cum).</p> <p><u>Section 32 Notice</u></p> <p>Sentences ranging between 3-6 mths (conc).</p> <p>TES 8 yrs 6 mths imp.</p> <p>Sentencing judge found appellant in contact with, and trusted by, persons who had primary access to the source of the drugs.</p> <p>Sentencing judge found appellant at 'a somewhat high level in the chain of distribution of [prohibited] drugs in the community'.</p>	<p>Dismissed – on papers.</p> <p>At [19] The circumstances of the offending are at the high end of the scale of seriousness, having regard to the weight and purity of the methyl and the appellant's role in the distribution hierarchy.</p> <p>At [20] Having regard to all relevant sentencing factors, 6 yrs imp is towards the lower end of the range of sentences customarily imposed in comparable cases.</p>	533.84 g.
48.	<p><i>Nguyen v The State of Western Australia</i></p>	<p>61 yrs at time offending.</p> <p>62 yrs at sentencing.</p> <p>PG (25% discount).</p>	<p><u>Indictment</u></p> <p>Ct 1: Poss methyl wiss 437g of 77-80% purity.</p> <p>Ct 2: Poss heroin wiss 201g of 69-80%</p>	<p><u>Indictment</u></p> <p>Ct 1: 6yrs 6 mths imp.</p> <p>Ct 2: 2yrs 6 mths imp (reduced for totality)</p>	<p>Dismissed.</p> <p>Appeal concerned totality.</p>	638.00 g.

	<p>[2017] WASCA 35</p> <p>Delivered 27/2/2017</p>	<p>No prior criminal history.</p> <p>Born in Vietnam.</p> <p>Limited English and education.</p> <p>Married twice; six children.</p> <p>Good work history; unemployed for some months prior to offending.</p> <p>Commenced using methyl at aged 60.</p>	<p>purity. Ct 3: Poss unlawfully obtained property.</p> <p><u>Section 32 Notice</u> Ch 1: Poss methyl wiss 1.85g. Ch 2: Poss paraphernalia.</p> <p>Police conducted a search of a house occupied by Nguyen. A clipseal bag containing a small quantity of methyl and a smoking implement, which he admitted using, were located.</p> <p>In a locked room, quantities of methyl, heroin and \$153,475 in cash were found. Along with scales, empty clipseal bags, artificial sweetener and sucrose.</p>	<p>reasons) (cum). Ct 3: 2yrs imp (conc).</p> <p><u>Section 32 Notice</u> Ch 1: 6 mths imp (conc). Ch 2: 1 mth imp (conc).</p> <p>TES 9 yrs. EFP.</p> <p>The sentencing judge found the appellant was more than a mere caretaker with limited knowledge of what was at the house; he was a trusted member of the drug organisation and given the quality and quantity of the drugs and the significant amount of cash it was a large scale drug enterprise.</p> <p>Remorseful; willing to address his drug problem; low risk of re-offending.</p>	<p>At [23] ... This was clearly a serious example of offences ... albeit not in the most serious category.</p> <p>At [32] The appellant's sentence appropriately took into account the difficulties which the appellant's age and language difficulties will present for the appellant in the prison environment.</p>	
47.	<p><i>Tran v The State of Western Australia</i></p> <p>[2015] WASCA 218</p> <p>Delivered 03/11/2015</p>	<p>23 yrs at time offending.</p> <p>Convicted after early PG (25% discount).</p> <p>No criminal history.</p> <p>Not a user of drugs.</p>	<p>1 x Poss heroin wiss 689g of 77-80% purity.</p> <p>Tran and his co-offender travelled from NSW to WA separately. They were followed by police on their arrival.</p> <p>Police arrested Tran and his co-offender and found 349g of heroin of 77-79%</p>	<p>8 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found a number of aggravating factors, namely, offence was committed in company,</p>	<p>Dismissed.</p> <p>Ground of appeal only concerned parity with co-offender.</p> <p>At [19] ... critical feature of this case is the lack of information provided to the</p>	689.00 g.

			<p>purity in a bag that Tran was carrying. Police searched their hotel room and found 340g of heroin of 78-80% purity, digital scales and \$1,735 cash.</p> <p>Tran denied any knowledge of the heroin and stated that he found the bag outside of the hotel.</p> <p>The co-offender admitted to police that he was paid cash by a person in Sydney to travel to WA to distribute the heroin. He admitted hiding the heroin packages in the bag carried by Tran and in the hotel room. Tran and co-offender were arrested as they were taking the heroin to supply it to an unknown woman.</p>	<p>the actions were deliberate and specific for distributing heroin, the quantity was very large and of high purity, and the distribution was for financial gain. Whilst the appellant was a courier of the drugs, the scales, purity and quantity indicated the appellant was near the top of the distribution chain.</p>	<p>sentencing judge as to the circumstances leading to the offending and the role played in it by the appellant ... the sentencing judge drew the irresistible inference that both offenders were high level courier involved for commercial gain.</p> <p>At [18] ... there were no proper grounds upon which the sentencing judge could have sentenced the appellant on the basis that he had less knowledge of, or a lesser role in, the offending. Because the appellant chose not to disclose how he came to be involved or what his role was, how his overall role compared with that of Mr Nguyen did not emerge. The appellant cannot now complain that the sentencing judge failed to make a finding that he played a lesser role.</p> <p>At [19] The appellant's age was a matter the sentencing judge expressly took into account... to what extent it</p>	
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					<p>may have been a material factor in the offending again did not emerge... his Honour was entitled to conclude that the appellant's age did not justify a lesser sentence.</p> <p>At [20]... any sense of grievance the appellant may feel because he received the same sentence as his co-offender is not objectively justifiable. If there was any proper basis for the appellant to receive a lesser sentence... it was incumbent upon him to put the relevant facts before the sentencing judge.</p>	
46.	<p><i>Mussarri v The State of Western Australia</i></p> <p>[2018] WASCA 46</p> <p>Delivered 06/04/2018</p>	<p>64-65 yrs at time offending. 67 yrs at time sentencing.</p> <p><u>Ind 1261</u> Convicted after late PG (5% discount).</p> <p><u>Ind 461</u> Convicted after late PG (full satisfaction of ind) (5% discount).</p> <p>Extensive criminal history; prior convictions</p>	<p><u>Ind 1261</u> 1 x Att to poss heroin wiss 361g at 75%-81% purity.</p> <p><u>Ind 461</u> 4 x Sold methyl (cts 4-7) 351.1g at 55%-76% purity.</p> <p>Police conducted an investigation into an interstate drug syndicate.</p> <p><u>Ind 1261</u> Mussarri and a co-offender, Kelly, arranged to purchase a large quantity of heroin from the co-offender Le. Le</p>	<p><u>Ind 1261</u> Ct 1: 5 yrs 8 mths imp (cum).</p> <p><u>Ind 461</u> Ct 4: 5 mths imp (conc). Ct 5: 2 yrs 10 mths imp (conc). Ct 6: 5 mths imp (conc). Ct 7: 4 yrs 9 mths imp (cum with ind 1261).</p> <p>TES 10 yrs 5 mths imp. EFP.</p>	<p>Dismissed.</p> <p>Appeal concerned plea discount and parity principle.</p> <p>At [94] The appellant's overall offending was ... very serious having regard ... to the repetitive and persistent nature of the overall offending; the quantity and purity of the prohibited drugs ...; and the offending the subject of</p>	712.10 g.

	<p>for drug dealing.</p> <p>Born Sicily; migrated to WA with family at young age.</p> <p>Left school yr 8.</p> <p>Completed apprenticeship and TAFE course.</p> <p>Several relationships; number of children; close to some of his children.</p> <p>Number of medical issues; including diabetes; gastritis; haemorrhoids; chronic back pain; heart disease; diagnosed and successfully treated for cancer 2014.</p>	<p>attended Kelly's home. He was arrested and found in poss of heroin. A search of the home located \$130,800 cash (approx value of the heroin in the poss of Le) and drug-dealing items, including digital scales, clipseal bags and tick lists.</p> <p><u>Ind 461</u> A covert operative 'Vinnie' contacted Mussarri to purchase methyl from him.</p> <p>Mussarri supplied Vinnie with 0.37g of methyl with a purity of 75% (ct 4).</p> <p>On another occasion Mussarri agreed to sell or supply Vinnie with 168g of methyl. Mussarri ordered the drug from a Mr Phan. When this amount of the drug was not able to be obtained a further quantity was agreed upon. Mr Phan collected 126g of methyl from a Mr Pham and delivered it to Mussarri's home. Mussarri gave the drug to Vinnie in exchange for \$45,000 cash (ct 5).</p> <p>On another occasion Mussarri supplied Vinnie with 0.73g of methyl (ct 6).</p> <p>On another occasion Mussarri, and his co-offenders, Kelly, Mr Phan, Mr Pham and Ms Mussarri, were involved in the sale of 224g of methyl to Vinnie. Mussarri met with Vinnie to discuss the purchase. Mr Phan then collected the drug from Mr Pham and went to Mussarri's home. Later</p>	<p>The sentencing judge found cts 5 and 7 involved significant quantities of methyl with a high degree of purity; involved transactions at a high level in the scale of distribution and represented 'a continuing course of conduct in the commercial distribution of the drug.</p>	<p>ind 461 having occurred while the appellant was on bail for the offence charged in ind 1261.</p> <p>At [100] ... it was necessary, in order properly to mark the seriousness of the appellant's overall offending, to order that the sentence for ct 7 in ind 461 be served cum upon the sentence for the ct in ind 1261. Further, it was appropriate for the other sentences to be ordered to be served conc with each other and conc with the accumulated sentences.</p>	
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			that day Vinnie went to the house to purchase the drug. At Mussarri's direction Ms Mussarri retrieved the drug from a truck parked at the home and placed it in Vinnie's car, before Vinnie handed her \$80,000.			
45.	<i>Baker v The State of Western Australia</i> [2020] WASCA 117 Delivered 27/07/2020	31-32 yrs at time offending. 34 yrs at time sentencing. Convicted after PG (10% discount). Substantial prior criminal history; including a conviction for possession of MDMA. Past efforts towards education and personal development; constructive community work. History of self-harm; episodes of drug induced psychosis. Entrenched drug use.	8 x Offer to sell methyl 789.5g. A search warrant was executed at the residence of a Mr F. Mr F's mobile telephone was located and seized and was found to contain records of Baker offering to sell or supply methyl to him. Over a period of eight and a half months, on eight separate occasions, Baker offered to sell 10.5g (ct 1); 28g (ct 2); 112g (ct 3); 28g (ct 4); 56g (ct 5); 84g (ct 6); 23g (ct 7) and 448g (ct 8) of methyl. <u>Breach of CSIO</u> Baker was given a 12 mths susp sentence of imp for wilfully destroying evidence. The commission of the offences the subject of cts 4-8 were a breach of this order. Baker was also on bail for the offence of wilfully destroying evidence when he committed the offences the subject of cts 1-3.	Ct 1: 1 yr 3 mths imp (conc). Ct 2: 3 yrs imp (conc). Ct 3: 2 yrs 2 mths imp (cum). Ct 4: 3 yrs imp (conc). Ct 5: 4 yrs 6 mths imp (conc). Ct 6: 5 yrs imp (conc). Ct 7: 2 yrs 9 mths imp (conc). Ct 8: 6 yrs 6 mths imp (conc). TES 8 yrs 8 mths imp. <u>Breach of CSIO</u> 12 mths imp (cum). TES 9 yrs 8 mths imp. EFP. The sentencing judge found the fact the appellant was on bail at the time of committing cts 1-3; ct 3 two days before being sentenced for the offence of wilfully	Allowed (error of fact). Appeal concerned error of fact (appellant's capacity to supply the quantity of methyl the subject of ct 8) and miscarriage of justice (appellant contributed towards need to be subject of special conditions whilst imp). Resentenced: Ct 1: 1 yr 3 mths imp (conc). Ct 2: 3 yrs imp (conc). Ct 3: 2 yrs imp (cum). Ct 4: 3 yrs imp (conc). Ct 5: 4 yrs imp (conc). Ct 6: 4 yrs 6 mths imp (conc). Ct 7: 2 yrs 9 mths imp (conc). Ct 8: 6 yrs imp (conc). TES 8 yrs imp. <u>Breach of CSIO</u>	789.50 g.

				<p>destroying evidence and three days later he made a further offer to sell methyl seriously aggravated his offending and demonstrated a breathtaking audacity and disregard for the law.</p> <p>The sentencing judge found the appellant's capacity to fulfil the offer was an aggravating factor and he was satisfied beyond reasonable doubt that the appellant had the capacity to fulfil the terms of the offers that he made; including the capacity to source the amount of the drug the subject of ct 8.</p>	<p>12 mths imp (cum). TES 9 yrs imp. EFP.</p> <p>At [39] ... It is clear that his Honour gave the appellant some credit for the 'more arduous circumstances' of his detention. ...</p> <p>At [65]-[66] ... His Honour was entitled to be satisfied beyond reasonable doubt that when the appellant made the offer the subject of ct 8, he believed that he had the capacity to fulfil it. ... However, the appellant's belief that he had capacity is not to be equated with capacity in fact.</p> <p>At [68] ... The appellant's belief carries some weight, since he was aware of his history and his discussions with his supplier(s). However, his belief may have been unduly optimistic or ill-founded. There is a significant difference between the</p>	
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					<p>scale of the previous offers and that of ct 8. Consequently, the fulfilment of those previous offers is of limited assistance in providing the appellant's capacity to fulfil the offer the subject of ct 8. ...</p> <p>At [69] ... it was not open to his Honour to be satisfied beyond reasonable doubt that the appellant had the capacity to supply the 448g or 16 ounces the subject of ct 8. ...</p> <p>At [89] ... We would ... reduce the sentences we would otherwise have imposed to recognise the special conditions in which the appellant has been held and will likely be held while in custody.</p>	
44.	<p><i>Tresnjo v The State of Western Australia</i></p> <p>[2015] WASCA 193</p> <p>Delivered 18/09/2015</p>	<p><u>Crews</u> Convicted after trial.</p> <p>62 yrs at time sentencing.</p> <p>No relevant criminal history.</p> <p>Previously married for 23</p>	<p><u>Crews</u> Ct 1: Poss methyl wiss. Ct 2: Poss methyl wiss 860.9g of 46-75% purity.</p> <p><u>Tresnjo</u> Ct 2: Poss methyl wiss 860.9g of 46-75% purity.</p>	<p><u>Crews</u> Ct 1: 3 yrs imp. Ct 2: 6 yrs imp (cum).</p> <p>TES 9 yrs imp.</p> <p>EFP.</p> <p><u>Tresnjo</u></p>	<p>Dismissed.</p> <p>At [68] Mr Neumann's personal circumstances were unfavourable. At the time he was sentenced, he was 57 yrs of age. He was a long-term user of illicit drugs and had two prior</p>	860.90 g.

<p>Co-offenders of: <i>Neumann v The State of Western Australia</i> [2013] WASCA 70</p>	<p>yrs; two adult children.</p> <p>Good employment history; creditable charitable works.</p> <p>Good health; not a drug user.</p> <p><u>Tresnjo</u> Convicted after trial.</p> <p>33 yrs at time offending; 36 yrs at time sentencing.</p> <p>No relevant criminal history.</p> <p>Difficult upbringing; left school in yr 11.</p> <p>Four children with former de facto partner; in a relationship with an associate to co-offender Neumann.</p> <p>Long-term user of illicit drugs.</p> <p>Co-offender Neumann convicted after PG to one ct of conspiracy to poss</p>	<p>Neumann was engaged in a business that imported methyl into WA, where it was sold for profit. Crews was romantically involved with Neumann and was the trusted executive assistant. Tresnjo later assisted Neumann in sourcing and purchasing methyl. Cameron assisted Neumann by transporting cash and drugs interstate. Cookson assisted Neumann by distributing imported drugs and collecting drug debts.</p> <p><u>Ct 1</u></p> <p>Cameron transported a large quantity of cash from Perth to Sydney. Neumann used that cash to purchase a substantial quantity of methyl somewhere between 10 ounces and a pound. Cameron flew from Sydney to Perth carrying the methyl, where it was sold to a buyer.</p> <p>Crews acted as an intermediary to facilitate dealings between Neumann and Cameron. Her credit card was used to purchase flights for Neumann and Cameron. She was involved in counting and bundling the cash used to purchase the drugs, and helped Cameron carry cash through airport security.</p> <p><u>Ct 2</u></p> <p>Crews called most of the shots in the days leading up to ct 2. Neumann and Crews packaged \$140,000 cash. Cameron carried</p>	<p>Ct 2: 10 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge found that each appellant was part “of a crime organisation that was involved in a transaction or transactions for the commercial wholesale distribution of a dangerous drug, although admittedly Ms Tresnjo’s involvement was for a lesser time”.</p> <p>Sentencing judge described the organisation as being “at the topmost level of distribution in this State”.</p> <p><u>Crews</u></p> <p>Sentencing judge found Crews to have a very good understanding of Neumann’s operation and that she was “fully committed to” and an “integral part of” Neumann’s enterprise.</p> <p>No remorse.</p>	<p>convictions for drug dealing. His pleas of guilty were entered late and in the face of a strong State case. Nevertheless, Goetze DCJ said that the pleas demonstrated remorse and acceptance of responsibility.</p> <p>At [70] ... Ms Crews' culpability was less than Mr Neumann's, but nevertheless it was 'still very high' ... As to Ms Tresnjo... her culpability was at least equal to Mr Neumann's .</p> <p>At [84] ... the sentence imposed upon Ms Crews for ct 1 is low, no doubt because of totality.</p> <p>At [85] Although her role was behind the scenes, Ms Crews used her considerable organisational skills to assist in the commission of each offence. She did so for nakedly commercial purposes. She well appreciated the magnitude and scale of the offences</p>	
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		<p>methyl wiss and three cts of poss methyl wiss. Sentenced to TES 15 yrs imp. EFP.</p> <p>Co-offenders Cameron and Cookson died prior to trial.</p>	<p>\$140,000 from Perth to Sydney. Tresnjo travelled to Sydney on a separate plane and sourced methyl from her contacts.</p> <p>Cameron purchased first quantity of methyl from Tresnjo's acquaintance using the \$140,000. The following day, using money provided by Tresnjo, he purchased a second quantity from a friend of Tresnjo's. Cameron flew back to Perth with the methyl and met Crews at Neumann's apartment.</p> <p>Neumann's apartment was searched and police seized 860.9g methyl and drug paraphernalia. Tresnjo was found to be carrying five mobile phones and \$19,800 in cash. Police searched Crews' apartment and found \$29,500 in cash and a money counting machine.</p>	<p><u>Tresnjo</u> Sentencing judge found that Tresnjo was "the moving force that enabled the Neumann organisation to purchase first the one and then the second pound" the subject of ct 2.</p> <p>Sentencing judge found that Tresnjo's "ability to source illicit drugs and arrange transactions had actually outperformed that of Mr Neumann".</p> <p>No remorse.</p>	<p>and played a significant role in their commission. The persistent and determined way in which she executed her role in the offences belies any notion that she was somehow under the romantic spell of Mr Neumann.</p> <p>At [88] Ms Tresnjo played a pivotal role in the organisation and importation into Western Australia of a large quantity of methyl. She did so for commercial purposes. She stood to gain financially from both ends of the transactions. The offence was committed against the backdrop of her already selling quantities of the drug. General and personal deterrence was an important sentencing factor.</p> <p>At [105] Although Ms Crews committed two offences, and her involvement in Mr Neumann's organisation spanned a longer period of time, Ms Crews' role was not at the same level as Ms</p>	
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					Tresnjo's. Once Ms Tresnjo joined the enterprise, she used her contacts in Sydney to source larger quantities of better quality methyl than before and became a principal offender. Ct 2 itself was, having regard to the quantity of methyl involved, clearly more serious than ct 1. Ms Tresnjo's role in the commission of ct 2 was substantially more important than Ms Crews' and would not have happened without her.	
43.	<i>Le v The State of Western Australia</i> [2015] WASCA 73 Delivered 09/04/2015	<u>Le</u> 34 yrs at time offending. Convicted after PG. Extensive irrelevant criminal history. <u>Ngo</u> 35 yrs at time offending. Convicted after PG. Prior criminal history, including cultivate cannabis and supply a commercial quantity of cannabis.	<u>Le</u> 1 x Offer to supply methyl 953.8g of 63-70% purity. <u>Ngo</u> 1 x Offer to supply methyl 953.8g of 63-70% purity. Ngo met with an UCO and agreed to facilitate the supply of 1kg of methyl for \$370,000. Le was present at the meeting. Le escorted Pham from Sydney to Perth. Pham had secreted in her underpants and bra four bags of methyl. The bags contained 56.6g of 63% purity, 51.2g of 69% purity, 131g of 62% purity and 715g of 70% purity respectively.	<u>Le</u> 11 yrs imp. <u>Ngo</u> 11 yrs imp. The sentencing judge found Le had real and positive prospects of rehabilitation The sentencing judge found that, having regard to the quantity and purity of the methyl, Le and Ngo were close to source of drugs and motivated by desire for financial gain.	Dismissed. At [47] There was no information before the sentencing judge as to whether Mr Ngo and Mr Le were principals (that is, acting on their own account) or were acting at the behest of unknown third parties above them in an organisational hierarchy. At [50] I infer Ms Pham's culpability was less because she was the courier who received a flat fee for her participation, which in any	953.80 g.

		<p>Co-offender Pham convicted of poss methyl wiss and sentenced to 7 yrs 6 mths imp.</p>	<p>Ngo texted the UCO and arranged the location for the transaction to take place. Le met with the UCO and confirmed the agreement of the sale of approx. 1kg of methyl for \$370,000. Le checked that the UCO had the money. Le then co-ordinated with Pham to show the UCO the methyl.</p> <p>Le was arrested in the UCO's hotel room and denied the offences.</p> <p>Pham was arrested at the front of the hotel in poss of 953.8g of methyl. She admitted she had been offered \$10,000-\$15,000 to bring drugs from Sydney to Perth as a courier.</p> <p>Ngo was apprehended the following day in Sydney trying to board a one-way flight overseas.</p>		<p>view was extensive and crucial.</p> <p>At [52] The sentencing judge declined to find that 'facilitator' meant that Mr Ngo had organisational seniority or authority over Mr Le and Ms Pham. When the focus shifts from their respective positions in the hierarchy to the actual conduct of each, Mr Le's involvement in the offence is greater.</p> <p>At [58] Their criminal conduct is at the high end of the scale of seriousness of offences of this type. They offered to supply a large quantity of high purity methyl for a wholesale price of \$370,000. Both men were close to the source of the prohibited drug. As is apparent from the agreed facts, they both knew all of the salient features of the transaction. It was a commercial transaction motivated by financial gain. A very lengthy sentence was inevitable and it had to</p>	
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					be significantly higher than that imposed on the courier, Ms Pham.	
42.	<p><i>Sheriff v The State of Western Australia</i></p> <p>[2017] WASCA 185</p> <p>Delivered 16/10/2017</p>	<p><u>Sheriff</u> 27 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior relevant criminal history.</p> <p>Child refugee; fled civil war in Liberia with mother and siblings; father died in Liberia; troubled and difficult background.</p> <p>Completed yr 11; obtained trade certificates.</p> <p>Employed various casual positions.</p> <p>Contributed to the local community.</p> <p><u>Bamba</u> 27 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; two prior non-drug related offences.</p>	<p>1 x Att poss methyl wiss 978.7g at 78.9%, 79.1%, 78.4% and 79.1% purity.</p> <p>Customs officers intercepted two packages, coming through a courier depot at the Perth International Airport. The packages consisted of two cardboard boxes containing a number of items. A white power was found hidden inside four bicycle helmets.</p> <p>The white power was replaced with a benign substance and the packages reconstructed.</p> <p>A mobile telephone number ending in 832 was listed on the address label. This number was used to call the courier company and enquiries made as to when the packages would be delivered.</p> <p>Several days later a police officer posing as a courier attempted to deliver the packages to the labelled address. Nobody was at the home.</p> <p>The following day Sheriff phoned the courier company and changed the delivery address for the packages.</p> <p>The next day a controlled delivery of the packages was made to the new delivery</p>	<p><u>Sheriff</u> 10 yrs imp. EFP.</p> <p><u>Bamba</u> 8 yrs 6 mths imp. EFP.</p> <p><u>Omereonye</u> 8 yrs 6 mths imp. EFP.</p> <p>The trial judge found Sheriff's involvement in bringing the drugs into the country must have been 'at a reasonably early stage', but was not satisfied Omereonye's and Bamba's involvement occurred at the same stage.</p> <p>The trial judge found the appellants engaged in a commercial activity and that the drugs were being obtained for financial gain and not for personal use. Each appellant knew and actively participated in the attempt to obtain the</p>	<p>Dismissed.</p> <p><u>Sheriff</u> Appeal concerned error in finding of fact (832 phone number attributed to him) and disparity with sentences of co-offenders.</p> <p><u>Bamba and Omereonye</u> Appeals concerned length of sentence.</p> <p><u>Sheriff</u> At [166] We are not satisfied that the trial judge made the factual error alleged [as to the phone] or that the factual errors, if established, would be material to the sentencing exercise.</p> <p>At [170] ... Sheriff's higher sentence is explicable by the greater role which he played in the offence. Sheriff was ... involved at an earlier stage than the other two offenders. He was also the principal organiser, having arranged</p>	978.70 g.

		<p>Traumatic childhood; separated from his parents in civil war as a baby; raised in Sierra Leone refugee camp; no contact with his mother; later reunited with his father, now deceased.</p> <p>Stable relationship; two children.</p> <p>Employed various positions; productive member of community.</p> <p><u>Omereonye</u> 40 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal convictions.</p> <p>Stable relationship; two children.</p>	<p>address. Sheriff, Bamba and Omereonye were present at the address and Sheriff signed for the packages.</p> <p>A short time later the three left the premises and drove to Omereonye's home, taking the packages with them. In the carport they took the packages from the car and Bamba kept watch whilst Sheriff and Omereonye opened them and removed the contents.</p> <p>The three then left, stopping to dispose of the empty boxes.</p> <p>They were arrested the same day.</p> <p>The mobile phone with the 832 number was found in the possession of Sheriff at the time of his arrest.</p>	<p>prohibited drugs. It was not a spur of the moment decision and was reasonably sophisticated.</p>	<p>for the parcels to be delivered ...</p> <p><u>Bamba and Omereonye</u> At [176] ... Omereonye and Bamba deliberately involved themselves in the drug transaction for financial gain ...</p> <p>At [177] The value of the methyl was significant.</p> <p>At [178] ... each of the appellants acted in concert to att to possess about a kilogram of high purity methyl. The offence which they jointly committed was objectively serious by reason of its planned nature, as well as by reason of the weight, purity and value of the methyl which they attempted to possess in a commercial operation.</p>	
41.	<p><i>Yiu v The State of Western Australia</i></p> <p>[2016] WASCA 172</p> <p>Delivered 22/09/2016</p>	<p>24 yrs at time offending. 25 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No prior criminal history.</p>	<p>1 x Att to poss methyl wiss 987g of 79.6% purity.</p> <p>Yiu travelled from Hong Kong to Perth on a tourist visa and gave a Cloverdale address to authorities.</p> <p>The following day, Australian Border</p>	<p>9 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge found Yiu was plainly not merely a courier; he would have been involved</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of sentence.</p> <p>At [23] The offence ... was a serious one of its kind. The appellant travelled</p>	987.00 g.

	<p>Published 29/09/2016</p>	<p>Chinese national.</p> <p>Engaged; fiancé pregnant at time offending, but miscarried while Yiu on remand.</p> <p>Diploma in accounting; intelligent man.</p> <p>Sound physical and mental health.</p> <p>Not an illicit drug user.</p>	<p>Force officers intercepted a glass aquarium with a false bottom containing the methyl. The package had been sent from Hong Kong to a recipient named Andy Lo at Yiu's Cloverdale address. Yiu contacted Australia Post under the name Andy Lo and sought to make arrangements to collect the aquarium.</p> <p>Police executed a search warrant at Yiu's address and found kitchen scales, a box-cutter, latex gloves, and a dustpan and brush in the appellant's bedroom.</p> <p>Yiu admitted to attempting to collect the aquarium, but denied knowledge of its contents.</p> <p>The methyl was valued at being between \$846,020 and \$1,208,600.</p>	<p>in repackaging the drugs.</p> <p>Sentencing judge found that someone else in Hong Kong was involved in sending the drugs, but Yiu played a pivotal role in the transaction and was trusted by the person who dispatched the drugs.</p> <p>Sentencing judge found that Yiu was to be paid \$8,500 for his role.</p>	<p>from Hong Kong to Perth specifically to play a pivotal role in the distribution of a large quantity of high purity methyl into the community. While the appellant may not have been involved directly in the sale and supply of the methyl, he was no mere courier. The offence was committed solely for commercial gain...the money he was to be paid would have been used to pay his fiancée's debts and for her medical care... these matters... do not detract from the commercial purpose of the offence. The offence was executed with some ingenuity, persistence and commitment. The appellant's conduct exhibited a high degree of criminality.</p> <p>At [24] The most significant mitigating factor was the appellant's PG. The other mitigating factors... could not be accorded much weight, having regard to the need to appropriately</p>	
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					punish the appellant and provide appropriate personal and general deterrence.	
40.	<p><i>The State of Western Australia v Paolucci</i></p> <p>[2020] WASCA 188</p> <p>Delivered 16/11/2020</p>	<p>25 yrs at time offending. 26 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>No prior criminal history.</p> <p>Italian citizen; on a study/partner/working visa.</p> <p>Family reside in Italy.</p> <p>In a relationship with Australian woman at time offending; remains supportive of him.</p> <p>Studied English and business in Australia.</p> <p>Employed part-time plasterer.</p> <p>Long standing cocaine addiction; in debt to his drug supplier.</p>	<p>Ct 1: Sold MDMA 996g at 81% purity. Ct 2: Poss unlawfully obtained money. Ct 3: Poss cocaine wiss 26.3g at 21% purity. Ct 4: Poss MDMA wiss 13.6g at 83% purity. Ct 5: Poss unlawfully obtained money.</p> <p>Paolucci and the co-offender Smith were at a unit. Two UCOs and the co-offender Hobson attended the unit to purchase 1 kg of MDMA.</p> <p>An UCOs went into the unit with Hobson and handed over \$61,000 in exchange for the MDMA (ct 1).</p> <p>A short time later police entered and apprehended Paolucci and Smith.</p> <p>A search of Paolucci's vehicle located \$320 in cash (ct 2).</p> <p>At Paolucci's home a further search located cipseal bags containing cocaine (ct 3) and MDMA (ct 4) and \$3,400 cash (ct 5).</p> <p>Digital scales containing traces of powder were also found.</p>	<p>Ct 1: 4 yrs imp (cum). Ct 2: 4 mths imp (conc). Ct 3: 1 yr imp (cum). Ct 4: 1 yr imp (conc). Ct 5: 1 yr imp (conc).</p> <p>TES 5 yrs imp. EFP.</p> <p>The sentencing judge found the respondent 'a low-key drug dealer'; he supplied the drugs the subject of ct 1 more in nature of courier than in the nature of a profit taker; his role was to take the drugs from one place and to the point of the unit and then take the money back.</p> <p>Genuinely remorseful; steps taken towards rehabilitation while in custody.</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence (ct 1) and totality principle.</p> <p>Resentenced (25% discount):</p> <p>Ct 1: 7 yrs imp (cum). Ct 2: 6 mths imp (conc). Ct 3: 3 yrs 4 mths imp (conc). Ct 4: 2 yrs 8 mths imp. Ct 5: 1 yr imp (cum).</p> <p>TES 8 yrs imp. EFP.</p> <p>At [66] The very serious nature of the respondent's offending on ct 1 is apparent from the ... quantity and purity of the MDMA. ... The respondent's role in relation to ct 1 was not merely to transport the drugs from one location to another. He was trusted by those who were more senior in the drug dealing enterprise to</p>	1.0359 g.

			<p>Analysis of Paolucci's mobile phone revealed drug-related text messages and a tick list, with figures ranging from 300 to 2,300.</p>		<p>transport the drugs, meet with the purchaser, transfer the drugs to the purchaser in exchange for \$61,000 cash, and deliver the cash to those from whom he took his instructions. [His] role was of importance in the dissemination of drugs into the community. ... [He] performed significant tasks that were integral to the continuing operation of a drug distribution network that was able to obtain and provide 996 g of MDMA, with a high degree of purity, at relatively short notice. ... [He] carried out his role in relation to ct 1 for financial gain, namely to reduce or extinguish an existing drug debt.</p> <p>At [71] In our opinion, the sentence of ... imp for ct 1 was not commensurate with the seriousness of the offence. ...</p> <p>At [74] ... The [respondent's] overall offending on the cts in the indictment was very serious. ... In addition to</p>	
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					<p>the criminality revealed by the facts and circumstances of ct 1, the respondent carried on a separate and distinct drug dealing business in his own right. ...</p> <p>At [75] 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 circumstances and all relevant sentencing factors. ...</p>	
39.	<p><i>Phan v The State of Western Australia</i></p> <p>[2014] WASCA 144</p> <p>Delivered 06/08/2014</p>	<p>19 yrs at time offending. 20 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No prior criminal history.</p> <p>Raised by his mother in impoverished circumstances.</p> <p>Well supported by family and friends; references spoke of his positive personal qualities.</p>	<p>Possess methyl wiss 1.0507kg of 73.9% purity.</p> <p>Phan flew from NSW to WA. At Perth Airport he was stopped by police. A search of his luggage revealed that he was carrying four professionally-sealed tins of jasmine tea. Secreted beneath the tea leaves in each tin were bags of methyl. Altogether, 5 bags of methyl were discovered.</p> <p>Phan admitted he suspected he was carrying drugs; he had been given the drugs in their sealed contained in Sydney and had been instructed to bring them to</p>	<p>7 yrs 4 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found part of the motivation for the offending was to provide his mother with financial support. He also wanted money for himself.</p> <p>Depressive illness was, to some extent, causative of his behaviour.</p>	<p>Dismissed.</p> <p>At [33] Although the appellant's subjective circumstances were favourable, these factors carry less weight because of the importance that must be attached to general deterrence.</p>	1.0507 kg.

		<p>Suffers depressive illness.</p> <p>No history of illicit drug use.</p>	<p>Perth; he was to receive instructions as to where to deliver them after his arrival; he was to be paid \$5000 for his work and he couriered the drugs for the money; he had couriered drugs from Sydney to Perth twice before and on each occasion was paid \$5000.</p>	<p>The sentencing judge found that although the appellant did not precisely know what drug he was carrying, he knew that the tins contained a significant and valuable quantity of a prohibited drug.</p> <p>Could not be sentenced on basis that the offence was a 'one-off isolated incident'.</p> <p>Low to moderate risk of re-offending.</p> <p>Remorseful; good prospects of rehabilitation.</p>		
38.	<p><i>Kobeissi v The State of Western Australia</i></p> <p>[2016] WASCA 188</p> <p>Delivered 02/11/2016</p>	<p>42 yrs at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Long criminal history, including convictions for agg armed robbery; agg assault with intent to rob and poss of prohibited drugs and unlicensed firearms.</p> <p>Senior member of outlaw</p>	<p>Ct 1: Selling methyl 138.79g at 76%-87% purity.</p> <p>Ct 2: Selling methyl 964g at 68% purity.</p> <p><u>Ct 1</u> Kobeissi and a co-offender supplied an UCO with methyl for the sum of \$52,500.</p> <p><u>Ct 2</u> Kobeissi and a co-offender supplied an UCO with methyl for the sum of \$270,000.</p> <p>A search of Kobeissi's home located the</p>	<p>Ct 1: 3 yrs imp (cum). Ct 2: 9 yrs imp (cum). TES 12 yrs imp. EFP.</p> <p>The sentencing judge found the appellant was 'at the higher level of the drug distribution ladder' and his offending was 'in the upper level of seriousness' and that he was caught 'red-handed'.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned totality principle and s 9AA.</p> <p>At [28] Although the appellant sold methyl to the same UCO, the transactions were separate and distinct and warranted cumulary. Each sale ... involved the sale of significant quantities of high purity methyl. The quantities were capable of</p>	1.10279 kg.

		<p>motorcycle gang.</p> <p>Illicit drug user.</p> <p>Heart condition.</p>	<p>\$270,000 cash.</p> <p>Small quantities of methyl and cocaine, a smoking implement; capsicum spray; a bulletproof vest and a knife disguised as a credit card were also found.</p> <p>\$257,375 cash was also located in the roof lining of a vehicle and in a safe at the house. This money was not taken into account at sentencing.</p>	<p>Difficulty accepting full responsibility for his offending behaviour and entrenched antisocial attitudes and beliefs.</p> <p>High risk of reoffending without significant personal change.</p>	<p>being ‘cut’ down further.</p> <p>While the appellant was a user of illicit substances, the object of each sale was very plainly to make money. The appellant was no underling. He was able to source methyl in large quantities and was able to negotiate the sale price in each transaction.</p>	
37.	<p><i>Ly v The State of Western Australia</i></p> <p>[2015] WASCA 18</p> <p>Delivered 30/01/15</p>	<p>46 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No criminal history.</p> <p>Born in rural Vietnam; little education.</p> <p>Settled in Australia in 1987.</p> <p>Very interested in welfare of family and Vietnamese people in Australia.</p>	<p>Ct 1: Poss methyl wiss 495g of 67-71% purity.</p> <p>Ct 2: Poss methyl wiss 145g of 0.2-63% purity.</p> <p>Ct 3: : Poss heroin wiss 485g of 48-60% purity.</p> <p>Two co-offenders. First co-offender was living with Ly as spouse. He was charged in relation to all cts.</p> <p>Second co-offender was elderly and charged only in relation to ct 1.</p> <p>\$115,500 cash alleged to be drug proceeds found at Ly’s house.</p> <p>Ly operating towards the top end of the chain of distribution purely for commercial reward.</p> <p><u>Methyl</u></p> <p>Joint enterprise to source methyl in</p>	<p>Ct 1-2: 9 yrs imp conc</p> <p>Ct 3: 4 yrs imp cum</p> <p>TES 13 yrs imp.</p> <p>EFP.</p>	<p>Dismissed.</p> <p>At [78-79] His Honour found the appellant to be a ‘key and active player’ and a ‘sophisticated and experienced drug dealer’. There was abundant evidence to support his Honour’s findings.</p> <p>Second co-offender sentenced to 5 yrs imp on Ct 1 was distinguished.</p> <p>At [95-96] Appellant did not evince any remorse or contrition. By contrast, co-offender pleaded guilty at the first reasonable opportunity... The appellant was middle aged and apparently in good health. By contrast, co-</p>	1.125 kg.

			<p>Sydney, and transport it to Perth for commercial distribution.</p> <p>Ct 1 – Second co-offender in possession of 495g of methyl of approximately 70% purity when apprehended at airport.</p> <p>Ct 2 - Search of Ly’s home discovered methyl - 145g, varying degrees of purity.</p> <p><u>Heroin</u></p> <p>Ct 3 - Search of Ly’s home discovered heroin - 485g of 48-60% purity.</p>		<p>offender was sick and elderly.</p> <p>At [97] The disparity between the sentences was not such as to give rise to a legitimate or justifiable sense of grievance.</p> <p>At [103] The total effective sentence of 13 years’ imprisonment was not beyond the range open to the primary judge on a proper exercise of his discretion.</p> <p>At [108] The total effective sentence of 13 years imprisonment was appropriate in all of the circumstances. It cannot reasonably be said that the appellant has been left without any reasonable prospect of useful life after release.</p>	
36.	<p><i>Abbott v The State of Western Australia</i></p> <p>[2018] WASCA 45</p> <p>Delivered</p>	<p>46 yrs at time offending. 48 yrs at time of sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; including poss prohibited</p>	<p>Ct 1: Offer to supply cannabis. Cts 2-5: Offer to supply methyl. Ct 6: Poss methyl wiss 68.7g at 73-86% purity. Ct 7: Poss methyl wiss 1.61kg at 78-80% purity. Ct 8: Poss unlawfully obtained property (\$41,750 cash).</p>	<p>Ct 1: 3 mths imp (conc). Ct 2: 6 mths imp (conc). Ct 3: 12 mths imp (conc). Ct 4: 2 yrs imp (cum). Ct 5: 2 yrs imp (conc). Ct 6: 4 yrs imp (conc). Ct 7: 9 yrs imp (cum). Ct 8: 18 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (cts 6-7), parity and totality.</p> <p>At [67] ... it was necessary, in order properly to mark</p>	1.1297 kg.

	<p>06/04/2018</p>	<p>drugs; cultivate cannabis.</p> <p>Loving and supportive family.</p> <p>Left school aged 12 yrs.</p> <p>Completed 5 yr jockey apprenticeship; employed many yrs horse racing industry. Worked hospitality industry and own petrol station.</p> <p>No form of legitimate employment since 2015; receipt of Centrelink benefits.</p> <p>Two serious relationships; currently single; no children.</p> <p>Illicit drug use; increased use after death of his father in 2014.</p>	<p>Police were investigating Abbott and Mr B in connection with drug dealings. During an intercepted telephone call Mr B informed Abbott he had buried some drugs on his property. At Mr B's request Abbott dug up and retrieved the drugs.</p> <p>An unidentified woman asked Abbott if she could get her a stick of cannabis for her. He agreed to do so 'on tick' (ct 1).</p> <p>Abbott received a text message from an unidentified male asking for a 'half weight' (0.5g) of methyl. Abbott agreed to sell or supply him with the drug (ct 2).</p> <p>During a telephone conversation with an unidentified male Abbott agreed to sell him a 'quart' (7g) of methyl. (ct 3).</p> <p>During a telephone conversation with an unidentified male Abbott offered to sell or supply him with half an ounce of methyl for \$5,250 (ct 4).</p> <p>During a telephone conversation with an unidentified female Abbott offered to sell or supply her with half ounce of methyl for \$5,500 (ct 5).</p> <p>Police conducted a search of Abbott's premises. In his bedroom eight bags of methyl were located. The value of the drug, if sold as packaged, was about</p>	<p>TES 11 yr imp. EFP.</p> <p>The trial judge found the appellant was not merely aiding Mr B by permitting him to store illegal drugs under his rainwater tank; he was 'actively involved in the stashing of those drugs under that tank'. All evidence led to the irresistible conclusion the appellant was dealing in drugs on a very regular basis and in amounts of half ounces and quarter ounces.</p> <p>The trial judge was satisfied the appellant and Mr B were in joint possession of the methyl; whilst the appellant's ultimate expected benefit in relation to the drugs may have been less than Mr B's, the appellant would have acquired a benefit.</p> <p>The trial judge found the drugs in the appellant's bedroom were solely for</p>	<p>the seriousness of the appellant's overall offending, for the individual sentences imposed on each of cts 4 and 7 to be served cum.</p> <p>At [69] The TES bears a proper relationship to the overall criminality involved in all of the offences, viewed in their entirety, and after having regard to all relevant circumstances, including those referable to the appellant personally, and the TES imposed in reasonably comparable cases.</p> <p>At [71] ... none of the individual sentences of imp imposed on the appellant is manifestly excessive. ...</p> <p>At [75] ... the appellant was not jointly charged with [Mr B] in relation to any of the cts on which the appellant was convicted.</p> <p>At [78] ... The appellant and [Mr B] were not co-offenders. There was no evidence before the trial</p>	
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			<p>\$34,000 (ct 6).</p> <p>Later, buried under a water tank on the property police found a large container containing two sealed packages of methyl. One contained 1.05 kg at 80% purity, the other 560g of methyl with a purity of 78% (ct 7).</p> <p>Also found in his bedroom was the sum of \$11,700 cash in a box that could be locked, along with \$100 in a draw. Police later seized a bag belonging to Abbott containing \$29,950 cash (ct 8).</p>	<p>the purpose of dealing commercially in methyl and he was 'certainly more than a user/dealer'.</p> <p>The trial judge found the 1.61kg of methyl, if sold in one ounce lots, was worth nearly \$650,000 and if sold in 1g lots it was worth nearly \$1.3 million.</p> <p>Remorseful in way he has treated his family; however no indication of more general remorse.</p>	<p>judge and there is no evidence before this court that the offences of which the appellant was convicted and the offences of which [Mr B] was convicted related to their participation in a common criminal enterprise. ... the overall seriousness of the offences of which the appellant was convicted was significantly greater than the overall seriousness of the offences of which [Mr B] was convicted.</p> <p>At [86] ... it is not reasonably arguable that the appellant should have received any different individual sentences or a different TES, having regard to all the facts and circumstances of the case ...</p>	
35.	<p><i>Ye v The State of Western Australia</i></p> <p>[2016] WASCA 103</p> <p>Delivered 24/06/2016</p>	<p>20 yrs at time offending. 21 yrs at time sentencing.</p> <p>Early PG (25% discount).</p> <p>Born in China. Parents separated when aged 8 and largely raised by his</p>	<p>Ct 1: Supplying methyl to another 137g at 80% purity. Ct 2: Poss methyl wiss 1.014kg</p> <p><u>Ct 1</u> The co-accused and another drove to Ye's home and collected methyl. The vehicle was stopped and the methyl found.</p>	<p>Ct 1: 5 yrs imp. Ct 2: 8 yrs imp (conc).</p> <p>TES 8 yrs imp. EFP.</p> <p>The sentencing judge found the offences related to significant amounts of</p>	<p>Dismissed – on papers.</p> <p>Appellant challenged length of sentence.</p> <p>At [21] The quantity and high level of purity of the drugs in this case indicated</p>	1.151 kg.

		<p>grandparents.</p> <p>In Australia on a student visa, since expired.</p> <p>Prior good character.</p>	<p><u>Ct 2</u></p> <p>Numerous used and unused clipseal bags; latex gloves, some with traces of crystal residue; digital scales; multiple mobile phones and travel documents in his name were found at Ye's home.</p> <p>Three clipseal bags containing 24g of methyl at 74% purity; 494g of methyl at 78% purity and 496g of methyl at 88% purity were also found.</p> <p>Ye claimed he was paid \$27,000 and provided with accommodation to commit the offences and the money was to be used to pay his grandfather's medical expenses.</p>	<p>high grade methyl and concluded the appellant knew he was involved at a high level of dealing and that he was "more culpable than a mere courier". The airline boarding passes indicated travel on multiple occasions consistent with courier activity and it was clear that the offences were not isolated instances.</p>	<p>... the appellant was engaged at the high end of the chain of distribution. While he was not the owner of the drugs or the organiser of their distribution, he nevertheless played an important role in facilitating their distribution and he did so for commercial gain.</p> <p>At [25] ... the appellant's offending was more than that of a courier and his offending was not a one-off involvement in the drug trade.</p>	
34.	<p><i>Stokes v The State of Western Australia</i></p> <p>[2016] WASCA 87</p> <p>Delivered 31/05/2016</p>	<p><u>Stokes</u></p> <p>23 yrs at time offence. 24 yrs at time sentence.</p> <p>Early PG (25% discount).</p> <p>Short criminal history in Ireland and Western Australia.</p> <p>Irish national. Strong parental and family support.</p> <p>Diagnosed with ADHD as a child for which he was medicated.</p>	<p>Ct 1: Poss MDMA wiss 80.9g of 44%-45% purity, Ct 2: Att poss MDMA wiss 115.8g of 44%-47% purity Ct 3: Poss alpha-PVP wiss 993g of 5%-6% purity</p> <p>Stokes and Busher were jointly charged.</p> <p>Stokes leased a private post box, its sole purpose for the delivery of drugs. A number of parcels containing illicit drugs were delivered to the post box. On each occasion Stokes was paid to collect the parcels and deliver them.</p> <p><u>Indictment</u></p>	<p><u>Stokes</u></p> <p>Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum). Ct 3: 5 yrs imp (cum).</p> <p>TES 8 yrs imp. EFP</p> <p><u>Busher</u></p> <p>Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum) Ct 3: 2 yrs 2 mths imp (cum).</p>	<p>Allowed.</p> <p>Appellants challenged length of sentence.</p> <p>Mr Stokes resented to: Ct 1: 1 yr 6 mths imp (cum). Ct 2: 1 yr 6 mths imp (cum). Ct 3: 3 yrs imp (cum).</p> <p>TES 6 yrs imp. EFP.</p> <p>Mr Busher resented to: Ct 1: 12 mths imp (cum). Ct 2: 12 mths imp (cum).</p>	1.1897 kg.

		<p>Educated to Year 11.</p> <p>Problems with illicit substance use and a heavy drinker.</p> <p><u>Busher</u> 25 yrs at time offence. 26 yrs at time sentence.</p> <p>Early PG (25% discount).</p> <p>No prior criminal history.</p> <p>Irish national. Large close-knit family.</p> <p>Qualified tradesman with good work record.</p> <p>No problems with alcohol or illicit substances.</p>	<p>A package containing 468 MDMA tablets was delivered to the post box. The package was intercepted by police and the MDMA was replaced with an inert substance (ct 2).</p> <p>A week later another two packages were delivered to the post box. One contained 329 MDMA tablets (ct 1) and the other alpha-PVP (ct 3).</p> <p>Busher and two others attempted to collect the parcels, but were unable to do so.</p> <p>Later that day Busher collected the packages using a false driver's licence as identification.</p>	<p>TES 5 yrs 2 mths imp. EFP</p> <p><u>Stokes</u> The sentencing judge found he played a very important role by leasing the post box and that the operation was "sophisticated" and "well organised".</p> <p><u>Busher</u> The sentence judge described his involvement as a "one-off out of character aberration, somewhat opportunistic in nature". He willingly and persistently took part in the offences and must have appreciated he was being asked to pick up a valuable shipment of drugs.</p>	<p>Ct 3: 2 yrs imp (cum). TES 4 yrs imp. EFP.</p> <p>At [59] There is no evidence that Mr Stokes played any role in planning, organising, or orchestrating the offences.</p> <p>At [60] ... nor that he was to be involved in their ultimate sale or supply into the community.</p> <p>At [62] ... the enterprise in which Mr Stokes played a role involved large quantities of dangerous drugs being distributed into the community. Mr Stokes' willing provision of a post box to which packages containing illicit drugs were sent was an important, if not crucial, link in the distribution chain. The offending was not a "one-off" event or a momentary aberration.</p> <p>At [79] Mr Busher's criminality was less than that of Mr Stokes. Nevertheless, he willingly</p>	
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					played an important role in the offences with a considerable degree of persistence, and was motivated by financial gain. Without his involvement, the packages containing the illicit drugs could not have reached those who intended to distribute them into the community.	
33.	<p><i>Seeto v The State of Western Australia</i></p> <p>[2014] WASCA 221</p> <p>Delivered 28/11/2014</p>	<p>38 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Significant criminal history; including drug convictions.</p> <p>Studied as a chef, and Diploma in Community Services; Studying Diploma in Occupational Health and Safety.</p> <p>Employment in youth work, aged care and disability services.</p> <p>One child from a former relationship.</p> <p>Drug user on an 'on and off' basis since 13 yrs; heavy user of drugs when</p>	<p>Ct 1: Used identification material to facilitate the commission of an indictable offence.</p> <p>Ct 2: Poss methyl wiss 21.21g of 64-79% purity.</p> <p>Ct 3: Poss MDMA wiss 2.01g.</p> <p>Ct 4: Poss cocaine wiss 2.51g of 10% purity.</p> <p>Ct 5: Poss methyl wiss 431.8g of 57.4% purity.</p> <p>Ct 6: Conspire to sell/supply methyl 454g.</p> <p>Ct 7: Poss methyl wiss 279g of 70% purity.</p> <p>Ct 8: Poss methyl wiss 1.78g.</p> <p>Seeto was involved purchasing in Sydney large quantities of high purity methyl and importing to WA and then arranging for its distribution. The offending involved a considerable degree of preparation and planning and Seeto recruited others to assist him in his operation.</p> <p>During a search of a rented storage unit</p>	<p>Ct 1: 8 mths imp (conc).</p> <p>Ct 2: 2 yrs imp (conc).</p> <p>Ct 3: 8 mths imp (conc).</p> <p>Ct 4: 8 mths imp (conc).</p> <p>Ct 5: 6 yrs imp.</p> <p>Ct 6: 6 yrs imp (cum).</p> <p>Ct 7: 3 yrs imp (cum).</p> <p>Ct 8: 6 mths imp (conc).</p> <p>TES 15 yrs imp.</p> <p>Declined to be interviewed.</p> <p>The sentencing judge noted the appellant was engaged in a commercial drug distribution business and was at the upper level in the chain of distribution.</p>	<p>Allowed.</p> <p>Resentenced to 5 yrs imp on Cts 5 and 6 and 2 yrs on Ct 7.</p> <p>TES 12 yrs imp.</p> <p>Discusses a number of observations concerning s9AA of the <i>Sentencing Act</i>.</p> <p>At [76] The total sentence imposed in this case was very significantly higher than sentences imposed in comparable cases... The total effective sentence imposed here is not merely high, it is inconsistent with standards of sentencing customarily observed in cases of this kind.</p>	1.192 kg.

		<p>offences occurred.</p> <p>The appellant committed Cts 5 - 8 whilst on bail for Cts 1 and 2.</p>	<p>police also located cocaine, MDMA and drug paraphernalia.</p>			
32.	<p><i>Zohdy v The State of Western Australia</i></p> <p>[2014] WASCA 141</p> <p>Delivered 06/08/2014</p>	<p>20 yrs at time offending. 21 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>Youngest of 4 children; close supportive family.</p> <p>Married 6 years.</p> <p>Suicide of brother devastating effect on appellant; suffered death of his mother shortly before sentencing.</p> <p>Amphetamine user.</p> <p>Husband former user of drugs and had accumulated significant debt. Dealing in order to discharge his debt and persuaded the appellant to help him.</p> <p>Husband faced additional charges, PG and sentenced to 5 yrs imp.</p>	<p>Ct 1: Sell MDMA 260 tablets. Ct 2: Sell MDMA 1000 tablets.</p> <p><u>Ct 1:</u> Over a two-day period Zohdy exchanged text messages and telephone calls with her husband (and co-offender). Her husband was working away. Arrangements were made for Zohdy to receive a quantity of MDMA pills at her home address and then supply those pills to a third party.</p> <p>Zohdy, having received 260 tablets, supplied them to another person at \$20 each pill. She received \$5200.</p> <p><u>Ct 2:</u> About 15 days later Zohdy exchanged text messages and telephone calls with her husband. Her husband was again working away. Arrangements were made for a further supply of MDMA. Her husband arranged for 1000 MDMA pills to be delivered to Zohdy at her home. Following instructions from her husband Zohdy supplied the 1000 tablets to a purchaser for \$17 each. The total amount received was \$17,000.</p>	<p>Ct 1: 12 mths imp. Ct 2: 2 yrs 6 mths imp (conc).</p> <p>TES 2 yrs 6 mths imp.</p> <p>Evasive in ROI but subsequently co-operated with police and provided information.</p> <p>The sentencing judge accepted that the appellant was partly driven by blind loyalty to her partner.</p>	<p>Dismissed – on papers.</p> <p>At [22] There was no suggestion that she was coerced or pressured into complying and the text messages show that she was ready to perform the role that her husband gave her.... That she may have been partly motivated by a wish to assist her husband in discharging his drug debt does nothing to mitigate the offences.</p>	1260 tablets.
31.	<i>Hollingsworth v</i>	<u>Ind 46</u>	<u>Ind 46</u>	<u>Ind 46</u>	Dismissed – on papers.	1.6014 kg.

<p><i>The State of Western Australia</i></p> <p>[2018] WASCA 47</p> <p>Delivered 10/04/2018</p>	<p>23 yrs at time offending. <u>Ind 47</u> 24 yrs at time offending.</p> <p><u>Ind 46</u> Convicted after PG 20% discount) (cts 1 & 2) Convicted after trial (ct 5).</p> <p><u>Ind 47</u> Convicted after PG (25% discount).</p> <p>Minor criminal history.</p> <p>Parents separated aged 2 yrs; brought up by his mother and stepfather; both highly supportive.</p> <p>Completed school; did reasonably well.</p> <p>Qualified plumber; stable work number of years; lost job as a result of drug use.</p> <p>No physical health issues.</p> <p>Finding prison psychologically challenging; medicated.</p>	<p>Cts 1: Poss MDMA wiss 29.9g at 16% purity. Ct 2: Poss money suspected of being unlawfully obtained. Ct 5: Poss MDMA wiss approx. 1.4kg at 15%-19% purity.</p> <p><u>Ind 47</u> Ct 1: Poss MDMA wiss 148g at 1% purity. Ct 2: Poss methyl wiss 23.5g at 75%-87% purity. Ct 3: Poss money suspected of being unlawfully obtained.</p> <p><u>Ind 46</u> Hollingsworth took a backpack containing 3,488 MDMA tablets and stored them at the home of his co-offender, Mr Sims.</p> <p>The next day Hollingsworth and Mr Sims obtained and stored at the home an altered sawn-off .22 calibre rifle.</p> <p>Later that day Hollingsworth took some of the MDMA tablets from his backpack and he, and Mr Sims, drove to a number of locations intending to sell some of the tablets. Hollingsworth conducted the drug transaction by himself, whilst Mr Sims remained in the vehicle.</p> <p>That afternoon the vehicle was stopped by police. As this occurred Hollingsworth broke one of four mobile phones he had in</p>	<p>Ct 1: 2 yrs 4 mths imp (conc). Ct 2: 12 mths imp (conc). Ct 5: 7 yrs 6 mths imp (cum with ct 2 ind 47).</p> <p><u>Ind 47</u> Ct 1: 3 yrs imp (conc). Ct 2: 2 yrs 6 mths imp (cum with ct 5 Ind 46). Ct 3: 16 mths imp (conc).</p> <p>TES 10 yrs imp. EFP.</p> <p>The sentencing judge found the appellant a significant mid-level to upper-level dealer; engaged for a significant period in an extensive and ongoing course of drug dealing; the offences were not isolated incidents, nor out of character.</p> <p>The sentencing judge found the appellant engaged in drug dealing and committed the offences for profit, to make money over and above what he needed to repay a debt and fund his own addiction.</p>	<p>Appeal concerned parity principle (ct 5).</p> <p>At [50] Mr Sims' criminality in ct 5 was of a different, and significantly lesser, quality than the criminality of the appellant. Mr Sims was not the owner of the MDMA. ... Mr Sims' participation was limited to a temporary joint possession with the appellant ... for the purpose of making the tablets available for collection from his bedroom by the appellant as and when he required. Mr Sims, ..., was not aware of the precise quantity of the drug. ... his role was very much secondary to that of the appellant.</p> <p>At [51] ... the appellant's antecedents were favourable to him and were more favourable than Mr Sims' antecedents. However, it is well established that, in drug offending of the kind engaged in by the appellant,</p>	<p>(3593 tablets)</p>
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		History of MDMA use.	<p>his vehicle to destroy records of his drug dealing activities.</p> <p>Hollingsworth was searched and found in possession of 105 MDMA tablets (ct 1).</p> <p>\$2,525 cash was also found on his person and in his car (ct 2), along with an exercise book containing a record of his drug dealing business.</p> <p>The same day police executed a search warrant at the home of Mr Sims and discovered Hollingsworth's backpack containing the MDMA tablets, along with the firearm (ct 5).</p> <p><u>Ind 47</u> Some mths later police executed a search warrant at Hollingsworth home and located MDMA tablets and powder (ct 1) and various quantities of methyl (ct 2).</p> <p>Also found at the home was AU\$21,250 and US\$800 in cash (ct 3).</p>	<p>The sentencing judge found the offences the subject of Ind 46 very serious; committed as part of an ongoing and significant course of serious criminal conduct and the offences the subject of Ind 47 were aggravated by the fact they were committed while on bail for the offences the subject of Ind 46.</p> <p>Undertook rehabilitative programmes and educational courses on remand; remorseful; accepted responsibility for his offending; insight into seriousness of his criminal conduct.</p>	<p>favourable personal circumstances, ... are subsidiary considerations because of the need to provide for general and personal deterrence.</p> <p>At [52] ... we are satisfied that it is not reasonably arguable that the disparity of three yrs between the sentences imposed on the appellant and Mr Sims for ct 5 infringed the parity principle or the principle of equal justice. The disparity reflected the much more serious criminality of the appellant ...</p>	
30.	<p><i>Bees v The State of Western Australia</i></p> <p>[2017] WASCA 202</p> <p>Delivered 27/10/2017</p>	<p>62 yrs at time offending. 63 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Prior criminal history; mostly poss of prohibited drugs; dishonesty and traffic offences. No</p>	<p>Ct 1: Poss methyl wiss 1.480kg at 80.7% average purity. Ct 2: Poss methyl wiss 147.87g at 73.1% average purity. Ct 3: Poss cocaine wiss 8.53g at 79% purity.</p> <p><u>Ct 1</u> Police stopped Bees driving his motor vehicle. A search of the vehicle located a</p>	<p>Ct 1: 10 yrs imp (cum) Ct 2: 2 yrs imp (cum). Ct 3: 1 yrs imp (conc).</p> <p>TES 12 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant had a</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and first limb of totality principle and error in finding of fact on ct 1 (only available inference was the appellant's role involved distributing large quantities of drugs for</p>	1.6364 kg.

		<p>previous sentences of imp.</p> <p>Two children from a previous relationship which ended 19 yrs ago.</p> <p>Completed apprenticeship; worked many yrs in construction and hairdressing industries. Unemployed at time offending.</p> <p>History of illicit drug use; regular user of amphetamines.</p> <p>In good health; no mental health issues.</p>	<p>large amount of a crystalline substance in two clip seals bags within a plastic bag, inside a plastic container.</p> <p><u>Cts 2 and 3</u> The same day police executed a search warrant at Bees home, where numerous quantities of methyl in clipseal bags were located, along with the quantity of cocaine.</p> <p>The cutting agent MSM and numerous empty clipseal bags of varying sizes, a 'tick list' and several mobile phones were also located.</p> <p>The 'tick list' revealed Bees had been selling prohibited drugs on credit on a regular basis between April 2014 and July 2015.</p> <p>The total value of the drugs he sold was about \$135.000.</p>	<p>large quantity of drugs of fairly high purity and of significant value.</p> <p>The sentencing judge found the appellant's role towards the top of the hierarchy and that the drug dealing indicia found in the appellant's home showed he had been distributing large quantities of drugs for commercial benefit.</p> <p>Limited remorse; cooperative with police; but limited admissions made in relation to ct 1; risk of re-offending.</p>	<p>commercial benefit).</p> <p>At [62] ... the sentencing judge's finding that the appellant intended to sell into the community the overwhelming majority of the 1.480 kg of methyl ... was not the only reasonable inference open on the material before his Honour.</p> <p>At [65] ... a different individual sentence should not have been imposed in respect of ct 1 and ... a different TES should not have been imposed in respect of cts 1, 2 and 3.</p> <p>At [70] The various serious nature of the appellant's offending on ct 1 is apparent from ... The quantity, purity and value of the methyl. ... The appellant's role in taking poss of a significant part of the 1.480 kg ... for the purpose of delivery to another person who would in turn sell and supply the drug into the community. ... The appellant's intention to retain a significant but</p>	
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					<p>lesser quantity ... for sale by him in the course of his thriving drug dealing business.</p> <p>At [71] The appellant's offending on ct 1 was not isolated or an aberration.</p> <p>At [73] ... The sentence is broadly consistent with the sentencing range that is discernible from reasonably comparable cases.</p> <p>At [76] ... it was necessary, in order properly to mark the seriousness of the appellant's overall offending, for the individual sentences imposed on each of cts 1 and 2 to be served cumulatively. ...</p>	
29.	<p><i>HSV v The State of Western Australia</i></p> <p>[2020] WASCA 5</p> <p>Delivered 15/01/2020</p>	<p>30 yrs at time offending. 31 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>No significant criminal history.</p> <p>Supportive family; very close siblings.</p>	<p>Ct 1: Sold methyl 27.8 g at 72% purity. Ct 2: Poss cocaine wiss 630.07 g. Ct 3: Poss MDA wiss 183.3 g (527 tablets). Ct 4: Poss methyl wiss 977.82 g Ct 5: Poss unlawfully obtained property.</p> <p>HSV drove to a car park. A woman approached his vehicle and got into the front passenger seat. HSV handed her a quantity of methyl.</p>	<p>Ct 1: 3 yrs 6 mths imp (cum). Ct 2: 5 yrs 6 mths imp (conc). Ct 3: 3 yrs imp (conc). T 4: 9 yrs 6 mths imp (cum). Ct 5: 18 mths imp (conc). TES 13 yrs imp.</p>	<p>Dismissed.</p> <p>Appeal concerned totality. Individual sentences were not challenged.</p> <p>At [46] The overall criminality involved in all of the appellant's offending was high. He was operating a commercial drug dealing</p>	<p>1.818.99 kg (527 tablets)</p>

		<p>Educated to yr 11.</p> <p>Single; no children; acrimonious breakdown of 6 yr relationship.</p> <p>Good employment history; violently assaulted in 2017; unable to work 6 mths due to injury.</p> <p>No ongoing substance abuse issues; ecstasy use from aged 19 yrs; progressed to methyl and cocaine use; \$20,000 drug debt.</p>	<p>Later that day HSV was stopped driving his motor vehicle. He was conveyed to his home address where a search warrant was executed. Police located a 5.57 g package of cocaine (85% purity); three packages each containing 100 MDA tablets weighing 26.3 g (12% purity), 26 g (15% purity) and 26.4 g (13% purity). A further package containing 227 MDA tablets weighing 59.6 g (14% purity) was also found.</p> <p>Three bundles of cash totalling \$33,075 were also located, along with a further 3.72 g of methyl (80% purity).</p> <p>Clip seal bags, elastic bands, digital scales, paper towels with printed logos and a vacuum sealing machine were also found.</p> <p>A search of the vehicle parked at the premises located a sophisticated secret compartment, activated by hydraulic rams, containing 499 g of cocaine (88% purity) and four individually wrapped packages of cocaine, weighing 27.8 g, 28.1 g, 27,8 g and 27.9 g each (83–86% purity). The vehicle was registered in his brother's name to avoid drawing attention to himself.</p> <p>Two further vacuum-sealed bags containing 395 g of methyl (69% purity)</p>	<p>EFP.</p> <p>The sentencing judge found the appellant's offending very serious; it involved a large quantity of drugs and he was dealing for substantial profit in a large-scale commercial drug dealing operation and he had engaged a sophisticated system to avoid detection in the form of the secret compartment.</p> <p>The sentencing judge noted the variety of drugs involved was an agg factor.</p> <p>Appellant remorseful.</p>	<p>business involving significant quantities of drugs. He was in possession of about a kg of methyl with intent to sell at least most of it to others as part of his regular business. He was dealing with a range of other different kinds of prohibited drugs. There was a significant element of planning and sophistication involved in the appellant's steps to conceal the drugs. He was engaged in a commercial operation for profit. While the appellant was acting as agent for another person, his payment of \$5,000 per week plus drugs for his own use was a significant personal benefit for the appellant. It indicates the importance of his role in the particular drug dealing enterprise. The offending was not fleeting, isolated or out of character. The quantity, purity and variety of the drugs, and the value of the cash, found in the appellant's possession, together with the sophistication of the steps</p>	
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			<p>and 496 g of methyl (80% purity) were also located.</p> <p>The vehicle was seized for further examination. Another hidden compartment in the front dashboard, operated by remote control, was located and found to contain four packages of methyl, two weighing 13.8 g (77% and 78% purity) and the other two weighing 27.8 g (76% purity) and 27.7 g (74% purity).</p> <p>A further search of the first secret compartment revealed an additional package containing 13.9 g (67% purity) of cocaine.</p>		<p>taken to conceal the drugs and the payment the appellant was receiving, indicate that the appellant was more than the mere ‘foot soldier’ suggested by his counsel’s submission.</p> <p>At [47] ... Some degree of accumulation was clearly required in respect of the ... offending, particularly having regard to the additional criminality involved in ct 2 ... and ct 5 ...</p>	
28.	<p><i>Jiang v The State of Western Australia</i></p> <p>[2020] WASCA 7</p> <p>Delivered 15/01/2020</p>	<p>33 yrs at time sentencing.</p> <p>Convicted after very late PG (5% discount).</p> <p>No prior criminal history.</p> <p>Born China; family still reside in China.</p> <p>Moved to New Zealand aged 15 yrs; completed high school and Bachelor degree; dedicated student; financially supported by parents.</p> <p>Single; no children.</p>	<p>1 x Poss cocaine wiss 1.97 kg at 79%-89% purity.</p> <p>Jiang and Ms Wang were long-time friends. When Ms Wang eventually moved to Perth from New Zealand she would regularly ask Jiang to visit her.</p> <p>A joint investigation by State and Federal authorities was conducted into the importation, distribution and manufacture of prohibited drugs. Surveillance and intercepted discussions revealed a Mr To was expecting the arrival of prohibited drugs, which he was going to provide to Ms Wang and her partner Mr Xu. Ms Wang was a regular user of methyl.</p>	<p>6 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant’s offending was serious; it was a substantial amount of cocaine at a high level of purity; the drug could have been cut to increase the profit on sales; her role was at the bottom end of the hierarchy and she did not participate for her own commercial benefit; however she was a link in the drug dealing chain</p>	<p>Dismissed.</p> <p>Appeal concerned error in finding (appellant’s role in enterprise); length of sentence and plea discount.</p> <p>At [55] ... there is no proper basis for concluding that the sentencing judge erred ... by finding that the appellant aided the offending by ‘hiring cars’.</p> <p>At [62] The statement that the appellant drove Mr Xu to the Bunnings store ... was an error that did not</p>	1.97 kg

		<p>Owner of a successful business, purchased by her parents; employed seven persons; liquidated while in custody; parents suffered financial loss.</p> <p>No history of illicit drug use.</p> <p>Likely to be deported from Australia upon completion of prison sentence.</p>	<p>Jiang eventually travelled to Perth to visit Ms Wang. Ms Wang told Jiang she had lost money lent in a failed business venture and that she had cancer. Respectful of Ms Wang as an older person and as part of her culture, she agreed to assist her.</p> <p>Ms Wang telephoned Jiang and, in a coded manner, told her that drugs had arrived. Jiang was not aware that Ms Wang was talking about drugs or illegal activity.</p> <p>Ms Wang advised Jiang to meet her at an apartment complex. Ms Wang instructed Jiang to stay downstairs, whilst inside the apartment she and Mr To tried to cut open a metal cylinder containing drugs.</p> <p>By reason of their behaviour Jiang became suspicious of what was going on inside the apartment.</p> <p>Jiang travelled with a Mr Sui to a Bunnings store. She remained in the vehicle while Mr Sui purchased items to cut open the cylinder. Jiang was now aware that she was assisting the co-offenders in a criminal activity.</p> <p>Jiang returned to the apartment, carrying the items that had been purchased inside. They were unable to open the cylinder and arrange to take it to Mr Sui at another</p>	<p>which was involved in obtaining a large quantity of drugs for distribution in Australia.</p> <p>The sentencing judge found the appellant had no involvement in the planning or organisation to obtain the drug; she was not involved in its distribution or had any direct knowledge of how the drug would be distributed; her role was confined to aiding the activities carried out that night.</p> <p>The sentencing judge found the appellant was manipulated by Ms Wang; she was motivated to assist her friend and believed it was to recover a \$500,000 debt relating to a failed business venture.</p> <p>Appellant genuinely remorseful; efforts made towards rehabilitation whilst in custody; low risk of re-offending.</p>	<p>affect, and was incapable of affecting, the sentence that the sentencing judge imposed on the appellant. The aspect which aggravated the appellant's criminality was her participating in and assisting Mr Xu (who did not speak English) with the purchase of tools to be used to gain access to the drugs in the metal cylinder. ... The error was not material, and does not enliven the jurisdiction of this court to resentence the appellant. ...</p> <p>At [72] ... it was well open to the sentencing judge to consider that a discount of only 5% was appropriate or the very late plea of guilty. ...</p> <p>At [87] It is true that the appellant was only knowingly involved in the enterprise for a few hrs before police intervened. She did not expect or receive a financial reward for her assistance, and was acting out of a misguided sense of loyalty to a friend.</p>	
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			<p>address.</p> <p>Jiang drove Mr To and the cylinder to Mr Sui. Jiang was now aware the cylinder contained a considerable amount of drugs.</p> <p>Jiang and Mr Xu then travelled to a Bunnings store where they purchased tools. Jiang paid for the tools selected by Mr Xu and then returned to Mr Sui's address.</p> <p>Police then executed a search warrant at the address. Mr Xu was observed using an angle grinder to cut into the cylinder, while Mr To and Ms Wang watched.</p> <p>The fire brigade attended and cut open the cylinder. It was found to contain 11 packets of cocaine, in varying sizes</p>		<p>[She] had no knowledge of, or involvement in, planning for the importation and subsequent distribution of the drugs. However, she was generally aware of the scale of the offending in which she was knowingly participating. Although she did not expect any personal financial reward, she was seeking to obtain a very significant financial benefit for Ms Wang, which could be used to satisfy what the appellant understood to be a \$500,000 debt.</p> <p>At [90] Given the nature and short period of the appellant's involvement, the absence of any expectation of financial reward and her very good antecedents, the sentence of 6 yrs imp may be regarded as high. However, that sentence was very much lower than the range found in many cases concerning possession, wiss, of large quantities of prohibited drugs such as methyl, heroin and cocaine. The lateness of the appellant's</p>
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					PG significantly reduced its mitigating effect. ... we are not persuaded that the sentence imposed was unreasonable or plainly unjust. ...	
27.	<p><i>Separovic v The State of Western Australia</i></p> <p>[2018] WASCA 36</p> <p>Delivered 19/03/2018</p>	<p>43 yrs at time offending. 45 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Minor criminal history, prior convictions for poss of methyl and cannabis.</p> <p>Good work history; 20 yrs in hairdressing trade.</p> <p>Highly regarded in the community.</p> <p>Minor problem with methyl use.</p>	<p>Ct 1: Poss methyl wiss 221.68g at 80% purity. Ct 2: Poss methyl wiss 1.042kg at 80% purity. Ct 3: Poss cannabis wiss 828.2g.</p> <p>Separovic and her boyfriend, the co-offender, were jointly involved in the business of selling methyl and cannabis.</p> <p>On 22 February 2015 police located the methyl (ct 1) and cannabis inside their home, along with firearms, other weapons, cash, scales, cryovac machines and tick lists.</p> <p>The quantity of methyl (ct 2) was found in a car parked in the driveway of the house.</p>	<p>Ct 1: 18 mths imp (cum). Ct 2: 8 yrs 6 mths imp (cum). Ct 3: 12 mths imp (conc).</p> <p>TES 10 yrs imp. EFP.</p> <p>The trial judge found that the appellant (and co-offender) was a commercial drug dealer. They were in joint possession of the drug which constituted their stock in trade and the drugs were of significant value, even if sold in bulk.</p> <p>The trial judge found the fact the appellant was in possession of methyl and cannabis for commercial gain was an aggravating factor.</p>	<p>Dismissed - on papers.</p> <p>Appeal concerned length of sentence and totality principle.</p> <p>At [34] The very serious nature of the appellant's overall offending ... is apparent from ... the quantity, purity and value of the methyl ... and the quantity of the cannabis Also, at [35] The appellant's offending ... was not isolated or an aberration. The trial judge's unchallenged finding was that in 2015 the appellant was a commercial drug dealer.</p> <p>Also, at [36] The appellant was not youthful or inexperienced for sentencing purposes.</p> <p>At [42] ... the very serious nature of the offending,</p>	2.091.88 kg.

					<p>viewed as a whole, including the unchallenged agg factor that the appellant was in possession of the methyl and the cannabis for commercial gain ...</p> <p>At [43] The TES bears a proper relationship to the overall criminality ...</p> <p>At [45] ... none of the individual sentences of imp imposed on the appellant is manifestly excessive. ...</p>	
26.	<p><i>Mather v The State of Western Australia</i></p> <p>[2017] WASCA 148</p> <p>Delivered 11/08/2017</p>	<p>35 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p><u>Breach of SIO</u> Subject to SIO at time offending; 9 mths imp susp 15 mths for one count of poss methyl wiss (3g).</p> <p>Lengthy criminal history; mostly traffic and minor drug offences; convictions for agg burg and AOBH.</p> <p>Raised by grandmother until aged 7 yrs; stepfather physically</p>	<p>1 x Poss methyl wiss 2.131kg at 79%-82% purity.</p> <p>Mather was seen by police to purchase a quantity of methyl. At a house, in a room protected by a combination lock, he and two others processed the drug. It was cut with the additive MSM and packaged into clipseal bags for sale.</p> <p>The same day a search warrant was executed at the premises. Mather att to dispose of the methyl by dumping it into a spa. Some dissolved in the water but a quantity of solid methyl was recovered, along with some methyl that had spilled onto the floor.</p> <p>Police also found a large mixing bowl, MSM, boxes of clipseal bags, digital</p>	<p><u>Indictment</u> 12 yrs 6 mths imp.</p> <p><u>Breach of SIO</u> 6 mths imp (cum).</p> <p>TES 13 yrs imp.</p> <p>EFP.</p> <p>Mather sentenced on the basis that he possessed 2.131 kg of methyl and that there was some additional methyl in the residual spa water.</p> <p>The sentencing judge found the appellant played 'an essential role'</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and discount for PG.</p> <p>At [35] The case against the appellant was truly overwhelming. He was caught 'red-handed'. Although the plea was entered at a relatively early stage, it was not entered at the first reasonable opportunity.</p> <p>At [39] The appellant played an important role in the commission of the offence. He handed over</p>	2.131 kg.

		<p>abusive.</p> <p>Supportive family and friends.</p> <p>Educated to yr 10.</p> <p>Reasonably consistent and productive work history; unemployed time offending.</p> <p>7 yr old son from former partner.</p> <p>Regularly user of methyl since aged 19-20; dealing small quantities approx 12 mths; commenced selling and supplying bigger quantities.</p>	<p>scales, mixing spoons, disposable gloves, a bottle of acetone, a vacuum sealer and other drug-related paraphernalia. Police also found mobile phones, four of which belonged to Mather.</p> <p>The street value of the methyl was estimated to be 'well in excess of \$2 million'.</p>	<p>and one 'more significant than that of a courier'. He not only paid for and picked up over 2 kg of high purity methyl, but he then played a role in processing the drug, knowing that it was to be distributed into the community.</p> <p>The sentencing judge found the appellant was 'a high-end dealer user' actively involved in the business of selling methyl and he committed the offence for personal gain.</p> <p>Remorseful; drug free; rehabilitative courses undertaken in prison.</p>	<p>the money in exchange for the large quantity of high purity methyl In addition to obtaining the drug ... he participated in its 'processing' ... he acted to dispose of the drug in a way which would prevent the police from seizing it.</p> <p>At [40] The quantity and purity of the methyl was significant. So too was its value.</p> <p>At [41] The appellant's participation in the offence was far more than being a mere 'foot soldier'. He committed the offence in the context of already being involved in significant drug dealing. He accepted the obvious risk of apprehension and imp in order to obtain a substantial commercial benefit without regard to the human cost of his conduct [and] while subject to the SIO.</p>	
25.	<p><i>Gakis v The State of Western Australia</i></p> <p>[2019] WASCA</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Extensive criminal</p>	<p>1 x Poss methyl wiss 2.137 kg at 67-77% purity.</p> <p>Gakis and the co-offender Bull were close friends.</p>	<p>14 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence.</p>	2.137 kg.

<p>25</p> <p>Delivered 05/02/2019</p> <p>Co-offender of:</p> <p><i>Bull v The State of Western Australia</i></p> <p>[2019] WASCA 24</p>	<p>history; including poss of drugs and offences of violence; prior sentences of imp.</p> <p>Supportive family.</p> <p>Learning difficulties; diagnosed with ADHD; completed yr 10.</p> <p>Employed labouring roles; unemployed since suffering serious injury in 2012.</p> <p>History of methyl use.</p>	<p>Gakis was hospitalised and on his instruction Bull obtained a quantity of high-purity methyl from an unknown source. He then told Bull to secrete the drug at a property owned by his partner. Bull did as he was instructed.</p> <p>A search warrant executed at the property located three packages of methyl, two buried near a swimming pool and a third hidden in the ceiling recess inside the house.</p> <p>One package contained 986 g of 77% pure methyl, another 988 g of 77% pure methyl and the third 163 g of 67% methyl.</p> <p>The methyl if sold by the kilogram was worth approx \$500,000.</p> <p>A search of Gakis' home found CCTV security surveillance and other security measures consistent with, and supporting, the inference that he was dealing in illicit drugs. Also located were a vacuum-sealing machine and vacuum-seal bags, similar to or the same as, the packages of methyl found. A roll of paper towels similar in appearance to the paper towels in which the drugs in the ceiling recess had been wrapped was also located.</p>	<p>found the appellant's drug dealing was solely for the purpose of commercial gain; the offending on the part of the appellant involved extensive planning, organisation and coordination; he and Bull were each involved towards the upper end of the distribution chain close to the supply or source of the methyl; the community could have suffered significant harm had the drugs not been seized; the appellant manipulated and instructed others and he would have been involved in the distribution of the drug into the community.</p> <p>The sentencing judge found the quantity and purity of the methyl meant the drug would have been reduced into smaller quantities and 'cut', thereby 'significantly increasing' the profit to be made.</p>	<p>At [33]-[44] Discussion of comparable cases.</p> <p>At [46] ... the quantity of methyl was very substantial and its purity was high. The appellant orchestrated the acquisition of the methyl and directed that it was to be secreted on a property which he, in effect, controlled. He carried out the offence with persistence. Even while incapacitated in hospital, he, through Mr Bull, directed the operation. The offending was committed for commercial gain. The appellant would have been involved in distributing the drug into the community.</p> <p>At [48] It is clear that the appellant was at the upper end of the drug distribution chain and was close to the supply or source of the drugs. The appellant was the principal offender and told Mr Bull what to do.</p> <p>At [50] ... we have not been persuaded that the sentence imposed upon the</p>	
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					appellant was unreasonable or plainly unjust. It is not manifestly excessive. ...	
24.	<p><i>Bull v The State of Western Australia</i></p> <p>[2019] WASCA 24</p> <p>Delivered 05/02/2019</p> <p>Co-offender of:</p> <p><i>Gakis v The State of Western Australia</i></p> <p>[2019] WASCA 25</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Prior criminal history; prior sentence of imp for drug offending.</p> <p>Completed yr 10; completed apprenticeship; good work history.</p> <p>De facto relationship; expecting his first child.</p> <p>Heavy user of methyl; long standing drug debt.</p>	<p>1 x Poss methyl wiss 2.137 kg at 67-77% purity.</p> <p>Bull and the co-offender Gakis were close friends.</p> <p>Gakis was hospitalized. On his instruction Bull obtained a quantity of high-purity methyl from an unknown source and secreted it at a property owned by Gakis' partner.</p> <p>A search warrant executed at the property located three packages of methyl, two buried near a swimming pool and a third hidden in the ceiling recess inside the house.</p> <p>One package contained 986 g of 77% pure methyl, another 988 g of 77% pure methyl and the third 163 g of 67% methyl.</p> <p>The methyl if sold by the kilogram was worth approx \$500,000.</p>	<p>11 yrs 4 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found although the appellant's role was less significant than that of Gakis, it was nevertheless important and without his involvement and assistance the drug would not have been able to be buried or secreted; his role was greater than that of a courier; he was trusted to source, transport and hide the methyl; he had access to large quantities of the drug and both he and Gakis were involved towards the upper end of the distribution chain close to the original supply or source of the methyl.</p> <p>The sentencing judge found the appellant was to be paid \$10,000 for his role in sourcing and</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence; parity principle; error in plea discount and error in finding of fact (appellant continued to retain control over the drugs).</p> <p>At [54] ... The appellant willingly sourced the methyl and hid it at the property. He did so purely for commercial gain. It is not mitigating that at the time of the commission of the offence he had a drug debt, or that he was a user of methyl. His culpability, while less than Mr Gakis', was significant and important. The fact that he was able to source such a large quantity of high-purity methyl shows that he was, ... towards the upper end of the drug distribution chain and close to the source of the drug. The appellant's participation in the offence was not</p>	2.137 kg.

				<p>hiding the drug and the quantity and purity of the methyl meant the drug would have been reduced into smaller quantities and ‘cut’, thereby ‘significantly increasing’ the profit to be made.</p> <p>Some demonstrated remorse and acceptance of responsibility to his offending.</p>	<p>fleeing, but was persistent and multifaceted. Although the appellant was not to be involved in the sale or supply of the drug into the community, he knew, ultimately, that is where it would end up. As his Honour found, the drug was likely to be cut, so the potential for harm to the community, as great as it was when the appellant obtained it, would have been more widespread once it had been diluted.</p> <p>At [57] ... The sentence was not unreasonable or plainly unjust....</p>	
23.	<p>Rowson v The State of Western Australia</p> <p>[2018] WASCA 82</p> <p>Delivered 24/05/2018</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Lengthy prior criminal history; including convictions for poss prohibited drugs with intent; no prior sentences of imp.</p> <p>Stable upbringing.</p> <p>Left school yr 9; completed apprenticeship;</p>	<p>Ct 1: Poss methyl wiss 2.131kg at 80% purity.</p> <p>Ct 2: Poss methyl wiss 35.97g.</p> <p>Ct 3: Having ready access simultaneously to weapons and prohibited drugs.</p> <p>Rowson’s home contained an extensive CCTV monitoring system and combination locks on some doors. He also had a signal jammer, camera detector and radio frequency detector.</p> <p><u>Ct 1</u> SM attended Rowson’s home with high-purity methyl to cut and package for sale.</p>	<p>Ct 1: 15 yrs imp (conc).</p> <p>Ct 2: 3 yrs 6 mths imp (conc).</p> <p>Ct 3: 12 mths imp (conc).</p> <p>TES 15 yrs imp.</p> <p>The trial judge found the appellant was close to the source.</p> <p>The sentencing judge found the appellant was in possession of a significant quantity of methyl for the</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence (ct 1) and error in finding appellant high end dealer-user.</p> <p>At [31] ... his Honour’s focus was appropriately on what the appellant did rather than the label to be attached to his involvement. ...</p> <p>At [32] The label ‘high-end</p>	2.166.97 kg.

		<p>never worked consistently.</p> <p>Three significant relationships; child with first partner; loss of second partner to suicide; two young sons with current partner; custody of 11 yr old son at time offending.</p> <p>Severely assaulted aged 24 yrs; involved in motorcycle groups; incurred drug debts; protective custody at time sentencing.</p> <p>Suffers anxiety and depression.</p> <p>Commenced substance abuse aged 12 yrs; daily user of methyl most of adult life; past drug treatment programmes undertaken.</p>	<p>Police raided the premises during the drug processing operation. The CCTV system alerted the appellant to the police and SM was able to dump the drug into a spa. Methyl was located in and about the spa, together with an unascertained additional quantity dissolved in spa water and disposed of on the lawn.</p> <p>The value of the drug at street level exceeded \$2 million.</p> <p><u>Ct 2</u> 35.97g of methyl was located in a wardrobe.</p> <p><u>Ct 3</u> Weapons were also on and about the premises, including an air rifle, a double-bladed sword, a heavy steel baton, a neck knife, knuckledusters, a credit card knife, knuckleduster knife and start gun. A fold out knife was also located inside a vehicle parked at the premises.</p> <p>Photographs on Rowson's phone showed him with a large quantity of cash totalling at least \$400,000.</p> <p>MSM, digital scales, mixing bowls, clip-seal bags, latex gloves, acetone and a vacuum sealer were also located. Rowson's DNA was recovered on some gloves.</p>	<p>purposes of processing it and the end product was intended by the appellant to find its way into the community.</p> <p>The sentencing judge found the appellant was in joint poss of methyl with the intention of selling or supplying it primarily for commercial gain; described as a high-end dealer-user.</p>	<p>dealer-user' does not have any precise meaning. ... It is a reasonable way of describing a person addicted to methyl whose house is equipped in a sophisticated manner for drug dealing, who has been photographed with over \$400,000 derived from or utilised in dealing in drugs, who was preparing over 2 kg of methyl worth well over \$2 million for sale or supply and who acts primarily for commercial gain. ...</p> <p>At [48] The appellant's offence represents a very serious offence against s 6(1) of the <i>Misuse of Drugs Act</i> in respect of a significant quantity and value of methyl. His house was set up for the drug dealing operation in a sophisticated manner ... He clearly formed a central part of a large commercial operation. ...</p>	
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<p>22.</p>	<p><i>Al-Rafei v The State of Western Australia</i></p> <p>[2017] WASCA 4</p> <p>Delivered 12/01/2017</p>	<p>23 yrs time of offence. 24 yrs time of sentencing.</p> <p>PG (15% discount).</p> <p>No prior criminal history.</p> <p>One of four sons; raised by his mother from aged 7 yrs following parents separation.</p> <p>Mother struggled financially.</p> <p>Educated to yr 12; obtained drafting certificate.</p> <p>In full time employment and had casual job at time of offending.</p> <p>History of steroid use, but no other illicit drug or alcohol use.</p>	<p>1 x Poss MDMA wiss 2.24kg of 23% purity.</p> <p>Al-Rafei and an acquaintance drove to a house and collected a chiller bag.</p> <p>A short time later his vehicle was stopped. On admitting he had illegal steroids the car was searched.</p> <p>Inside a gym bag was the chiller bag containing two large clipseal bags containing 10,281 tablets.</p>	<p>8 yrs 6 mths imp.</p> <p>The sentencing judge found the appellant's role was as a paid courier and the volume of the drugs involved made the offending very serious. He found the offending was purely for financial gain.</p> <p>Remorseful and good prospects of rehabilitation.</p>	<p>Dismissed.</p> <p>Appellant appealed length of sentence.</p> <p>At [22] ... the appellant's offending was appropriately described by the sentencing judge as 'very serious'. He must ... have been aware that he was facilitating a scheme to distribute a large quantity of illicit drugs into the community. That role of a courier is an important element in the dissemination of drugs into the community. ... The appellant's participation in that scheme as a courier was simply for his own commercial gain.</p>	<p>2.24 kg.</p>
<p>21.</p>	<p><i>Rinaldi v The State of Western Australia</i></p> <p>[2017] WASCA 48</p> <p>Delivered 17/03/2017</p>	<p>37 yrs at time offending. 39 yrs at time sentencing.</p> <p>Very late PG (5% discount).</p> <p>Minor criminal history.</p> <p>Traumatic childhood;</p>	<p>Ct 1: Poss MDMA wiss 888.01 grams of 25%-73% purity. Ct 2: Poss methyl wiss 1650.67g of 45%-77% purity. Ct 3: Poss cocaine wiss 7.29g of 68% purity. Cts 4-17: Poss firearm. Cts 18-38: Poss ammunition. Ct 39: Poss GPS jamming device.</p>	<p>Ct 1: 18 mths imp (reduced from 5 yrs for totality reasons) (cum). Ct 2: 8 yrs imp (cum). Ct 3: 2 yrs imp (conc). Ct 4: 18 mths imp (cum). Ct 5: 18 mths (conc). Cts 6, 8-11, 15-17: 12 mths imp (conc).</p>	<p>Dismissed.</p> <p>Appeal concerned totality and PG discount.</p> <p>At [54] ... the sentencing judge did not err by failing to make a finding that the appellant's PG to cts 1-33</p>	<p>2.54 kg.</p>

	<p>supportive family.</p> <p>Left school midway through yr 11.</p> <p>Obtained a trade; good employment history and strong work ethic.</p> <p>History of illicit drug use; escalated after his marriage break down.</p>	<p>Police executed a search warrant at Rinaldi's home and discovered a 'wine cellar' accessible via a retractable trapdoor. The home was protected by a security system, comprising a steel reinforced front door, outside sensor lights and monitored CCTV cameras.</p> <p>Large quantities of drugs and ammunition, 14 unlicensed firearms and cash were found, along with the GPS jamming device.</p> <p>The unlicensed firearms comprised five rifles, one shotgun and eight handguns. Three of the weapons had their serial numbers removed and two of the rifles were unable to be lawfully owned in WA. Compatible magazines, silencers and shoulder holsters were also found in the house.</p> <p>In total 2,386 rounds of ammunition were found.</p> <p>\$337,220 in cash was found in bundles in various locations in the house, including in a washing machine and the roof cavity.</p>	<p>Ct 7: 12 mths (cum). Ct 12: 14 mths imp (cum). Cts 13-14: 14 mths imp (conc). Cts 18, 21 and 31: 6 mths imp (conc). Ct 19: 8 mths imp (cum). Ct 20: 3 mths imp (conc). Ct 22-23: 2 mths imp (conc). Cts 24-25: 8 mths imp (conc). Cts 26-27 and 30: 3 mths imp (conc). Cts 28-29 and 32-33: 1 mths imp (conc). Ct 34-36: 3 mths imp (conc). Ct 37: 4 mths imp (conc). Ct 38: 2 mths imp (cum). Ct 39: \$1000 fine.</p> <p>TES 14 yrs imp. EFP. Fine \$1000.</p> <p>The sentencing judge described the premises as a 'fortified drug house' used for the purpose of storing and warehousing illicit drugs, firearms and cash. It was in a large scale distribution network for drugs and guns as part of an illegal, commercial</p>	<p>and ct 39 were entered at the first reasonable opportunity. Very plainly, they were not made at the first reasonable opportunity. ... The reduction of 5% was, in all of the circumstances, open to his Honour.</p> <p>At [55] ... in respect of the five ex officio charges (cts 34 to 38). ... the appellant's PG in respect of these cts were made at the first reasonable opportunity. This concession was properly made and should be accepted. In our opinion, a reduction of 25% ... should have been made for these offences. However, having regard to all relevant circumstances ... exercising the sentencing discretion afresh, we would not have imposed different sentences for cts 34 to 38.</p> <p>At [66] ... the appellant's overall criminality was extremely serious. While... not directly involved in the sale of the drugs, firearms and ammunition, he</p>	
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				<p>enterprise and from which the appellant would have derived 'some commercial gain or benefit'.</p>	<p>voluntarily participated in what was clearly a large-scale commercial enterprise aimed at distributing into the community a large quantity of dangerous illicit drugs and firearms. The appellant's willing complicity in these offences is well illustrated by the modifications to his residence, most notably the wine cellar in which the drugs and most of the firearms and ammunition were stored. The large quantities of drugs, firearms, ammunition and cash show the scale of the operation. It is true that the appellant was not in command, but it is also true that a high degree of trust had been reposed in him.</p> <p>At [67] A significant aggravating feature of the appellant's overall criminality are the firearms offences, which involve a quantity and variety of weapons not previously seen by this court. Their number and type are very sinister. The amount of</p>	
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					ammunition, including ammunition suitable for use in the firearms present at the house, is concerning.	
20.	<p><i>Jneid v The State of Western Australia</i></p> <p>[2018] WASCA 67</p> <p>Delivered 11/05/2018</p>	<p><u>Z Jneid</u> 40 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Prior criminal history; convictions for drug possession and assault.</p> <p>Born in Lebanon at time of war; traumatic and disadvantaged background as child.</p> <p>Parents divorced; mother re-married; migrated to Australia 1989.</p> <p>Married; five young children; wife serious medical condition; substantial support for his wife and children.</p> <p>Elderly mother of poor health.</p> <p><u>R Jneid</u> 42 yrs at time sentencing.</p>	<p><u>Z Jneid</u> 1 x Supplied methyl to another 1.988kg at 74% and 76% purity.</p> <p><u>R Jneid</u> 1 x Supplied methyl to another 990g at 78% purity.</p> <p><u>Obradovic</u> 1 x Poss methyl wiss.</p> <p>Z Jneid and R Jneid are brothers who operated a drug-dealing enterprise. They engaged two others, JR and AS, who worked for them as ‘middle men’.</p> <p><u>J Zneid</u> AS drove to a prearranged location whereby he took delivery of a package of methyl, handed to him by J Zneid through the window of the vehicle.</p> <p>Police immediately arrived at the scene. AS fled and was pursued by police. Before his arrest AS threw the package of methyl into a nearby garden. It was later recovered.</p> <p><u>R Jneid and Obradovic</u> Z Jneid was overseas so R Jneid assumed control of the drug supply operation.</p>	<p><u>Z Jneid</u> 14 yrs 6 mths imp. EFP.</p> <p><u>R Jneid</u> 15 yrs imp. EFP.</p> <p><u>Obradovic</u> 7 yrs imp. EFP.</p> <p>The sentencing judge found the offending of Z Jneid and R Jneid at ‘the very high end of the scale having regard to the roles played and the seriousness of the offending’; they operated a drug-dealing business on a very significant scale; motivated by ‘pure and simple greed’; they had reaped significant financial rewards from the business; were ‘at the top of or very close to the top of the chain of distribution’; the offending was not</p>	<p>Dismissed.</p> <p><u>Z Jneid</u> Appeal concerned error of fact (drug-dealing on a significant scale that reaped significant financial reward); parity principle and length of sentence.</p> <p><u>R Jneid</u> Appeal concerned errors of fact (drug-dealing on a significant scale that reaped significant financial reward and finding of element of concert); parity principle and length of sentence.</p> <p><u>Obradovic</u> Appeal concerned length of sentence.</p> <p>At [70] ... Mr [Z] Jneid, in association with Mr [R] Jneid, operated a drug dealing business on a very significant scale and reaped significant financial rewards. His Honour was entitled, on the information</p>	2.978 kg.

		<p>Convicted after late PG (10% discount).</p> <p>Prior criminal history; convictions for poss drugs and hindering police; prior custodial sentence for poss drugs wiss.</p> <p>Born in Lebanon at time of war; traumatic and disadvantaged background as child.</p> <p>Parents divorced; mother re-married; migrated to Australia 1989.</p> <p>Married; three children; family emotionally and financially dependent on him.</p> <p>Elderly mother of poor health.</p> <p>Financial difficulties at time offending.</p> <p><u>Obradovic</u> 35 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p>	<p>R Jneid agreed to supply AS, through JR, with a quantity of methyl at a price of \$280,000 cash.</p> <p>By prior arrangement AS met JR. When he arrived at the prearranged location JR and Obradovic were waiting. A package containing the methyl, supplied by R Jneid, was placed into AS's vehicle by JR, who then took \$5,000 cash as part payment for the drugs.</p> <p>AS later gave JR the balance of the \$280,000 cash.</p> <p>In breach of their bail Z Jneid and R Jneid absconded to QLD, they were located and extradited to WA approx 17 months later.</p>	<p>mitigated by having been an isolated, one-off supply or a momentary aberration.</p> <p>The sentencing judge accepted Obradovic's involvement in the drug supply operation was a 'single, one-off transaction'.</p> <p><u>Z Jneid</u> No remorse shown; no demonstrated insight into the seriousness of his offending.</p> <p><u>R Jneid</u> No remorse or contrition into his offending; no insight into seriousness of his offending.</p> <p><u>Obradovic</u> No genuine remorse or insight into seriousness of his offending; programmes undertaken to address his substance abuse.</p>	<p>before him, to make those findings. No error is apparent.</p> <p>At [88] ... we are satisfied that the sentence ... imposed on Mr [Z] Jneid is broadly consistent with the sentencing pattern revealed by the prior cases.</p> <p>At [89] The very serious nature of Mr [Z] Jneid's offending is apparent ... The substantial quantity (1.988 kg) and the high degree of purity (74% to 76%) ... The substantial value of the methyl ... he was very close to the top of the hierarchy of distribution. ... The offending involved planning and management by Mr [Z] Jneid in that he gave instructions to others who were lower in the hierarchy of distribution ... The supply of the methyl was a commercial activity and Mr [Z] Jneid was motivated purely by financial gain.</p> <p>At [114] ... the disparity</p>	
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		<p>Extensive prior criminal history; including poss prohibited drugs; no prior sentences of imp.</p> <p>Gainfully employed father's business.</p> <p>Stable relationship; close family support.</p> <p>Longstanding illicit drug use.</p>			<p>between the sentence imposed on Mr [Z] Jneid and the sentence imposed on [JR] was objectively justifiable by reference to the greater seriousness of Mr [Z] Jneid's offence and his greater culpability.</p> <p><u>R Jneid</u> At [151] We are satisfied that: ... the sentencing judge's findings that Mr [R] Jneid, in association with Mr [Z] Jneid, operated a drug dealing business on a very significant scale and reaped significant financial rewards. His Honour was entitled, on the information before him, to make those findings.</p> <p>At [159] ... His Honour did not invoke the legal principle of 'acting in concert' in the sense of taking into account Mr [Z] Jneid's offending for the purpose of sentencing Mr [R] Jneid for his offence ...</p> <p>At [160] ... the sentencing judge was entitled to make the general finding that</p>	
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					<p>there was ‘an element of concert in the commission of your separate offences’ in the sense that Mr [R] Hneid and Mr [Z] Jneid were engaged in a drug dealing business.</p> <p>At [169] The very serious nature of Mr [R] Jneid’s offending is apparent from ... the substantial quantity (990g) and the high degree of purity (78%) of the methyl ... The substantial value of the methyl. ... he was very close to the top of the hierarchy of distribution. ... The offending involved planning and management by Mr [R] Jneid in that he gave instructions to others who were lower in the hierarchy of distribution ... The supply of the methyl was a commercial activity and Mr [R] Jneid was motivated purely by financial gain.</p> <p>At [198] ... The disparity between the sentences was not such as to give rise to a legitimate or justifiable</p>
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					<p>sense of grievance of Mr [R] Jneid's part, or to give the appearance in the mind of an objective observer that justice was not done as between Mr [R] Jneid and [JR] or generally.</p> <p><u>Obradovic</u> At [211] The serious nature of Mr Obradovic's offending is apparent from ... The substantial quantity (900 g) and the high degree of purity (78%) of the methyl ... The substantial value of the methyl. ... Mr Obradovic deliberately involved himself in the drug transaction with [JR]. ... he had engaged in the transaction with the expectation of receiving some credit in some way at some future time.</p> <p>At [217] ... the sentence ... was not unreasonable or plainly unjust.</p>	
19.	<p><i>The State of Western Australia v Doyle</i></p> <p>[2017] WASCA 207</p>	<p>18-19 yrs at time offending.</p> <p>Convicted after PG (25% discount).</p>	<p>Cts 1-14; 16-17; 19-23; 25-29; 31-32; 34-38; 40; 42-45; 47; 49-57; 61-64; 66; 68-69; 71-72; 74; 76-77 & 79: Offer to supply MDMA 3.3kg. Cts 15; 18; 24; 30; 33; 58-59; 65; 67; 70; 73 & 80: Offer to supply cocaine 31g.</p>	<p>Cts 1-20; 22-31; 33-43; 45-46; 48-55; 57-61; 63-76; 78-82: 9 mths imp (conc). Ct 21: 12 mths imp (cum). Ct 32; 44 & 47: 12 mths</p>	<p>Allowed.</p> <p>Appeal concerned length of sentences (cts 21, 32, 44, 47, 55-56, 62, 77 & 79) and totality principle.</p>	<p>3.31181 kg. 8ml.</p>

<p>Delivered 08/11/2017</p>	<p>Short criminal history; offences of poss MDMA; poss stolen or unlawfully obtained property and assault public officer.</p> <p>Born raised in Perth; one of four children.</p> <p>Supportive family.</p> <p>Paraplegic father; assisted him with dealing with his disability.</p> <p>Left school yr 10; commenced apprenticeship.</p> <p>Illicit drug use; history of abusing ecstasy and cocaine. Using 20-30 ecstasy pills per week and in excess of 6g of cocaine per week at time offending.</p>	<p>Cts 39; 46; 60 & 75: Offer to supply methyl 11.5g. Ct 48: Offer to supply GBH (aka fantasy) 8ml. Ct 78: Offer to supply cannabis. Cts 41 & 82: Failing to comply with data access order. Ct 81: Poss unlawfully obtained property.</p> <p>A search warrant was executed at Doyle's home. Illicit drugs and a Blackberry device were located.</p> <p>Approximately 10 mths later a search warrant was again executed at the respondent's home. Illicit drugs and items commonly associated with the sale and supply of illicit drugs, including electronic scales, controlled weapons and numerous mobile telephones, including two encrypted Blackberry telephones were seized.</p> <p>The respondent's phone was found to contain numerous text messages in which he offered to sell or supply illicit substances to various people on a regular basis over a period of approximately 18 months.</p>	<p>imp (conc). Ct 56: 18 mths imp (head sentence). Ct 62: 18 mths imp (cum). Ct 77: 18 mths imp (conc).</p> <p>TES 4 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the respondent was part of the commercial distribution of prohibited drugs into the community; he was involved in drug dealing on a commercial basis and the offending was pretty persistent and relentless.</p> <p>The sentencing judge found the respondent did not sell the offered prohibited drug in a significant number of the cts. However there can be no suggestion that when he offered drugs for sale he didn't intend to sell them if he could have.</p> <p>Remorseful. Engaged in a drug programme and</p>	<p>Re-sentenced on cts 21, 32, 44, 47, 55, 56, 62, 77 and 79.</p> <p>Cts 21; 32 and 47: 2 yrs imp. Cts 44; 55 & 79: 18 mths imp. Cts 56; 62 & 77: 3 yrs imp.</p> <p>Cts 56 (head sentence) and 62 cum; all other sentences conc with each other and with head sentence.</p> <p>TES 6 yrs imp.</p> <p>EFP.</p> <p>At [35] ... Each offence was committed by the respondent as part of an ongoing and long-term business of supplying illicit drugs. The respondent's primary motive was to obtain money to fund the lifestyle he could not otherwise afford. While it must be accepted that each offer was not in fact fulfilled, this was only because his supplier would not extend him credit for</p>	
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				<p>counselling to address his drug problems.</p>	<p>such substantial quantities of MDMA. ... He clearly intended to effect each sale. It cannot be overlooked that each offer was not an isolated event.</p> <p>At [36] This court has not been previously called upon to decide whether an individual sentence for offering to sell or supply a prohibited drug is manifestly inadequate or manifestly excessive. Thus, there are no relevant comparable cases.</p> <p>At [38] ... each sentence is, when all relevant circ and all relevant sentencing factors are considered, unreasonable or plainly unjust. ... Each sentence was substantially outside the sentencing range open to his Honour on a proper exercise of his discretion.</p> <p>At [41] The overall criminality involved in the offending was very serious. The respondent was engaged in the business of dealing with methyl,</p>
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					<p>MDMA, cocaine, GBH and cannabis for profit and with the particular aim of promoting his lifestyle. ... about half of the offers resulted in the substance in question being sold or supplied.</p> <p>At [42] The appellant also twice defied data access orders. ... Offenders who fail to comply are obstructing law enforcement authorities from undertaking their role in detecting offences.</p> <p>At [43] ... a TES of 4 yrs imp falls a long way short of bearing a proper relationship to the overall criminality involved in the commission of all of the offences.</p>	
18.	<p><i>The State of Western Australia v Wilson</i></p> <p>[2015] WASCA 119</p> <p>Delivered 10/06/2015</p>	<p>39 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Lengthy prior criminal history, including drug offences.</p> <p>De facto partner; young daughter.</p>	<p><u>Ind</u></p> <p>Ct 1: Attempt to poss methyl wiss 71.4g of 76% purity.</p> <p>Ct 2: Poss methyl wiss 303.7g of 64-77% purity.</p> <p>Ct 3: Poss cannabis wiss 2.677kg.</p> <p>Ct 4: Poss methyl wiss 371.3g of 73% purity.</p> <p><u>S32 Notice</u></p>	<p><u>Ind</u></p> <p>Ct 1: 2 yrs imp (cum).</p> <p>Ct 2: 4 yrs imp (conc).</p> <p>Ct 3: 2 yrs imp (conc).</p> <p>Ct 4: 4 yrs imp (cum).</p> <p><u>S32 Notice</u></p> <p>Various imp sentences, TES 6 mths imp (cum), and two fines.</p>	<p>Allowed.</p> <p>Re-sentenced to a TES 8 yrs 6 mths imp.</p> <p>Set aside orders for cum and conc on indictment.</p> <p>Ordered ct 2 and ct 4 to be served cum, and ct 1 and ct</p>	3.423 kg.

		<p>Entrenched illicit drug abuse.</p>	<p>19 offences.</p> <p>Police identified four envelopes containing 71.4g of methyl addressed to a PO box believed to be controlled by Wilson and his partner (co-accused).</p> <p>The methyl was substituted and the envelopes were placed in the PO box for collection. The co-accused collected the envelopes. The co-accused then attended Wilson's home.</p> <p>A search warrant was executed at the home and located the four envelopes (ct 1), 303.7g methyl in a hidden compartment of a coffee table (ct 2), 2.677kg dried cannabis throughout the house (ct 3), firearms and \$196,600 cash (s32 notice).</p> <p>Wilson arrived home during the search and fled in his car to evade arrest. He was arrested at another property a wk later. Police searched this property and found 371.3g methyl (ct 4).</p>	<p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found appellant offended for commercial gain.</p> <p>Remorse; suffered difficulties at the hands of other prisoners while in custody.</p>	<p>3 to be served conc.</p> <p>At [30] Upon the material before the learned sentencing judge, it appeared that the respondent was not at the pinnacle of the drug distribution hierarchy. Clearly, someone else was supplying him with the drugs. However, given the quantities and the purity of the methyl he possessed and the very substantial quantity of cash found at the Cathryn Street address, the respondent must have been close to the source of the drugs. Further, the respondent must have been a trusted associate of whomever was above him in the drug hierarchy.</p> <p>At [36] ...each sentence, had it stood alone, would have been manifestly inadequate. However, the sentences did not stand alone.</p> <p>At [38] The very large sum of cash found there showed that the respondent's drug</p>	
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					dealing was both substantial and lucrative. At [44] ... the TES was not merely lenient. Having regard to all of the relevant circumstances of this case, I have been persuaded that the TES of 6 yrs 6 mths immed imp infringed the first limb of the totality principle...	
17.	<p><i>Chen v The State of Western Australia</i></p> <p>[2017] WASCA 114</p> <p>Delivered 22/06/2017</p> <p>Co-offender of <i>Chen v The State of Western Australia</i> [2017] WASCA 99</p>	<p>25 yrs at time offending. 27 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>No prior criminal history.</p> <p>Born in rural China; lived with grandparents until 4 yrs; physically abusive father; emotionally harsh life.</p> <p>In Australia on student visa; studied English.</p> <p>Qualified welder in China; worked long hours low pay in Australia.</p> <p>Married; 2 mth old son; \$10,000 wedding debt.</p>	<p>Ct 1: Poss methyl wiss 3.426kg at 80-81% purity.</p> <p>Ct 2: Poss unlawfully obtained property.</p> <p>The appellant and co-offender Chen came to Perth from Melbourne and took a taxi to a unit leased by co-offender Ms Yu.</p> <p>On the same day the co-offender Mr Yuan brought the methyl to Perth in a suitcase, travelling from NSW by train.</p> <p>The appellant met Mr Yuan and together they walked to the carpark at the rear of the unit complex. Here appellant took possession of a backpack containing the methyl.</p> <p>The appellant returned to the unit with the backpack before leaving with Ms Yu in a taxi. They travelled to an address where appellant entered a house and returned carrying a bag.</p>	<p>Ct 1: 11 yrs 10 mths imp.</p> <p>Ct 2: 6 mths imp (cum).</p> <p>TES 12 yrs 4 mths imp.</p> <p>The judge found the appellant and co-offenders had been in a drug dealing relationship for some months and the offending could not be viewed as isolated or one-off and it involved a significant degree of planning, organisation and coordination.</p> <p>The judge found approx \$300,000 had been deposited into the appellant's bank account when there was no obvious legitimate source</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned length of sentence on ct 1.</p> <p>At [34] As to the seriousness of this offence, it involved a large quantity of methyl that was clearly intended for commercial sale. This was a reasonably sophisticated drug dealing operation ... The high purity of the drugs indicated that the appellant and his co-offenders were close to the source of manufacture. The appellant played a significant role in receiving, repackaging and weighing the drugs. Whilst not a principal in the sense of being at the head of this</p>	3.426 kg.

		Not a drug user; no history of drug or gambling problems.	<p>A short time later the taxi was stopped and the bag, containing \$92,850 in cash, was located. A further \$10,000 was found in appellant's wallet.</p> <p>A search warrant was executed at the unit and the methyl was located. 16g in a clipseal bag and remainder inside a shoebox. Items consistent with handling and repackaging of drugs, including disposable gloves, further clipseal bags and digital scales were also found.</p> <p>Methyl valued between approx \$1.22 million and \$3.4 million, depending on whether it was sold in large quantities or single doses, sold in its existing form or cut with a dilution agent.</p>	<p>for the money.</p> <p>The judge found appellant and co-accused each played an important role in the offending and that he could not differentiate between their culpability.</p> <p>Limited remorse shown.</p>	<p>criminal arrangement, the appellant was no mere functionary. He was trusted to receive a very large quantity of drugs ... and to receive a large amount of cash. His role could not readily fall into any distinct category, but what he did was significant and he was a party to a criminal relationship involving drugs that extended beyond the day of the offence.</p> <p>At [38] ... the sentence imposed on ct 2 of 6 mths' imp cum was reduced from 2 yrs for totality reasons. The sentence imposed for ct 1 needs to be understood in that context.</p>	
16.	<p><i>Chen v The State of Western Australia</i></p> <p>[2017] WASCA 99</p> <p>Delivered 30/05/2017</p> <p>Co-offender of</p>	<p>27 yrs at time offending. 29 yrs time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Born in China; youngest of three; in Australia on a student visa; expired at time of arrest.</p> <p>Parents in China; both in</p>	<p>1 x Poss methyl wiss 3.426kg at 80-81% purity.</p> <p>The appellant and the co-offenders Chen and Yu were involved in a drug dealing operation.</p> <p>The appellant and Chen travelled together by plane from Melbourne to Perth. On arrival they took a taxi to a 'safe house', a unit leased by Yu. The same morning a Mr Yuan arrived in Perth by train from NSW. Chen met Mr Yuan in the unit</p>	<p>14 yrs imp. EFP.</p> <p>The sentencing judge found he could not make any specific finding as to exactly the appellant's role in the drug dealing, but was satisfied he was fully aware and involved in what was happening and his offending was not at the lower end of the</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and error in role of appellant's offending.</p> <p>At [37] As to the seriousness of this offence, it involved a large quantity of methyl that was clearly intended for commercial sale. This was a reasonably sophisticated drug dealing</p>	3.426 kg.

	<p><i>Chen v The State of Western Australia</i></p> <p>[2017] WASCA 114</p>	<p>poor health; poor; supportive.</p> <p>Performed well at school.</p> <p>Unmarried; no dependants.</p> <p>Worked part-time to support himself in Australia.</p>	<p>carpark and took delivery of a backpack containing methyl and returned to the unit.</p> <p>The appellant and co-offenders repacked the methyl. The appellant was involved, or at least present, when some of the methyl was weighed using scales.</p> <p>About ½ hour later the co-offenders left the unit and caught a taxi to another address. Yu remained in the taxi while Chen entered the house and returned carrying a bag.</p> <p>A short time later the taxi was stopped by police. The bag was found to contain \$92,850 in cash in \$10,000 bundles. A further \$10,000 cash was found in Chen's wallet.</p> <p>A search warrant was executed at the unit. The appellant was found sleeping in a bedroom. A search located the methyl in clipseal bags.</p> <p>The drug had an estimated value of between \$1.22 million and \$3.4 million.</p>	<p>drug distribution chain.</p> <p>The sentencing judge found all three offenders were in joint poss of the drugs and each of them knew of the drugs; each had physical custody or control over the drugs and each had the intention to sell or supply the drugs.</p> <p>The sentencing judge found the appellant frequently travelled to and from Perth, staying for only short periods, and had unexplained sums of money in his bank account, leading him to the only reasonable conclusion the appellant was involved in drug dealing and had been for some time.</p>	<p>operation that involved using a courier to bring drugs from interstate and the repackaging of those drugs at a safe house leased for that purpose, with the intention of on-selling them ... The high purity of the drugs indicated that the appellant and his co-offenders were close to the source of manufacture. As the trial judge found, the appellant played a significant role in the unpacking and weighing of the drugs and in the guarding of them.</p>	
15.	<p><i>Petrusic v The State of Western Australia</i></p> <p>[2020] WASCA 62</p>	<p>36 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>No prior criminal history in Australia; convicted</p>	<p>1 x Poss methyl wiss 3.85 kg.</p> <p>Petrusic meet with his co-offender Mr Wong. Together they walked to a parked car, driven by the co-offender Mr Preston.</p> <p>Petrusic opened the boot of the vehicle</p>	<p>12 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the offence was a serious example of its</p>	<p>Dismissed.</p> <p>Appeal concerned parity principle.</p> <p>At [42] Strictly Mr Petrusic and Mr Wong were not co-</p>	3.85 kg.

<p>Delivered 24/04/2020</p> <p>Co-offender of:</p> <p><i>Wong v The State of Western Australia</i></p> <p>[2019] WASCA 8</p>	<p>serious offences in Canada aged 18yrs (assault and extortion).</p> <p>Born Canada; several yrs spent living in the Philippines.</p>	<p>and show Mr Wong a bag. Mr Wong removed the bag from the boot and walked away. Mr Preston and Petrusic then drove off in the vehicle.</p> <p>Mr Wong was stopped by police. The bag was found to contain methyl weighing 3.85 kg.</p> <p>The car in which Petrusic was a passenger was also stopped by police. Both Petrusic and Mr Preston were arrested.</p>	<p>type demonstrating a degree of sophistication and planning; the methyl was of high purity capable of being cut or bulked-up to increase the volume and value at sale; he was not a mere courier but a trusted member of a criminal organisation entrusted with a very considerable quantity of drugs.</p> <p>The sentencing judge found that although the appellant was not a principal offender, he handled the drugs, packed the bags for transportation, made the necessary arrangements to facilitate their transfer; he played an important role in the distribution of a large quantity of drugs and his place and involvement in the organisation was important.</p> <p>The sentencing judge found the appellant bore considerable criminal culpability in the offence</p>	<p>offenders in the sense that they committed the same crime. Mr Petrusic was charged with sale or supply of the methyl ... whereas Mr Wong was charged with poss wiss the methyl ... however, [they] were sentenced with similar offences, of equal seriousness, arising out of the same criminal enterprise....</p> <p>At [43]-[44] ... Mr Petrusic and Mr Wong were charged with offences that were materially comparable from a culpability perspective and in respect of which they are properly referred to as co-offenders. However, the fact that Mr Wong also faced additional charges makes comparison more difficult. ... With Mr Preston, while it was accepted that Mr Preston played a lesser role than Mr Petrusic, it was said to be not very much less.</p> <p>At [56] We are unable to accept that, so far as the common offence is</p>
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				<p>for the part that he played; he was motivated by financial gain (the clearing of a \$10,000 drug debt).</p>	<p>concerned, the culpability of Mr Wong's offending is much greater than that of Mr Petrusic.</p> <p>At [58] In the present case Mr Petrusic and Mr Wong had different roles in the distribution network for the same methyl. Mr Petrusic, with the assistance of Mr Preston, packaged and transported the illicit drugs from Sydney to Perth. Mr Wong was to warehouse the methyl pending further instructions. ...</p> <p>At [77] ... the disparity between Mr Petrusic's and Mr Preston's respective sentences was not marked and unjustified so as to infringe the parity principle.</p> <p>At [78] It has not been demonstrated that, on an objective basis, Mr Petrusic has a justifiable sense of grievance based on marked disparity between the sentence imposed on him and the sentences imposed on his two co-offenders, Mr</p>
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					Wong and Mr Preston. ... The differences in the sentences are justified and within the range of what is appropriate. They reflect the proper application and effect of sentencing principles, and the different degrees of culpability and personal circumstances, as between Mr Petrusic and Mr Wong, on the one hand, and Mr Petrusic and Mr Preston, on the other.	
14.	<i>Lau v The State of Western Australia</i> [2020] WASCA 4 Delivered 15/01/2020	26 yrs at time sentencing. Convicted after PG (20% discount). Minor criminal history Hong Kong. Raised in Hong Kong; very limited English language skills. Educated equivalent yr 11-12. Employed kitchen hand. Occasional drug use.	1 x Poss cocaine wiss 4.91 kg at 65%-89% purity. Lau and his co-offender Cheung were on working holiday visas. They and the co-offender Chan were part of an organised crime syndicate supplying trafficable amounts of prohibited drugs in WA. Lau and Cheung were 'controllers' who coordinated the activities of 'runners' who collected large packages of prohibited drugs for distribution to third parties. Chan was a 'runner'. Lau and Cheung arranged flights for Chan to travel to QLD where he collected a quantity of cocaine, which was subsequently brought to WA for processing and distribution. The drug was disguised as sports supplements, the	11 yrs 6 mths imp. EFP. The sentencing judge found the offending involved a large amount of the drug, it was of high purity and he was paid to give instructions; he and Cheung were involved in taking on the risky but important task of supervising and assisting the runner. The sentencing judge did not find the appellant one of the leaders of the syndicate or that he was at the top of the tree, but he	Dismissed. Appeal concerned length of sentence. At [20] The appellant was knowingly involved in a supervisory capacity in an organised crime syndicate's dealings in almost 5 kg of cocaine, much of which was of very high purity. It may be inferred that he was aware of the quantity and type of drugs involved, and that he expected to be paid for his assistance. He played an important role in coordinating the enterprise while shielding the principal organisers from	4.91 kg.

			<p>powder secreted in capsules in plastic containers.</p> <p>On Lau and Cheung's instructions Chan removed the powder from the capsules and then informed them how much cocaine had been extracted.</p> <p>A search warrant was executed at Chan's residence and a locked suitcase, containing 10 separate packages of cocaine, was found. Each package weighed approximately 500 g.</p>	<p>was a willing participant who assisted in the distribution of drugs within the community.</p>	<p>exposure to prosecution. ...</p> <p>At [21] Having regard to the appellant's role in the enterprise, the customary sentencing standards for serious drugs offences and all relevant circumstances and sentences factors, ... the sentence imposed ... is not unreasonable or plainly unjust. ...</p>	
13.	<p><i>Kalbasi v The State of Western Australia</i></p> <p>[2016] WASCA 144</p> <p>Delivered 17/08/2016</p>	<p>Convicted after re-trial.</p> <p>From a good background and provided with opportunity.</p> <p>Strong work ethic; previously owned and ran various successful businesses.</p> <p>Kalbasi was previously convicted after trial and the conviction set aside and retrial ordered (see <i>Kalbasi v The State of Western Australia</i> [2013] WASCA 241). Sentence imposed following first trial was 14 mths more than current sentence.</p>	<p>1 x Att poss methyl wiss 4.981kg at 84% purity.</p> <p>A cardboard box, containing methyl inside 10 heat-sealed bags, within two padlocked tool cases, was to be sent from Sydney to Perth using a freight company.</p> <p>NSW police intercepted the consignment and delivered the box to Perth. The drug was substituted with rock salt and a listening device was placed in the box.</p> <p>Co-offender Lothian collected the box from the freight company in Perth. Kalbasi attended Lothian's home and took poss of the drug, believing it to be methyl. The box was opened, the padlocks cut from the tool case and the 10 packages removed. Kalbasi and Lothian added</p>	<p>14 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that Kalbasi played a higher role with respect to responsibility for the control and dissemination of the drug than Lothian. Kalbasi was higher up in the chain of drug distribution.</p> <p>Sentencing judge found that Kalbasi had control and say over Lothian and that Lothian was used as the mule to collect the drugs at the point of greatest risk. Lothian was</p>	<p>Dismissed.</p> <p>Appeal concerned the sentencing judge's assessment of the appellant's role in the offending, and the failure to take into account the non-parole period in imposing the fixed term of imp.</p> <p>At [250] ...it was open to his Honour to be satisfied beyond reasonable doubt that, compared with Mr Lothian, the appellant was higher up the chain of drug distribution...</p> <p>At [254] ... Mr Lothian came from much less</p>	4.981 kg.

		<p>Co-offender Lothian convicted after PG to att poss methyl wiss and sentenced to 10 yrs imp. EFP.</p>	<p>MSM to what they though was methyl. Kalbasi then sampled the substance.</p> <p>Police searched the house and located the opened cardboard box and tool cases and the bags of rock salt. The cutting agent MSM and bowls, pairs of disposable gloves, digital scales, a lighter and bolt cutters were also located. Kalbasi's DNA was found on one of the pairs of gloves.</p>	<p>plainly more than just a courier and warehouse; he was very high in the drug distribution chain.</p> <p>The sentencing judge found the appellant committed the offence for financial gain.</p>	<p>fortunate circumstances than the appellant. Mr Lothian, unlike the appellant, was an entrenched drug addict who had a difficult childhood and no apparent family support.</p> <p>At [262] It was open to his Honour to be satisfied beyond reasonable doubt that the appellant's role in the commission of the offence was 'higher' than that of Mr Lothian.</p> <p>At [293] His Honour did not take into account the non-parole period to be served by the appellant when imposing a fixed term of imp upon him...he was not required to do so...</p>	
12.	<p><i>NG v The State of Western Australia</i></p> <p>[2017] WASCA 124</p> <p>Delivered 23/06/2017</p>	<p>26 yrs time offending. 27 yrs time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>No prior criminal history.</p> <p>Born in China; lived in Hong Kong from aged 5 yrs.</p>	<p>Ct 1: Poss methyl wiss 4.983.2kg at 77-78% purity and 75-79% purity.</p> <p>Ct 2: Poss unlawfully obtained property.</p> <p>NG agreed to store drugs. He would be paid his daily living expenses, rent and HK\$10,000.</p> <p>NG and a co-offender rented an apartment, from which the drugs were to be delivered, stored and collected.</p>	<p>Ct 1: 12 yrs imp (conc). Ct 2: 18 mths imp (conc).</p> <p>TES 12 yrs imp.</p> <p>EFP.</p> <p>The judge found seriousness of the offence aggravated by amount and purity of the methyl he</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentence on ct 1.</p> <p>At [32] The appellant was not merely the holder of the drugs. ... As well as taking custody of the drugs, he exchanged a portion of the drugs ... for the sum of</p>	4.983.2 kg.

		<p>Father died when aged 12 yrs; mother seriously ill; moved to Australia to help support her.</p> <p>Limited English language skills.</p> <p>Struggled academically at school; educated equivalent of yr 11.</p> <p>Single.</p> <p>No history of illicit drug use; physical or mental health issues.</p>	<p>On two occasions methyl was delivered to the apartment. He exchanged some of the methyl for \$385,000 cash.</p> <p>About six weeks later NG was told trouble was expected. So he moved to a room in a hotel, taking most of the methyl and the money with him. That day police searched the room and found \$385,000 in cash and 4.941kg of methyl in five clipseal bags.</p> <p>That same day a search warrant also executed at the apartment. Two clipseal bags containing 42.2g of methyl, which NG had left behind and intended to recover and sell himself, were located. Scales, a scoop and large empty clipseal bags containing traces of a crystalline power, a number of unused clipseal bags and a note of numbers were also found.</p>	<p>possessed. The methyl was able to be significantly diluted by cutting agent.</p> <p>The judge found appellant aware he was engaging in serious criminal conduct. In holding the drugs he still performed a very important role in the drug dealing syndicate's operations.</p> <p>Genuine acceptance of responsibility and remorse.</p>	<p>\$385,000. When a warning came that 'trouble' was expected ... the appellant hired a hotel room and moved the drugs and cash to the alternative location. The appellant's involvement had continued for almost a month after he leased the ... unit. It may be inferred that it would have continued, had police not intervened.</p> <p>At [33] The appellant knowingly played an important role in a significant drug dealing enterprise involving the dissemination of a large quantity of methyl into the community. The appellant acted as a crucial conduit between the suppliers and wholesale purchasers of the drug, enabling the suppliers to remain one step removed from the drugs and significantly reduce their risk of apprehension.</p> <p>At [34] There is also the irresistible inference that the appellant 'skimmed' about 42g of the methyl</p>	
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					from the larger packages, with the intention of selling that portion ... for his own benefit. The appellant was acting purely for financial gain ...	
11.	<p><i>Milenkovski v The State of Western Australia</i></p> <p>[2014] WASCA 48</p> <p>Delivered 28/02/2014</p> <p>Co-offender of:</p> <p><i>Kitis v The State of Western Australia</i> [2013] WASCA 34</p> <p>Co-offender of:</p> <p><i>Ozan v The State of Western Australia</i></p> <p>[2011] WASCA 27</p>	<p>32 yrs at time offending. 34 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history of any relevance.</p> <p>Father died when about 15 yrs; otherwise unremarkable childhood.</p> <p>Completed school; part completion of university studies.</p> <p>Variety of occupations.</p> <p>No physical or mental health issues; occasional social drinker; experimented with cocaine; denied any current illicit substance use.</p> <p>‘Patched member’ of an outlaw motorcycle gang – Comancheros.</p>	<p>Ct 1: Poss methyl wiss 2.675kg of 17-19% purity. Ct 2: Att Poss methyl wiss 4.983kg of 53-69%.</p> <p><u>Ct 1:</u> Milenkovski negotiated with another; whom was a member of an illicit drug distribution organisation in NSW; to purchase a quantity of methyl. The negotiations were conducted by coded communications on prepaid mobile phones.</p> <p>Milenkovski was the principal of a drug distribution organisation in WA. He used other people to carry out the ‘hands-on work’ of obtaining illicit drugs and paying for them.</p> <p>Following negotiations between the two Milenkovski ordered 6 pounds (2.688kg) of methyl at \$45,000 a pound. The total purchase price was \$270,000.</p> <p>The methyl was hidden in an internal panel in a car and transported on a truck from Sydney to Perth. Arrangements were made whereby the drugs were ultimately</p>	<p>12 yrs imp. 14 yrs 6 mths imp.</p> <p>To serve 2 yrs 6 mths of ct 1 before Ct 3 commences.</p> <p>TES 17 yrs imp.</p> <p>EFP.</p> <p>No remorse; unwilling to accept responsibility.</p> <p>Offences not isolated incidents; had for some time prior been a regular top-end dealer in illicit drugs.</p> <p>Ct 1: The trial judge found that the total value of the drugs in the Perth market at the time of seizure was about \$1.15 million, however found the appellant intended to sell the drugs for at least \$80,000 a pound for a</p>	<p>Dismissed (Mazza dissenting in Ground 3).</p> <p>Ground 3 made out – sentence remained.</p> <p>At [62] The appellant’s conduct in committing ct 3 demonstrated his determination to engage in serious criminal conduct for his own benefit, despite the possible consequences for others.</p> <p>At [204] ... A very small discount should have been allowed in the determination of the individual sentences and the total effective sentence for the conditions of the appellant’s detention in the MPU before sentencing.</p> <p>At [212] What clearly emerges from the case law is that the issues of whether any mitigation may be</p>	7.658 kg.

			<p>hidden in co-offender Da San Martino's BBQ in the garage of his house. Police later executed a search warrant and found 2.675 kg of methyl, \$47,300 cash, clip seal bags, a set of electronic scales with traces of MDMA, cocaine and methyl on its surfaces, a heat sealer and a money counter.</p> <p><u>Ct 2:</u> Despite the police having scuttled the transaction the subject of ct 1; in February 2010 Milenkovski negotiated with the same drug distribution organisation to purchase another quantity of methyl.</p> <p>Milenkovski agreed to purchase 5kg of methyl for \$280,000 per kg. The purchase price was \$1.4 million. The methyl was provided on credit. Milenkovski was to pay the purchase price after he had received and on-sold the drugs.</p> <p>Almost 5kg of methyl was concealed in the spare tyre of a car. The car was transported from Sydney on route to Perth however was intercepted by police while it was at the Transport's depot in SA. Police removed the methyl and replaced it with rock salt.</p> <p>Analysis of the methyl revealed it weighed 4.983kg and had a purity ranging from 53% - 69%.</p>	<p>total of about \$480,000.</p> <p>Ct 2: The trial judge found that the total value of the methyl in the Perth market at that time was about \$2.49 million, however found the appellant intended to sell the drugs for an amount considerably in excess of \$1.5 million.</p> <p>The trial judge found the appellant committed the offences solely for very significant commercial gain.</p> <p>The trial judge was satisfied beyond reasonable doubt that the appellant was at the top of the chain of distribution in WA; well organised operations; numerous people working for him at different levels; had a network of associates & contacts; dealt directly with importer of illicit drugs from overseas.</p> <p>Offences 'close to the top end of the range of</p>	<p>given to the conditions in which an offender is held in custody and the weight that may be attached to this factor are very fact sensitive. Further, whether it is submitted that an offender's detention has or will be more arduous, it is necessary for the submission to be supported by appropriate evidence.</p>	
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			The vehicle was later collected by associates and subsequently searched by police where the spare tyre was found.	seriousness for offences of their type’.		
10.	<p><i>My v The State of Western Australia</i></p> <p>[2018] WASCA 1</p> <p>Delivered 05/01/2018</p> <p>Co-offender of:</p> <p><i>Nguyen v The State of Western Australia</i></p> <p>[2017] WASCA 195</p>	<p>38 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>No prior criminal history.</p> <p>Arrived Australia 2010 as a student; eventually ceased studies.</p> <p>Employed full-time.</p> <p>Much of income sent to parents in Vietnam; principally to pay for mother’s medical treatment.</p>	<p><u>Indictment</u></p> <p>Ct 1: Poss unlawfully obtained property.</p> <p>Cts 2 & 5: Cultivate cannabs wiss (116 and 91 plants).</p> <p>Ct 3: Poss cannabis wiss (8.09 kg).</p> <p>Cts 4 & 6: Fraudulent diversion of power.</p> <p><u>Breach offence</u></p> <p>1 x Breach of bail undertaking.</p> <p><u>Indictment</u></p> <p>Search warrant executed at My’s home. Total of \$32,000 cash located and provided false explanation as to how he came by the money (ct 1).</p> <p>On the same day a search warrant was executed at a second home being used as a cannabis factory.</p> <p>My and two co-offenders engaged in a joint enterprise to grow cannabis for sale. His role was to purchase the ingredients, attend the second house to take care of the plants and to package the cannabis for sale. 116 plants were found growing (ct 2).</p> <p>8.096 kg of cannabis material was also found at the second home. My admitted possession of the cannabis and that he sold it for cash (ct 3).</p>	<p><u>Indictment</u></p> <p>Ct 1: 9 mths imp (conc).</p> <p>Ct 2: 2 yrs 2 mths imp (cum).</p> <p>Ct 3: 1 yr 9 mths imp (conc).</p> <p>Ct 4: 8 mths imp (cum).</p> <p>Ct 5: 1 yr 8 mths imp (cum).</p> <p>Ct 6: 3 mths imp (conc).</p> <p>Breach offence</p> <p>6 mths imp (cum).</p> <p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge described the offending as ‘a large-scale operation’ with a ‘high level of sophistication’ and ‘a high degree of commerciality’; the appellant was intricately involved in the business.</p> <p>Appellant remorseful; acceptance of responsibility.</p>	<p>Dismissed – on papers.</p> <p>Appeal concerned individual sentences and totality principle.</p> <p>At [24] ... he was a willing participant in a well-planned and sophisticated cannabis-growing and distribution business which generated considerable sums of money. While [co-offender] was ‘a senior partner’ of the enterprise, the appellant’s role was very significant. ... It cannot be overlooked that the business was conducted at two residential premises and that, at each house, the appellant fraudulently diverted electricity from the main electrical supply by bypassing the meter.</p> <p>At [25] The breach of bail offence involved a plan to thwart justice by travelling to Darwin with the intention of fleeing the jurisdiction. It was a</p>	8.09 kg.

			<p>My admitted bypassing the meter box at the second home. Electricity valued at \$76,225 was fraudulently used (ct 4).</p> <p>On a further date a search warrant was executed on a second home being used as a cannabis factory. Hydroponic equipment and 91 plants were found growing, comprising 55 mature plants and 36 seedlings (ct 5).</p> <p>At this third home the electricity was also diverted and \$11,593 worth of electricity was fraudulently used (ct 6).</p> <p><u>Breach offence</u> The appellant failed to appear in the District Court in accordance with his bail undertaking. Apprehended attempting to leave Australia in order to evade sentence.</p>		<p>particularly serious example of its type.</p> <p>At [31] ... it is not reasonably arguable that any of the individual sentences are unreasonable or plainly unjust.</p> <p>At [32] ... the sentencing judge did not err in his assessment of the discount to be given for the pleas of guilty pursuant to s 9AA.</p>	
9.	<p><i>Higgins v The State of Western Australia</i></p> <p>[2019] WASCA 78</p> <p>Delivered 21/05/2019</p>	<p>27 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after late PG (15% discount) (cts 10, 11, 37, 38 and 40).</p> <p>Convicted after PG (18% discount) (other 35 counts).</p> <p>Born in England; moved to Ireland aged 12 yrs; no family in WA.</p>	<p>Cts 1-3; 9-11; 13-14; 17; 21; 26: Offer to sell MDMA.</p> <p>Cts 4-5; 8;12; 15-16; 18-19; 24; 28; 31-32; 35-36: Offer to sell anabolic steroids.</p> <p>Cts 6-7; 25; 30: Offer to sell testosterone.</p> <p>Ct 20; 22-23; 27; 29; 33-34: Offer to sell human growth hormones.</p> <p>Cts 37 & 38: Sold methyl 13.6g at 75% purity & 55.7g at 75% purity.</p> <p>Ct 39: Offer to sell cocaine 255g (for \$67,500).</p> <p>Ct 40: Sold methyl 89.3g at 82% purity & 900g at 84% purity.</p>	<p>Ct 1: 12 mths imp (cum).</p> <p>Ct 2; 21 & 37: 2 yrs imp (conc).</p> <p>Cts 3; 9-11; 13; 17 & 26: 12 mths imp (conc).</p> <p>Cts 4-7; 14; 16; 20; 27; 33 & 35: 3 mths imp (conc).</p> <p>Ct 8: 6 mths imp (cum).</p> <p>Cts 12; 15; 18-19; 22-25; 28-32; 34 & 36: 6 mths imp (conc).</p> <p>Ct 38: 3 yrs imp (conc).</p> <p>Ct 39: 3 yrs imp (cum).</p> <p>Ct 40: 8 yrs imp (cum).</p>	<p>Dismissed.</p> <p>Appeal concerned error in law (plea discount) and parity principle.</p> <p>At [181] ... bearing in mind the extent of the delay in the pleas, ... the discount of 18% was well within the range of an appropriate exercise of discretion. ...</p> <p>At [133] ... bearing in mind</p>	10.586 kg

		<p>Completed yr 12 in Ireland.</p> <p>Employed construction industry on leaving school; lost job during Irish recession; struggled financially; commenced drinking heavily.</p> <p>Moved to Australia 2012-2013; gained work; reduced alcohol consumption; commenced bodybuilding.</p> <p>Problematic use of performance enhancing drugs; injecting six-seven times per day; cost of habit increasing to thousands of dollars per week; resulting financial stress; began offending as a means of making up the shortfall between his income and expenses.</p> <p>Ceased drug use following arrest.</p>	<p>Intercepted mobile telephone calls revealed Higgins offered to sell quantities of MDMA, anabolic steroids, testosterone and human growth hormones to others. Higgins was also seen meeting a customer and receiving money for the sale of MDMA pills (cts 1-36).</p> <p>Higgins began communicating with an UCO and supplied him with methyl and cocaine on four separate occasions (cts 37-40).</p> <p>Higgins communicated with a co-accused Mr MacDonald, knowing he was able to source very large quantities of methyl.</p> <p>The UCO informed the appellant he was interested in purchasing 1 kg of methyl. Mr MacDonald informed the UCO his supplier could provide the 1 kg of methyl for \$192,500. Higgins was present during this discussion and he discussed this proposed purchase with the UCO on further occasions. Higgins acted as the go-between between the UCO and Mr MacDonald. When the deal did not come to fruition Higgins indicated to the UCO he may be able to source the drug elsewhere.</p> <p>Higgins then contacted the co-accused Mr Costa Ramirez. Mr Costa Ramirez and the UCO discussed the purchased of methyl, along with a co-accused Mr Perlin. Some</p>	<p>TES 12 yrs 6 mths imp. EFP.</p> <p>The sentencing judge found the appellant's offending very serious; he dealt with large volumes of various prohibited drugs for commercial gain.</p> <p>The sentencing judge found the appellant's actions were 'deliberate, repeated and persistent'; the quantity, purity and value of the drugs involved significant and some involved substantial quantities; others were involved in the offences and he was motivated by commercial gain.</p> <p>Demonstrated remorse; cooperative; steps taken towards rehabilitation.</p>	<p>the strength of the state case, the discount of 16% applied to cts 10, 11, 37, 38 and 40, to which the appellant PG only after committal for trial ... can fairly be said to be generous.</p> <p>At [187]-[188] ... Mr Woodcock's role in the sale of the methyl was undoubtedly higher in the chain of supply hierarchy than the appellant's. In that respect, Mr Woodcock's offence reflected a high degree of culpability and yet the appellant received a higher sentence ... Against this, however, is the appellant's offending in relation to ct 40 involved a high degree of persistence over a lengthy period of time. ... the appellant engaged in discussions with the UCO with a view to a sale of 1 kg of methyl. ... the appellant pursued and facilitated the sale that ultimately was ct 40. ...</p> <p>At [191] ... While Mr Costa Ramirez's offending</p>	
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			days later Mr Costa Ramirez and Mr Perlin sold 989.3 g of methyl to the UCO in exchange for \$180,000. A further co-offender Mr Woodcock supplied the methyl and was present during this transaction.		might fairly be seen as somewhat more serious than the appellant's, that is comfortably accommodated by the 1 yr higher sentence imposed on Mr Costa Ramirez.	
8.	<p><i>Kezkiropoulos v The State of Western Australia</i></p> <p>[2018] WASCA 58</p> <p>Delivered 02/05/2018</p> <p>Co-offender of:</p> <p><i>Tago v The State of Western Australia</i> [2018] WASCA 59</p>	<p>52 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Prior criminal history; including custodial sentence for drug offences.</p> <p>Born Melbourne; lived in Greece 2-3 yrs as a child; experienced language related learning difficulties on his return.</p> <p>Helped with care of younger brother with mental health issues as teenager and young adult.</p> <p>Married; two young children.</p> <p>Employed; part-owner of business; fell into debt and suffered financial pressures.</p>	<p>1 x Poss methyl wiss 11kg at 75%-79% purity.</p> <p>Kezkiropoulos drove to a carpark where he met with two men, Tago and Simons. The two cars then drove in convoy before pulling over to the side of the road.</p> <p>Kezkiropoulos got out of his car and placed a bag containing \$89,650 in cash into the rear of the other car, before collecting a bag containing the methyl, which he placed into the boot of his own car.</p> <p>A short time later Kezkiropoulos' vehicle was stopped and searched. The bag containing the methyl was located, along with \$5,500 in cash.</p> <p>The value of the drug was estimated to be between \$2.75 million (if sold in kg lots) and \$11 million (if sold on the street in lots of 0.1g).</p>	<p>17 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant was involved in the distribution of drugs within the community for reward; he was not at the top of the tree but that didn't mean he wasn't an important part of the drug distribution network; he played a significant role</p> <p>Motivation for offending entirely financial gain.</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence and parity principle.</p> <p>Sentence set aside.</p> <p>Re-sentenced to 13 yrs imp. EFP.</p> <p>At [30] ... Clearly he played an important and trusted role but there is nothing to suggest that he was in a high position in the hierarchy of distribution. On the other hand, his involvement was not confined to this instance and needed to be seen in the context of the evidence that he had received similar parcels on two previous occasions.</p> <p>At [40] As serious as the appellant's role was, his</p>	11.00 kg.

		Recreational use of cannabis as a teen; otherwise no history of drug abuse.			<p>level of criminality was significantly less than that of either <i>Quaid</i> or <i>Milenkovski</i>.</p> <p>Unlike those offenders, he was not at or close to the top of a major drug distribution enterprise.</p> <p>At [44] [Simons] and [Tago] were not strictly speaking co-offenders with the appellant but there is sufficient overlap to engage the norm of equal justice that animates the parity principle.</p> <p>At [50] The discount of 20% given by the sentencing judge was unduly generous. ... In our view the appropriate discount is one of 10%.</p> <p>At [52] It is necessary for parity reasons to take into account the sentences imposed on [Tago] and [Simons].</p>	
7.	<i>Chadburne v The State of Western Australia</i> [2017] WASCA	45 yrs at time offending. 48 yrs at time sentencing. Convicted after trial (cts 1-4).	Ct 1: Poss MDMA wiss 8.4153kg (34,475 tablets) at 30% purity. Ct 2: Poss methyl wiss 2.046kg at 66%-82% purity. Ct 3: Poss cocaine wiss 482.76g at 76%-	Ct 1: 14 yrs 6 mths imp. Ct 2: 12 yrs imp (conc). Ct 3: 5 yrs imp (conc). Ct 4: 1 yr 6 mths imp (cum).	Dismissed. Appeal concerned length of sentence (ct 1) and totality principle.	11.2183 kg.

<p>216</p> <p>Delivered 23/11/2017</p>	<p>Convicted after PG (ct 5) (5% discount).</p> <p>Minor NSW criminal history.</p> <p>Raised and lived NSW.</p> <p>Disadvantaged background; father physically and psychologically abusive.</p> <p>Difficulties at school; expelled yr 9.</p> <p>Strong work ethic; consistently employed as a van/truck driver since aged 20.</p> <p>9 yr relationship; three adult children together; primary carer of his children after separation.</p> <p>Suffered severe depression and stress as a result of his apprehension.</p> <p>Very heavy drinker; occasional user of methyl; denied ongoing use.</p>	<p>77% purity.</p> <p>Ct 4: Poss cocaine wiss 275g at 58% purity.</p> <p>Ct 5: Fail to obey data access order.</p> <p>Chadburne was a member of a syndicate involved in the transportation and supply of large quantities of prohibited drugs from NSW into WA.</p> <p>On several occasions Chadburne attended the motor works business of one of the syndicate members. He facilitated the concealment of 15 sealed packages containing drugs into motor vehicle gear transmissions (cts 1-3).</p> <p>The engine transmissions, containing the prohibited drugs, were placed on a pallet into the tray of a utility vehicle, which Chadburne commenced to drive to WA. During the journey he collided with a kangaroo causing substantial damage to the utility. He arranged a replacement vehicle and hire trailer.</p> <p>During the change of vehicles Chadburne located a sixteenth package left on the rear seat of the utility, which unknown to him could not be accommodated into the transmissions. He was given permission to keep this drug so he hid the package inside the wheel arch panelling of the replacement vehicle (ct 4).</p>	<p>Ct 5: 6 mths imp (cum).</p> <p>TES 16 yrs 6 mths imp.</p> <p>EFP.</p> <p>The trial judge found the offending very serious; it involved a high level of criminality; the appellant's role was integral to the operation and the crime syndicate of which he was a part of and working with and the offending was committed out of greed and purely for commercial gain.</p> <p>The trial judge found the appellant more than that of a mere courier and it was not a one-off opportunistic attempt.</p> <p>No demonstrable evidence of remorse or insight.</p>	<p>At [60] The appellant was more than a mere courier of the drugs. ... The appellant participated in packing the drugs He held face to face discussions with the apparent head of the syndicate. He organised the vehicles used to transport the drugs. This was done as part of an ongoing operation, and could not be regarded as behaviour which was aberrant or out of character for the appellant. The appellant expected to make a substantial profit from the operation.</p> <p>At [64] ... the appellant's actions after the collision with the kangaroo showed that he was able to respond to an unexpected setback with adaptability and initiative. He demonstrated a relatively sophisticated understanding of the implications of finding the package of cocaine on the rear seat ...</p> <p>At [65] ... While the</p>	
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			<p>Chadburne continued his journey and eventually arrived in WA where he was stopped by police. The vehicle was seized and the sealed packages hidden within the transmissions located.</p> <p>Chadburne's Blackberry was also seized and he failed to obey a data access order to reveal its pass code. As a result it remained encrypted and inaccessible to police.</p> <p>The drug secreted in the wheel arch remained undetected. The vehicle was eventually repossessed for sale by auction. On bail and aware the drug had not been located he called the auction company a number of times, rousing suspicions. A drug detection dog inspected the vehicle and the package was discovered.</p> <p>Information from intercepted telephone calls revealed Chadburne expected to earn \$40,000- \$50,000 from the venture. It was also not the first occasion he had participated in the distribution of illicit drugs, having previously travelled to WA on behalf of the syndicate.</p> <p>The package of cocaine (ct 4) had an estimated street value of \$98,000 - \$206,000.</p> <p>Evidence at trial indicated an individual MDMA pill sold for \$15 - \$35, giving a</p>		<p>appellant may have been vulnerable to exploitation by others due to his social vulnerability and difficulties with emotional regulation, he knew what he was doing was illegal and appreciated the risks involved.</p> <p>At [66] ... The amount and quality of MDMA in the appellant's possession was greater than in many of those cases [referred to]. He was an active member of the syndicate which brought the drugs into WA, whose involvement extended beyond the mere provision of transport. The appellant expected to obtain a significant financial reward from the activity.</p> <p>At [67] ... The circumstances of the ... offending, particularly that which was the subject of cts 4 and 5, increased the overall criminality of the appellant's conduct in a manner that warranted some accumulation of the sentences.</p>	
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			potential value of the MDMA tablets discovered at between \$517,125.00 - \$1,206.625.00.		<p>At [68] ... The seriousness of [ct 4] was agg by the fact that these drugs were to be sold wholly for the appellant's personal benefit, and by the attempts after his arrest to regain possession of the drugs.</p> <p>At [69] ... Cumulacy of this sentence [ct 5] was called for in order to avoid the result that a person apprehended in the course of committing serious offences might refuse to comply with an order that will produce evidence of the offending without any practical adverse consequences ...</p> <p>At [70] The appellant's overall criminality is also agg by the substantial quantities of methyl and cocaine which were the subject of cts 2 and 3.</p>	
6.	<i>Wong v The State of Western Australia</i> [2019] WASCA 8	<u>Chiu</u> 25 yrs at time sentencing. Convicted after PG (20% discount).	<u>Chiu</u> Cts 1 & 2: Property laundering. Ct 3: Poss methyl wiss 3.855 kg between 75% - 79% purity. Ct 4: Poss methyl wiss 7.606 kg between 5% - 81% purity.	<u>Chiu</u> Ct 1: 6 mths imp (cum). Ct 2: 12 mths imp (conc). Ct 3: 14 yrs imp (cum). Ct 4: 2 yrs imp (cum). Ct 5: 2 yrs imp (conc).	Allowed. Appeal concerned length of sentence (ct 3); totality principle and parity principle.	11.461 kg.

<p>Delivered 16/01/2019</p>	<p>No prior criminal history. Born Hong Kong; limited English. Positive and normal upbringing; close family. Completed equivalent of yr 10 in Hong Kong. Married; no children. Employed in Hong Kong. Sound mental and physical health; no history of illicit substance use; rarely consumes alcohol. <u>Chuen</u> 26 yrs at time sentencing. Convicted after PG (20% discount). No prior criminal history. Born Hong Kong; limited English. Positive and normal upbringing; close family.</p>	<p>Ct 5: Poss unlawfully obtained property (\$400,938.50). <u>Chuen</u> Ct 4: Poss methyl wiss Ct 5: Poss unlawfully obtained property (\$400,938.50). The appellants Chiu and Chuen are brothers. Chiu was recruited in Hong Kong to come to Australia, to undertake 'errands' involving the sale and supply of illegal drugs. He was paid for the tasks he performed and provided with accommodation and food. In addition, he expected payment of a large sum of money on his return to Hong Kong. Chuen followed his brother to Australia some months later, knowing Chiu was involved in illegal activities. <u>Ct 1</u> On instruction from his Hong Kong boss Chiu attended an arranged meeting place, where he delivered a bag containing \$100,000 in cash for the purchase of half a kg of drugs. <u>Ct 2</u> On another occasion Chiu was instructed by his Hong Kong boss to deliver money. He was picked up and driven to an</p>	<p>TES 16 yrs 6 mths imp. EFP. <u>Chuen</u> Ct 4: 13 yrs imp (conc). Ct 5: 2 yrs imp (conc). TES 13 yrs imp. EFP. <u>Chiu</u> The sentencing judge found the appellant was not at the very top of the drug hierarchy; however he was towards the top end of the chain of distribution. Responsibility for his offending; lack of insight into seriousness of his offending. <u>Chuen</u> The sentencing judge found the appellant was 'acting as a caretaker of the drugs and the money' and although he was not the mastermind behind the offending his role was important; but different to, and less culpable than</p>	<p><u>Chiu</u> Re-sentenced to: Ct 1: 12 mths imp (cum). Ct 2: 12 mths imp (conc). Ct 3: 11 yrs imp (conc). Ct 4: 12 yrs imp (cum). Ct 5: 2 yrs imp (cum). TES 15 yrs imp. EFP. <u>Chuen</u> Re-sentenced to: Ct 4: 10 yrs imp. Ct 5: 12 mths imp (cum). TES 11 yrs imp. EFP. At [77] ... the offending in ct 3 was undoubtedly serious. However, the appellant's role was to take the drugs from the boot of the car, transport them to his house and keep them there until he received instructions from his boss. He did not own the drugs and was not in control of the operation.</p>	
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5.	<i>MSO v The State of Western</i>	Convicted after PG.	<p><u>Ind</u> Ct 1: Poss methyl wiss 10.54kg of 46-</p>	<p><u>Ind</u> Ct 1: 8 yrs 3 mths imp.</p>	Dismissed.	14.689 kg.

<p>Australia</p> <p>[2015] WASCA 78</p> <p>Delivered 14/04/2015</p>	<p>Favourable antecedents.</p>	<p>75% purity. Ct 2: Poss heroin wiss 2.46kg of 41-59% purity. Ct 3: Poss cocaine wiss 599g of 52-62% purity. Ct 4: Poss MDMA wiss 1.09kg of 5-10% purity.</p> <p><u>Section 32 Notice</u> Ch 1: Poss stolen or unlawfully obtained property.</p> <p>MSO provided warehousing and related services to two drug traffickers, A and B, for one year from his legitimate retail business. MSO collected, weighed, checked, stored, made up orders and delivered drugs on behalf of A and B as instructed by coded text messages. MSO, when instructed, added cutting agents to the drugs supplied to him on behalf of B and then repackaged the resulting product. He was paid in cash for his services.</p> <p><u>Ct 1</u> Police found a total of 10.54kg of methyl in 18 packages. Each package ranged in size from between 26.6g and 575g and 1kg, of 46%-75% purity. Also found were scales, clip seal bags, a cutting agent, heat sealing equipment and an envelope with handwritten names and quantities on it. The street value was estimated at \$4.7-\$5.2 million (if sold in 28g lots) and at \$10.5 million (if sold in 0.1g lots).</p>	<p>Ct 2: 7 yrs 6 mths imp (conc). Ct 3: 5 yrs imp (conc). Ct 4: 6 yrs imp (conc).</p> <p><u>Section 32 Notice</u> 12 mths imp (conc).</p> <p>TES 8 yrs 3 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that motivation for offending was a combination of beliefs arising from B's implied threat and a desire to make a significant financial gain.</p> <p>Remorseful; fully accepted responsibility for conduct; low risk of reoffending.</p> <p>Letter of recognition; appellant provided very substantial assistance.</p>	<p>At [28] ...the judge viewed the appellant's conduct as extremely serious, because the appellant played an integral role in the success of what was obviously a sophisticated large-scale drug distribution network.</p> <p>At [69] Although it is common to speak of discounts for cooperation with authorities in terms of percentages, as Gleeson CJ observed in <i>R v Gallagher</i>, the court must have regard to the TES imposed after the discount so as to ensure that the sentence is not so far out of touch with the circumstances of the offending conduct that it... would contravene the requirement of s 6(1) of the <i>Sentencing Act</i> which requires the sentence imposed on an offender to be commensurate with the seriousness of the offence.</p> <p>At [70] In this case the appellant received a reduction in the sentence that would otherwise have been imposed upon him of</p>
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			<p><u>Ct 2</u> Also found were three packages of heroin, two of which were a little under 1kg with 41% purity and the third containing a little less than 500g with 59% purity. The street value was estimated at \$1.1 million (if sold in 1 oz lots) and \$1.2-\$2.5 million (if sold in 0.1g lots).</p> <p><u>Ct 3</u> Also located were three packages containing 109g of cocaine of 52% purity, 190g of cocaine of 56% purity and 300g of cocaine of 62% purity, respectively. The street value was estimated at \$450,000 (if sold in 1g lots) and \$214,000 (if sold in 1 oz lots).</p> <p><u>Ct 4</u> Police found 3,815 ecstasy tablets, which belonged to B and had been at the factory for a year. They ranged in purity between 5% and 10%. Street value estimated at \$152,600 (if sold individually) and \$53,000-\$57,000 (if sold in lots of 1,000).</p> <p><u>Section 32 Notice</u> Also found during the search was \$232,000 in cash.</p> <p>MSO cooperated fully with police.</p>		8 yrs and 3 mths in recognition of the assistance which he provided to law enforcement agencies. On any view, that is a very substantial discount.	
4.	Tago v The State of Western Australia	44 yrs at time sentencing. Convicted after trial.	1 x Poss methyl wiss 21kg at high purity. Tago agreed to drive a vehicle from	9 yrs imp. EFP.	Dismissed. Appeal concerned length of	21.00 kg.

	<p>[2018] WASCA 59</p> <p>Delivered 02/05/2018</p> <p>Co-offender of:</p> <p><i>Kezkiropoulos v The State of Western Australia</i> [2018] WASCA 58</p>	<p>Minor prior criminal history.</p> <p>Born New Zealand; came to Australia as a teenager.</p> <p>Good and strict upbringing; ‘disturbed youth’.</p> <p>Average student; completed yr 11.</p> <p>Consistent employment.</p> <p>Married; four children.</p> <p>Excessive use of alcohol at time offending.</p> <p>In financial difficulties at time offending.</p> <p>No significant health problems; no history of drug addiction.</p>	<p>Sydney to Perth with a quantity of methyl. He was to be paid \$1,500-\$2,000.</p> <p>Tago immediately flew from Brisbane and the following day he left Sydney in a hired vehicle. Following in a second vehicle were Simons and Walker.</p> <p>On arrival in Perth all participants went to a resort where the drugs were unpacked.</p> <p>That same day 11kg of the drug was delivered by Simons and Tago to Kezkiropoulos.</p> <p>Later that evening the unit Tago was occupying at the resort was searched and the remaining 10kg of methyl located.</p>	<p>The sentencing judge described the events as a very serious example of this type of offence.</p> <p>The sentencing judge accepted the appellant did not know the quantity or chemical composition of the drugs but he must have assumed it to be methyl and must have been aware from the scale of the operation that it was a significant quantity.</p> <p>The sentencing judge found the appellant only played a minor part in the operation; he had no financial interest in the drugs or in any profits that might have been made from them; he was a courier.</p> <p>Positive efforts made towards rehabilitation; low risk of re-offending.</p>	<p>sentence and error in finding the appellant knew there was significant quantity of drugs.</p> <p>At [30] The amount the appellant was to be paid is a relevant act to be taken into account, but not in isolation. When viewed in the context of all of the other circumstances it does not prevent an inference of knowledge that the amount of drugs was significant being drawn.</p> <p>At [31] There were other circumstances relevant to determining the appellant’s state of knowledge. These include the fact that the appellant knew that he was to drive together with three other people in two cars ... and that all fuel, accommodation and food expenses would be paid for by others. The appellant also knew that there was a degree of urgency and the arrangements included having him met at Sydney Airport by a limousine driver holding a sign with a</p>	
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					<p>false name. It is inconceivable that such efforts would be made for a small quantity of drugs.</p> <p>At [49] As to the seriousness of the offending in this case, the role of the appellant was at the lower end of the hierarchy, but he nonetheless played an important and willing part in the transportation of a very large quantity of drugs to WA. His involvement was not brief, rather it continued over a period of some 5 days. The quantity and purity of the drugs were both very high and the value was estimated to be approx \$4 million.</p> <p>At [50] ... on a proper exercise of the sentencing discretion a higher sentence might have been imposed, and Her Honour's sentencing ... can fairly be described as lenient. The sentence imposed properly reflected the objective features of the offending, ...</p>	
3.	<i>Gaskell v The</i>	33 yrs at time offending.	Ct 1: Poss methyl wiss 21.74kg at 73.5%-	Ct 1: 18 yrs 6 mths imp.	Allowed.	21.74 kg.

<p><i>State of Western Australia</i></p> <p>[2018] WASCA 8</p> <p>Delivered 18/01/2018</p>	<p>35 yrs at time sentencing.</p> <p>Convicted after PG (12% discount).</p> <p>Prior criminal history; no relevant history of offending; no prior sentences of imp.</p> <p>Parents separated aged 11 yrs; death of close friend aged 14 yrs.</p> <p>Sound education; completed yr 10 and trade apprenticeship.</p> <p>Married; relationship involving mutual drug use.</p> <p>Recreational drug user; cannabis and alcohol from early teens; ecstasy and methyl early twenties; cocaine late twenties;</p>	<p>80.3% purity.</p> <p>Cts 4 & 9: Poss unlawfully obtained property.</p> <p>Cts 5 & 6: Poss firearm.</p> <p>Cts 7 & 8: Poss ammunition.</p> <p>A search warrant was executed at Gaskell's home and at the address of a co-accused. A contract for a storage unit was located in the co-accused's car.</p> <p>A search warrant was executed at the storage unit.</p> <p>CCTV footage obtained from the storage unit showed Gaskell, the co-accused and a third male transporting tubs into the unit.</p> <p>In the storage unit in a tub police located disposable gloves, large clip-seal bags, a notebook containing a 'record of account' relating to the distribution of drugs, a computer hard drive and a money counting machine.</p> <p><u>Ct 1</u> Inside two tubs police also found methyl. More than 16.6 kg of pure methyl was contained in the 21.74 kg seized. The value of the methyl if sold in 1 kg parcels was approx \$4.3 million. If sold by the ounce, uncut, it would be worth approx \$6.2 million.</p> <p><u>Ct 4</u></p>	<p>Ct 4: 4 yrs imp (conc).</p> <p>Ct 5: 1 yr imp (conc).</p> <p>Ct 6: 18 mths imp (cum).</p> <p>Ct 7: 3 mths imp (conc).</p> <p>Ct 8: 1 mth imp (conc).</p> <p>Ct 9: 6 mths imp (conc).</p> <p>TES 20 yrs imp. EFP.</p> <p>The judge found the appellant intended to distribute the drugs and the distribution was at the very highest level of commercial activity; accepted there was someone higher than the appellant in the hierarchy.</p> <p>The judge found the purity and volume suggested the appellant was close to the source of the drug and that he was instrumental in the distribution into the community of great quantities which he sold for commercial gain.</p> <p>The judge found the money was unlawfully obtained and derived from drug trafficking and</p>	<p>Appeal concerned length of sentence ct 1 and totality principle.</p> <p>Re-sentenced:</p> <p>Ct 1: 16 yrs imp (cum).</p> <p>Ct 4: 4 yrs imp (conc).</p> <p>Ct 5: 1 yr imp (cum).</p> <p>Ct 6: 1 yr imp (cum).</p> <p>Ct 7: 3 mths imp (conc).</p> <p>Ct 8: 2 mths imp (conc).</p> <p>Ct 9: 6 mths imp (conc).</p> <p>TES 18 yrs imp. EFP.</p> <p>At [142] ... A range of sentences for very serious offending involving very large quantities of one drug has not yet emerged.</p> <p>At [147] There is no doubt that the appellant's offending was very serious. He had possession of an extremely large quantity of drugs of high purity valued in the region of \$4 million to \$6 million. As the packaging of the drug indicated, he was commercially selling large</p>
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			<p>In the unit \$569,000 in cash in vacuum sealed bags was also found. Gaskell's initials were on many of the parcels of cash.</p> <p>Inside Gaskell's home heat sealing bags were also located, including one signed with his initials.</p> <p><u>Ct 5</u> A sawn off double-barrel shotgun was located in the storage unit.</p> <p><u>Cts 6 & 7</u> A six-shot revolver handgun with the serial number removed was also found, along with 13 hollow-point .38 rounds for the handgun.</p> <p><u>Ct 8</u> Four 12-gauge shotgun rounds were found.</p> <p><u>Ct 9</u> A search warrant executed at a unit sublet by Gaskell located \$39,950 in cash inside a safe.</p>	<p>represented the fruits of very substantial quantities sold; while the firearms and ammunition were assets of a trafficking business kept to protect that business from the greed and violence of others.</p> <p>Appellant accepted responsibility; given 'slight credit for remorse'.</p>	<p>quantities of drugs. His motivation was financial gain. ...</p> <p>At [148] ... the appellant was not at the top of the drug dealing hierarchy. <i>Milenkovski</i> and <i>Quaid</i> are illustrative of cases in which (leaving aside the volume of drugs involved) the offender's role, and what the offender did, involved greater criminality, to a not insignificant degree, than that of the appellant in this case.</p> <p>At [149] ... evaluated against the yardstick of the maximum penalty of 25 yrs, locating the offence on the spectrum that extends from the least serious instances of the offence to the worst category and taking into account his PG ..., it must be concluded that the sentence imposed for ct 1 reveals implied error.</p>	
2.	<i>Santos v The State of Western Australia</i>	41 yrs at time sentencing. Convicted after trial.	<p>Ct 1: Poss MDMA wiss 8kg of 23-26% purity. Ct 2: Poss methyl wiss 22kg of 8-12%</p>	<p>Ct 1: 13 yrs imp (conc). Ct 2: 15 yrs imp (conc).</p>	<p>Dismissed. Appellant appealed length</p>	30.00 kg.

	<p>[2016] WASCA 107</p> <p>Delivered 29/06/2016</p>	<p>Prior criminal history, including drug convictions.</p> <p>Engaged in the cultivation of cannabis at time of offending and later sentenced to a term of imp in NSW for this offence.</p> <p>Resident of NSW.</p> <p>An undischarged bankrupt at time offending.</p> <p>Co-offender Micalizzi sentenced to TES 15 yrs imp. EFP.</p>	<p>purity.</p> <p>Santos piloted a light plane from NSW to WA. His only passenger, the co-offender. Stowed in the cargo hold of the aircraft was a quantity of MDMA and methyl which Santos and the co-offender were jointly transporting from Sydney to Perth, as part of a larger drug distribution enterprise.</p> <p>Shortly after landing in WA the aircraft was intercepted and searched and the drugs located.</p> <p>Santos was found in possession of just over \$9,000 in cash and two mobile phones not in his name.</p>	<p>TES 15 yrs imp. EFP.</p> <p>The sentencing judge found the appellant's role as 'critical to the enterprise'. Despite having committed drug-related offences in the past, he was prepared to fly an aircraft, aware that illicit drugs were on board.</p>	<p>of sentence and challenged under parity and totality principle.</p> <p>At [45] As the learned sentencing judge recognised, there were differences in the roles played by the appellant and Mr Micalizzi in the commission of the offences. He regarded the role played by Mr Micalizzi as being more important than that played by the appellant. By itself, that may have justified Mr Santos receiving lesser sentences. However, the appellant's antecedents are worse than Mr Micalizzi's.</p> <p>At [52] ... the TES, including the sentence imposed in NSW, was proportionate to the criminality involved in all of the offences, viewed in their entirety and having regard to the circumstances of the case, including those referable to the appellant personally.</p>	
1.	<i>Ng v The State of Western Australia</i>	19 yrs at time offending. 21 yrs at time sentencing.	Ct 1: Poss methyl wiss 315 kg at 80% purity.	Ct 1: 20 yrs imp (conc). Ct 2: 5 yrs imp (conc).	Allowed.	315.00 kg.

	<p>[2020] WASCA 70</p> <p>Delivered 01/05/2020</p>	<p>Convicted after late PG (5% discount).</p> <p>No prior criminal history.</p> <p>Born Hong Kong; raised stable family unit.</p> <p>Suffered ill-health as a child; missed a good deal of schooling.</p> <p>Co-accused B:</p> <p>Convicted after early PG (20% discount).</p> <p>Ct 1: 9 yrs 6 mths imp (conc). Ct 2: 2 yrs imp (conc).</p> <p>TES of 9 yrs 6 mths imp.</p>	<p>Ct 2: Poss unlawfully obtain property (\$1,183,500.00).</p> <p>Ng travelled to Australia unlawfully by sea, knowing he would be engaging in a criminal enterprise.</p> <p>On landing on a beach Ng was collected by a Mr Kam and driven to a home in Perth. The rear of the vehicle in which they travelled was full of bags. Ng was not aware what was in the bags.</p> <p>At the home Ng was introduced to the co-accused B. Together they unloaded 360 bags from the vehicle. Mr Kam took 30 of the bags. Each of the bags weighed about 1 kg and contained a packet of methyl. The packets were removed, counted and weighed and stored in a specially designed 'drug room'.</p> <p>The drug room was locked. Both Ng and B had a key to the room and were responsible for counting it and ensuring the accuracy of the sums collected.</p> <p>At some point Ng and B received instructions to transfer the contents of the packets into cipseal bags. They commenced this task, but it had not been completed at the time of Ng's arrest.</p> <p>Ng also carried out instructions to collect a mobile phone and \$178,500 in cash.</p>	<p>TES 20 yrs imp. EFP.</p> <p>The sentencing judge found the appellant came to Australia for the sole purpose of committing 'a very serious crime'.</p> <p>The sentencing judge found the overall level of the operation was 'at the very highest end of the scale for this type offence' and whilst the appellant's role was 'towards the lower end of the hierarchy' he played a 'significant role' in 'a sophisticated drug enterprise'.</p> <p>The sentencing judge found those at the top of the hierarchy of this criminal syndicate adopted sophisticated methods to import and distribute methyl in enormous quantities and in previously unseen levels of purity.</p>	<p>Appeal concerned length of sentence; totality and parity principles.</p> <p>Resentenced:</p> <p>Ct 1: 16 yrs imp. Ct 2: 3 yrs 9 mths imp.</p> <p>Ct 2 to be partially conc with ct 1 (achieved by their commencement dates).</p> <p>TES 17 yrs imp. EFP.</p> <p>At [49] ... At the time (2018), this was the largest quantity of methyl this court had seen in respect of a single offence. ... the enterprise in which the appellant was involved was sophisticated, international and well-planned and resourced. Further, if the drugs were distributed into the community, the enterprise stood to gain an extremely large sum of money. Finally, it must not be overlooked that 315 kg of methyl had the potential to bring about enormous harm within the</p>	
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			<p>Police observed Ng and he was followed back to the house.</p> <p>When a search warrant was executed at the house a total of \$1,183,500 in cash and 315 kg of methyl was located. Depending on how it was distributed, the methyl was valued at between \$31.5 million and \$315 million.</p> <p>Ng was to receive about \$HK1 million (the equivalent of around \$160,000 - \$170,000) for his role in the offending.</p>		<p>community.</p> <p>At [55] Without question, ct 1 is a very serious offence, particularly having regard to the enormous quantity of methyl it involved. But it must be borne in mind, ... the gravity of a drug offence is not to be assessed solely or chiefly by the weight of the prohibited drug involved.</p> <p>...</p> <p>At [57] ... it must be accepted that the appellant involved himself in a major international drug enterprise. While he may not have initially been aware of its precise nature and scale, he was aware of these things by, or not long after, his arrival at the house ... The harm that the methyl could have caused the community is incalculable. ... However, the appellant was ... at the lowest end of the hierarchy. He had no role in the funding or organisation of the enterprise. He exercised no authority with respect to</p>	
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					<p>it. Principally, his job was to obey instructions and to guard the drugs and money. ...</p> <p>At [59] The appellant was in effect a paid (albeit a well-paid) labourer at the lowest end of the hierarchy in a sophisticated drug importation organisation. ... In our view, the nature of the appellant's role ... and his position in the organisation could not justify a sentence close to the maximum. That is so notwithstanding the enormous quantity of methyl, which (as yet) had no precedent in the decisions of this court.</p> <p>At [60]-[61] ... we are persuaded that the imposition of a sentence of 20 yrs imp for ct 1 was unreasonable and plainly unjust. ... The sentence is manifestly excessive. ... We have also concluded that the sentence of 5 yrs imp which was imposed on ct 2 is manifestly excessive. ... The appellant was found</p>
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					in possession of a very large sum of illegally derived cash. However, the money did not belong to him and his dealings with it reflect his low level of involvement in the criminal enterprise.	
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