

Historical Child Sex Offences

Repealed *Criminal Code* provisions

From 1 January 2014

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

Glossary:

agg	aggravated
att	attempted
AOBH	assault occasioning bodily harm
burg	burglary
conc	concurrent
cum	cumulative
ct	count
CRO	conditional release order
dep lib	deprivation of liberty
EFP	eligible for parole
GBH	grievous bodily harm
imp	imprisonment
indec	indecent
pen	penetrate
PG	plead guilty
sex pen	sexual penetration without consent
susp	suspended
TES	total effective sentence

No.	Case	Antecedents	Summary/Facts	Sentence	Appeal
11.	<p><i>Cooper v The State of Western Australia</i></p> <p>[2020] WASCA 199</p> <p>Delivered 25/11/2020</p>	<p>25-31 yrs at time offending. 66 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Extradited from NSW.</p> <p>Born Scotland; emigrated to Australia by himself aged 17 yrs; parents emigrated early 1970s.</p> <p>Left school aged 15 yrs.</p> <p>Father deceased; elderly mother resides NSW and in poor physical health.</p> <p>Consistent employment history; workplace shoulder injury 2011; required surgery.</p> <p>Married.</p> <p>Health problems; insulant dependent diabetic; heart attack 2013; bypass surgery and pacemaker fitted; mild dementia with reduced life expectancy.</p>	<p>6 x Rape. 13 x Indec dealing child U14 yrs. 2 x Incite child U14 to indec deal. 8 x Unlawful indec assault male. 1 x Unlawful indec assault female.</p> <p>The eight victims, aged between 11 yrs to 15 yrs, were wards of the State. The offending occurred over a period of 5 yrs, in 1978-1983.</p> <p>Cooper's wife, N, was employed as a cottage parent and ran a hostel for children who were in State care. The hostel accommodated up to 10 children at time.</p> <p>Cooper and N lived in a flat attached to the hostel. While he was not formally employed their he assisted N with the care of the children.</p> <p>Cooper engaged in repeated and persistent sexual offending against some of the children in his care and under his power, protection and authority. The victims lived in fear of him as he would constantly threaten, intimidate and verbally and physical abuse them. He told them they were unwanted and that no one would believe them if they complained.</p>	<p>TES 20 yrs imp.</p> <p>EFP.</p> <p>Sentenced on the basis the statutory penalties for rape and unlawful and indec assault female 20 yrs imp and 5 yrs imp respectively.</p> <p>The sentencing judge found the offending very serious involving persistent, horrific offending against children, particularly girls, in his care; he subjected them to violence and threats over an extended period; the seriousness of the offending was such that the appellant had forfeited the right to any reasonable expectation of a useful life after release from prison.</p> <p>The sentencing judge found much of the offending occurred at night when the victims were asleep in their own beds; the appellant committed the offences to satisfy his sexual and sadistic perversions; he preyed on their vulnerability; degraded and humiliated them.</p>	<p>Allowed (max penalties).</p> <p>Appeal concerned totality principle and error in max penalties (offences rape and indec assault female).</p> <p>Resentenced:</p> <p>On basis max penalty for rape 14 yrs imp and indec assault female 4 yrs imp.</p> <p>TES 18 yrs imp.</p> <p>EFP.</p> <p>At [124] ... in respect of the offence of rape, the relevant act is the act of carnal knowledge of the victim and the 'circumstances' are the absence of consent and that the victim and the offender were not married. As the age of the victim was not a factual element of the offence of rape, it is not a relevant circumstance for the purposes of s 11 of the Code.</p>

				<p>Serious life-long consequences for the victims.</p> <p>Appellant would suffer greater hardship in prison due to his age and poor health.</p> <p>No remorse or victim empathy; no insight into the consequences of his offending.</p> <p>EFP.</p>	<p>At [125]-[126] In our opinion, the acts and circumstances which constituted the offence of rape are the same acts and circumstances which constitute an offence of sex pen without consent contrary to the current s 325 of the Code. ... Thus, in the present case, pursuant to s 11 of the Code, the relevant 'offence' under the law in force at the time the appellant was charged with the repealed offences of rape was the offence of sex pen without consent contrary to s 325 of the Code, ...</p> <p>At [157] ... each and every one of the offences committed by the appellant was a serious example of its kind. Each victim was a young child who was extremely vulnerable. Each was a ward of the State and had been placed at [the hostel] because there was no one else who was able to care for and protect them. The</p>
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				<p>appellant, well knowing their vulnerability, took advantage of each victim by sexually abusing them for his own gratification and without any thought as to the consequences for the victims of his actions. The offences were cruel and carried out mercilessly. Each offence was manipulative, often violent, and always humiliating. Although the appellant was not employed at [the hostel], he took on the role as carer for the children and, in this sense, his offending involved a breach of trust. ...</p> <p>At [163]-[164] The objective criminality involved in each of the rape offences was very serious. The offending which constituted cts 34 – 37 was particularly bad. Not only was the victim very young (12 yrs old), but the appellant committed the offences all the while aware that there were juveniles</p>
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					present and watching ... The offending was exceedingly humiliating and degrading. Moreover, it appears that this offending was intended to corrupt the juveniles who saw what the appellant did. ... We do not overlook that, in many instances, the offending was part of ongoing sexual behaviour towards the victim.
10.	<p><i>The State of Western Australia v CGT</i></p> <p>[2018] WASCA 226</p> <p>Delivered 21/12/2018</p>	<p>50-51 yrs at time offending. 76 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Born and raised Germany; mother widowed; father lost in WWII; family hardships typical of that time.</p> <p>Average grades; completed school.</p> <p>Moved to Australia with wife; two young daughters.</p> <p>Married three times; suffered loss of first and second wives to cancer; much younger current wife.</p> <p>Supportive family in NSW.</p> <p>Good employment history; worked</p>	<p>7 x Sex pen child U13 yrs.</p> <p>The victim, EC, was aged 5-6 yrs and is CGT's biological granddaughter.</p> <p>On occasions CGT would mind his three grandchildren, EC and her two siblings.</p> <p><u>Cts 1, 2, 4 & 6</u></p> <p>On at least four separate occasions CGT penetrated EC with his penis.</p> <p><u>Cts 3, 5 & 7</u></p> <p>On at least three separate occasions CGT digitally penetrated EC.</p>	<p>Ct 1: 3 yrs imp (cum). Ct 2: 3 yrs imp (conc). Ct 3: 2 yrs imp (conc). Ct 4: 3 yrs imp (conc). Ct 5: 2 yrs imp (conc). Ct 6: 3 yrs imp (cum). Ct 7: 2 yrs imp (conc).</p> <p>TES 6 yrs imp. EFP.</p> <p>The trial judge found the offences a gross breach of trust against his young and vulnerable granddaughter; the abuse was chronic and went on for a period at least a year.</p> <p>The trial judge found the respondent's offending had</p>	<p>Allowed.</p> <p>Appeal concerned totality principle.</p> <p>Re-sentenced to: Ct 4: 3 yrs imp (cum). Ct 6: 2 yrs 9 mths imp.</p> <p>All other cts unaltered.</p> <p>TES 8 yrs 9 mths imp. EFP.</p> <p>At [51]-[75] Discussion on comparable cases.</p> <p>At [76] The respondent's offending was very serious. ... His offending involved the abuse of his</p>

		<p>own business many yrs; retired.</p> <p>Ongoing health issues; multiple surgical interventions.</p>		<p>'hugely contributed' to the dysfunction in EC's life.</p> <p>The trial judge found the offences required the imposition of terms of imp, nothing less could possibly capture the seriousness of the offending.</p> <p>Very low risk category for reoffending.</p>	<p>position of trust as the victim's grandfather. ... was not momentary or impulsive, but sustained and repetitive. The respondent used coercion and threats to ensure that the victim complied with his demands and maintained secrecy regarding the abuse. The victim was very young and vulnerable ... and there was a marked disparity between her age and that of the respondent. The offending included multiple acts of penile penetration, and the respondent persisted in his conduct despite being told by the victim ... that the penetration hurt her. ... the respondent's position of denial was a significant factor in the victim being placed into foster care and being estranged from her family. The long-term emotional consequences for the victim were devastating. ...</p> <p>At [82] ... The trial judge</p>
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					<p>found that the respondent's medical conditions were capable of being adequately treated in a prison context. The respondent's age was comparable to that of a number of other offenders. ... Whilst his age was a relevant factor, it was not such as could justify a total sentence of the order that was imposed in this case, having regard to the nature and seriousness of the offences, and all relevant sentencing factors.</p> <p>At [84] The TES sentence ... was not commensurate with the overall seriousness of the offending. ... The sentence imposed was unreasonable and plainly unjust, ...</p>
9.	<p><i>Williams v The State of Western Australia</i></p> <p>[2018] WASCA 161</p>	<p>18-19 and 31 yrs at time offending. 53 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No prior relevant criminal history.</p>	<p>5 x Indec dealing child U14 yrs. 2 x Agg indec dealing child 13-16 yrs (care, supervision or authority).</p> <p>The offending involved three victims and occurred over a 13-yr period, but in two separate and distinct periods.</p>	<p>TES 5 yrs imp.</p> <p>EFP.</p> <p>The trial judge found the appellant's youth was a powerful mitigating factor in</p>	<p>Allowed.</p> <p>Appeal concerned totality principle.</p> <p>Re-sentenced.</p>

<p>Delivered 21/09/2018</p>	<p>Born in UK; migrated to Australia with family as a young child; second oldest of five.</p> <p>Well respected by family, friends and work colleagues.</p> <p>Good employment history.</p> <p>Prior marriage; two adult children.</p>	<p>Cts 1 -5 occurred in 1983 – 1984 and involved the sexual abuse of two boys, aged 8 and 10 yrs, who were living with Williams’ parents as foster children.</p> <p>Cts 14 and 15 occurred in 1996 and involved the sexual abuse of a boy, aged 13 yrs, whilst under his care at a youth centre.</p>	<p>respect of cts 1-5.</p> <p>The trial judge found a suspended sentence was not appropriate; a sentence of imp was the only appropriate outcome.</p>	<p>TES 3 yrs 2 months imp. EFP.</p> <p>At [50] ... the appellant was aged between 18 and 19 when cts 1-5 occurred and was living at home with his parents. He had no prior history of sexual offending. The offences were opportunistic in nature. ... the appellant’s youth was a significant mitigating factor in respect of these offences. ... the subsequent offences, which occurred many yrs later ... were very much less serious in nature.</p> <p>At [52] Having regard to the appellant’s youth when cts 1 – 5 committed and the degree of seriousness of the offending overall, the TES was disproportionate to the appellant’s overall criminal conduct. ...</p> <p>At [53] ... there were seven offences ... involving young</p>
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					vulnerable victims; ... there was a significant age difference between the appellant and each of the victims; ... there was no finding that the offences were representative of any continuing course of abuse in respect of any of the victims; ... the offending conduct in respect of cts 5, 14 and 15 was towards the lower end of the scale of seriousness ...
8.	<p><i>Headley v The State of Western Australia</i></p> <p>[2018] WASCA 37</p> <p>Delivered 19/03/2018</p>	<p>31-46 yrs at time offending. 68 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; including prior convictions of sexual offending against a number of boys in the 1970s and 1982.</p> <p>Medicated for various health conditions.</p>	<p>13 x Indec dealing with child U14 yrs. 6 x Incite child U14 to indec deal. 1 x Att carnal knowledge against order of nature. 4 x Agg indecent assault. 3 x Agg sex pen. 3 x Agg indecent deals of child 13-16 yrs. 1 x Agg sex pen of child 13-16 yrs.</p> <p>The offending occurred between 1980 and 1994 and involved the sexual abuse of five boys aged between 10 and 13 yrs.</p>	<p>TES 12 yrs imp. EFP.</p> <p>The trial judge found the offending occurred over an extensive period of about 14 yrs, it was sustained, planned and premediated. The charges were representative of a course of conduct and not isolated instances of abuse.</p> <p>The trial judge found the appellant groomed the victims, giving them money, alcohol and the opportunity to drive his motor vehicle. He induced the victims to engage in sexual activity</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences were not challenged.</p> <p>At [18] The appellant had a prior criminal record ... Those convictions demonstrated that the appellant had a sexual attraction to young boys and a willingness to act upon it whenever the opportunity arose.</p> <p>At [42] There was little by way of mitigation, apart from his advanced</p>

				<p>with him.</p> <p>The trial judge found the appellant pursued disadvantaged and vulnerable boys from dysfunctional families, taking advantage of their unfortunate circumstances to have regular contact with them.</p> <p>The trial judge found no evidence imp would ‘greatly adversely affect’ the appellant’s health.</p> <p>Unremorseful; no victim empathy; no acceptance of responsibility for his criminal conduct.</p>	<p>age, his medical conditions and his contribution towards the efficient conduct of the trial. The appellant was not youthful or inexperienced for sentencing purposes. ...</p> <p>At [43] ... A custodial term [of 12 yrs] was required in order properly to reflect the very serious nature of the appellant’s offending as a whole, and to give effect to the sentencing considerations of appropriate punishment and general deterrence, having regard to the need to protect vulnerable children.</p> <p>At [44] ... Despite the appellant’s advanced age and medical conditions, and notwithstanding it is possible that he may die in prison or that upon release he may not have any prospect of a useful life, a more lenient TES was not appropriate.</p>
7.	<i>Mills v The State of Western</i>	<u>Mills</u> 76 yrs at time sentencing.	<u>Mills</u> Cts 1-5: Indec dealing with child U14 yrs.	<u>Mills</u>	Dismissed.

<p>Australia [No 2]</p> <p>[2017] WASCA 52</p> <p>Delivered 22/03/2017</p>	<p>Convicted after trial.</p> <p>No prior criminal history.</p> <p>Migrated from NZ with Coombs; lived with Coombs; assisted Coombs with his car detailing business at time offending.</p> <p>Led a useful life.</p> <p>Health problems.</p> <p><u>Coombs</u> 75 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Migrated from NZ with Mills; lived with Mills.</p> <p>Owned a car detailing business at time offending; steady record of employment.</p> <p>Medical conditions.</p>	<p>Ct 12: Commit act of gross indecency.</p> <p><u>Coombs</u> Cts 6 & 7: Indec dealing with child U14 yrs. Cts 8 & 17: Permit child to have carnal knowledge of him. Cts 10 & 11: Carnal knowledge against the order of nature. Cts 14 & 15: Commit act of gross indecency. Ct 16: Procured child to commit act of gross indecency with him.</p> <p>The victims BM and SM were vulnerable, having come from a dysfunctional family.</p> <p>Coombs was SM's employer. BM was 5 yrs younger than SM. BM regularly stayed at the appellants' home and was given treats. The appellants groomed the boys for increasingly serious sexual conduct.</p> <p><u>Mills</u> Mills made the first move on the victims.</p> <p>BM was aged between 9 and 11. The charges Mills was convicted of were representative of a course of conduct.</p> <p>On numerous occasions Mills washed BM's genitals (cts 1 and 3). On another occasion, Mills exposed his erect penis to</p>	<p>Ct 1: 2 yrs imp (conc). Ct 2: 16 mths imp (conc). Ct 3: 2 yrs imp (conc). Ct 4: 18 mths imp (conc). Ct 5: 3 yrs 6 mths imp. Ct 12: 18 mths imp (cum). TES 5 yrs imp.</p> <p><u>Coombs</u> Ct 6: 3 yrs 6 mths imp (conc). Ct 7: 3 yrs 6 mths imp (conc). Ct 8: 5 yrs imp (conc). Ct 10: 5 yrs imp. Ct 11: 5 yrs imp (conc). Ct 14: 2 yrs 6 mths imp (conc). Ct 15: 2 yrs 6 mths imp (conc). Ct 16: 2 yrs 6 mths imp (conc). Ct 17: 4 yrs imp (reduced from 5 yrs for totality reasons) (cum). TES 9 yrs imp.</p> <p><u>Mills</u> Low risk of reoffending. There had been some</p>	<p>Appeal concerned length of individual sentence for ct 12 (Mills), and totality.</p> <p>At [39] ... 25 yrs or more had passed since these offences were committed and ...since about 1991, Mr Coombs has not committed any further offences... that is relevant to the risk of reoffending. Nevertheless, it could not be said that it demonstrated that Mr Coombs was rehabilitated beyond the limited extent referred to by her Honour. He continued to deny the offences and had not engaged in any programme to deal with his sexual interest in young boys.</p> <p>At [43] ...Mr Coombs' age and health could only provide quite limited mitigation of his serious offending.</p> <p>At [54] Mr Coombs' offending had many serious elements... The offending involved a</p>
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			<p>BM and said “See what you do to me” (ct 2). On another occasion he also placed BM’s hands on his penis (Ct 4) and then made BM give him oral sex for a minute or so (ct 5).</p> <p>Mills rewarded BM by buying him a bicycle, surfboard and taking him to the beach.</p> <p>Mills placed his hand on SM’s groin (ct 12).</p> <p><u>Coombs</u> When SM worked for Coombs, Coombs grabbed SM and sucked his penis. SM resisted, but Coombs continued until he ejaculated (ct 14). After that, Coombs went into SM’s bedroom on many occasions and sucked SM’s penis, one of which was ct 15. Coombs also made SM suck his penis until he ejaculated, one occasion was ct 16.</p> <p>When BM was aged 12 or 13, Coombs performed oral sex on him (cts 6 and 7).</p> <p>Coombs told BM to give him anal sex (ct 8). After that occurred, Coombs sat on top of BM and ejaculated on him.</p> <p>After BM asked Coombs for money to go to a Skyshow, Coombs penetrated BM’s anus with his penis and ejaculated (Ct 10). That was excruciatingly painful for BM,</p>	<p>rehabilitation given no further offences since this offending took place.</p> <p>Health problems could be managed in custody.</p> <p>No remorse.</p> <p><u>Coombs</u></p> <p>Low risk of reoffending.</p> <p>There had been some rehabilitation given no further offences since this offending took place.</p> <p>Medical conditions could be managed in custody.</p> <p>No remorse.</p>	<p>substantial breach of trust. Mr Coombs was SM’s employer. The victims’ mother trusted Mr Coombs, as well as Mr Mills, in permitting the boys to stay with them... While no violence was involved, Mr Coombs successfully normalised the sexual conduct so as to make the boys comply voluntarily... The victim impact statements eloquently express the devastating and enduring effects of Mr Coombs’ offending.</p> <p>At [65] Mr Mills took advantage of the vulnerability of a young boy from a dysfunctional home. He breached BM’s mother’s trust in letting BM stay overnight. He groomed BM with outings and treats. He offended against BM on a number of occasions, including by making BM suck his penis. His offending has had devastating consequences for BM.</p>
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			<p>who, afterwards, noticed blood when going to the toilet.</p> <p>Six months later, Coombs again penetrated BM's anus, but stopped when BM screamed in pain (ct 11).</p>		<p>At [68] To the extent that the sentence for ct 12 is high, the severity of the sentence must be seen in light of the TES imposed for Mr Mills' offending as a whole... We are not persuaded that this sentence, or any other sentence for an individual count, was manifestly excessive.</p>
6.	<p><i>NHT v The State of Western Australia</i></p> <p>[2016] WASCA 167</p> <p>Delivered 27/09/2016</p>	<p>68 yrs at time sentencing. 56 yrs at time offending for ct 8.</p> <p>Convicted after trial.</p> <p>No prior relevant convictions.</p> <p>Migrated to Australia from Lebanon in 1969.</p> <p>Normal childhood.</p> <p>Father to 11 biological children; strict and religious father; supportive and caring father to a number of his children; good grandfather; currently married to his third wife.</p> <p>Retired; consistent employment history; was a productive and hardworking member of the community.</p>	<p>Cts 1-3 & 5: Indec dealing with child U14 yrs. Ct 4: Unlawful carnal knowledge with child U13 yrs. Cts 6-7: Att unlawful carnal knowledge with child U13 yrs. Ct 8: Indec deal with child 13-16 yrs.</p> <p>NHT married A's mother and he eventually adopted her. A did not know NHT was not her biological father at the time of offending. The offending against A was committed over four to five years.</p> <p>Victim N was NHT's 15 yr old niece by marriage.</p> <p>There was a 22 yr gap between the offending against A and N.</p> <p><u>Ct 1</u> A (aged 8-9 yrs) was lying in bed with her parents. NHT touched her clitoral area.</p>	<p>Ct 1: 18 mths imp (conc). Ct 2: 2 yrs 9 mths imp (conc). Ct 3: 2 yrs 3 mths imp (conc). Ct 4: 4 yrs 6 mths imp. Ct 5: 2 yrs 6 mths imp (conc). Ct 6: 4 yrs imp (cum). Ct 7: 4 yrs imp (conc). Ct 8: 3 mths imp (cum).</p> <p>TES 8 yrs 9 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the indec dealing offences fell towards the upper end of the scale of seriousness of indec dealing offences.</p> <p>Offending had significant</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences were not challenged.</p> <p>At [45] The intrusiveness of the conduct, particularly that involving fellatio and att pen of A's vagina with the appellant's penis, was significant and sustained. The appellant was about 22 yrs older than A, who understood him to be her father. He was in a position of trust and authority. Although violence was not employed, there was a strong element of</p>

		<p>Self-reported physical health issues; no mental health problems or illicit substance abuse.</p> <p><u>Ct 2</u> NHT drove A (aged 8-9 yrs) to a remote location and made her masturbate his erect penis and perform fellatio on him.</p> <p><u>Ct 3</u> NHT showered with A (aged 8-10 yrs). He kissed her, moved his hands over her and pushed his erect penis against her vaginal area.</p> <p><u>Ct 4</u> A (aged 8-10 yrs) was in a swimming pool with NHT. He briefly inserted his penis into her vagina.</p> <p><u>Ct 5</u> A (aged 11-12 yrs) was in bed. NHT sat on the bed and masturbated himself and took A's hand and moved it up and down his penis until he ejaculated.</p> <p><u>Ct 6</u> At his business premises NHT took A (aged 11-12 yrs) into a locked office and attempted to insert his penis into her vagina.</p> <p><u>Ct 7</u> NHT laid on top of A (aged 11-12 yrs) and unsuccessfully attempted to penetrate her with his penis.</p> <p><u>Ct 8</u></p>		<p>and ongoing adverse impact on A.</p> <p>Continued refusal to accept responsibility for his offending.</p> <p>Sentencing judge found that NHT would not offend against young female girls who are biologically related to him.</p> <p>Delay had some limited mitigatory value. Credit given for NHT voluntarily returning to Australia, knowing that he would be charged.</p>	<p>coercion involved in the offences given the appellant's authority as A's father, the domineering role he assumed as a strict disciplinarian who resorted readily to physical punishment, and the fact that he physically imposed himself upon her. Particularly when A was living alone with the appellant...the appellant took advantage of her vulnerability when she totally depended on him for care and protection.</p> <p>At [46] The offences occurred on seven occasions over a period of about 5 yrs. While the sentencing judge was not satisfied that the appellant had committed any uncharged offences against A, the number of offences, and the period over which they were committed, demonstrate that the offending was not isolated or out of character for the appellant. The appellant</p>
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			N accepted a lift from NHT. NHT stopped in a nearby street and kissed her on the lips twice.		was not remorseful and has not taken any steps to reduce the future risk which he poses to the community. At [47] The offence against N... showed that the appellant remained willing to act on his sexual interest in children after a considerable period of time.
5.	<i>EXF v The State of Western Australia</i> [2015] WASCA 118 Delivered 11/06/2015	56 yrs at time sentencing. Irrelevant criminal history. Convicted after PG. Solid work history. Supportive current wife. Low self-esteem; anxiety; depression. Submissive in adult relationships; has some sexual and intimacy issues.	14 x Indec dealing of a child U13 yrs. The offending occurred between 1980 and 1986. The victims were the appellant's de facto children and he was entrusted with their care and supervision. J was aged between 4 and 10 yrs, N was aged between 7 and 13 yrs and C was aged between 4 and 7 yrs. The 14 cts were representative of a course of conduct by the appellant. <u>Ct 2:</u> J was home alone with the appellant. The appellant placed J's hand on his penis and made her masturbate him until he ejaculated over her hands. He then told her to eat the ejaculate which, though unwilling, she attempted to do. <u>Ct 3:</u> Shortly after ct 1, the appellant pulled J's	TES 11 yrs 6 mths imp. EFP. Low risk of re-offending; minimal treatment needs. Victims were significantly affected by the appellant's abusive behaviour. Sentencing judge noted that the admitted facts represented a serious course of ongoing abuse over several years. The appellant had groomed all three girls. This included by telling J that she was his favourite, telling each of them that the abuse was a secret and offering gifts or rewards.	Dismissed. At [69] In this case all the offences were... contrary to s 189(2) of the <i>Criminal Code (WA)</i> ... The maximum penalty in respect of such offences is 7 yrs imp. At [70] The complainants lived under constant threat of abuse and were in fear of the appellant... A number of the offences... were particularly degrading and humiliating. At [73]-[81] Discussion of comparable cases.

			<p>knickers off completely, kneeled in front of her, spread her legs and performed cunnilingus on her.</p> <p><u>Ct 4:</u> At around the same time as cts 2-3, the appellant forced J to perform oral sex on him, by holding the back of her head, until he ejaculated.</p> <p><u>Ct 5:</u> On another date, while the mother was away, the appellant got J up out of bed, made her kneel on the floor in front of him and perform fellatio on him. It occurred with such force that she gagged, dry-wretched and suffered small cuts on the side of her mouth that turned into sores.</p> <p><u>Ct 6:</u> On another date, while the mother was at work, the appellant asked N if she knew how to kiss like a 'big person'. She said 'yes' and the appellant then started to kiss her. She kissed him back for a long time in a way she had seen on television.</p> <p><u>Ct 7:</u> The following day, the appellant kissed N. The appellant told her she was good at it and showed her a portion of a pornographic video showing a woman performing oral sex on a man. The video was merely part of the context of the</p>	<p>Sentencing judge said that the sexual interference was regular, sustained and, with two exceptions, without consent.</p>	<p>At [84] Whilst the appellant's conduct did not involve penile penetration of the vagina, there was penetration of other types and, although dealt with as indec dealing, they must be considered particularly serious examples of that type of offence... Some accumulation of sentence was necessary in this case to reflect the fact that the offending involved multiple complainants.</p> <p>At [85] The delay was not mitigating because there was nothing to suggest that the appellant had shown any remorse or contrition for his offending nor taken any steps in the period that elapsed to attend to his rehabilitation. Cooperation with the police was limited and the pleas of guilty were entered at a very late stage.</p> <p>At [86] ...whilst it could be said that the TES was</p>
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		<p>offence.</p> <p><u>Ct 9:</u> On another date, N woke to feel the appellant pulling her knickers to the side. She started to open her eyes and heard the appellant run out of the room.</p> <p><u>Cts 11-12:</u> On another date, while the mother was away, the appellant sat on the bed and pulled C onto the bed. He pulled her knickers off and stood her in front of him with her back to him. He lowered her so that she was straddling his face. He then performed oral sex on her vagina and anus.</p> <p><u>Ct 13:</u> On another date, the appellant went to C's bedroom at night and placed his fingers under her underwear. He touched her vagina and put his fingers inside her. The touching was very rough and hurt C. The appellant masturbated while he did this.</p> <p><u>Ct 14:</u> The appellant touched C's vagina, placing his fingers roughly inside her. As he did so he masturbated himself to the point of ejaculation.</p> <p><u>Ct 15:</u> On another date, while the mother was sleeping, the appellant started to</p>		<p>high having regard to the maximum penalty for the offences, it was not a sentence that was disproportionate to the total offending.</p>
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			<p>masturbate in front of C and then made her lean towards him and perform oral sex on him until ejaculation.</p> <p><u>Ct 17:</u> On another date, the appellant made C sit on the floor in front of him and perform oral sex. As this was occurring the appellant was masturbating himself vigorously; his penis was hitting C's face. He ejaculated over her face.</p> <p><u>Ct 18:</u> The appellant was watching pornography and required C to perform oral sex on him.</p>		
4.	<p><i>McKenna v The State of Western Australia</i></p> <p>[2014] WASCA 201</p> <p>Delivered 05/11/2014</p>	<p>68 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No significant physical or mental health conditions at the time of sentencing.</p> <p>The totality of the appellant's offending against residents in his care and control at St Andrews Hostel was 63 offences involving 28 victims. The total sentence for all offending is 22 yrs 1 mth.</p>	<p>4 x Indec assault child U14. 19 x Indec assault on male. 4 x Carnal knowledge. 3 x Permitting a person to have carnal knowledge. 4 x Gross indec with male. (Total of 34 counts).</p> <p>The appellant sexually offended against 17 victims who resided at St Andrews Hostel in Katanning, which provided a boarding facility for students attending Katanning Senior High School. At the time of the offending, which occurred over a 12 year period between 1976 to 1988, the appellant was the warden in charge of St Andrews Hostel.</p> <p>The ages of the victims varied between 13</p>	<p>TES 9 yrs imp.</p> <p>Cum on 6 mths 4 mths imp imposed in 2011 (for 10 similar offences involving 5 victims).</p> <p>Sentencing judge noted seriousness of offending was at the highest order.</p> <p>Substantial effect on victims lives.</p> <p>Sentencing judge accepted had not offended since 1988.</p> <p>Sentencing judge noted because of number of victims</p>	Dismissed – on papers.

			<p>to 17 yrs, the majority being children between 13 and 14 yrs old.</p> <p>The offences the subjects of the counts were representative.</p>	<p>and the number of offences, this case was without precedent in this State.</p> <p>Small risk of re-offending.</p>	
3.	<p><i>AIM v The State of Western Australia</i></p> <p>[2014] WASCA 155</p> <p>Delivered 27/08/2014</p>	<p>70 yrs at time of sentencing.</p> <p>Convicted after trial.</p> <p>No criminal record of significance.</p> <p>Married; 3 adult children; number of grandchildren.</p> <p>Constantly employed; actively involved in community activities.</p> <p>Number of positive references.</p> <p>General good health.</p> <p>No evidence of rehabilitation.</p>	<p>7 x s320(4) <i>Criminal Code</i> indec dealings of child U13yrs .</p> <p>6 x s320(2) <i>Criminal Code</i> Sex pen of child U13 yrs.</p> <p>Cts 1-9 concerned a girl ‘A’.</p> <p>Cts 10-13 concerned another girl ‘H’.</p> <p><u>Cts 1-4:</u> The victim ‘A’ was in years 3 and 4 at the local primary school where the appellant was her school teacher. All the offences occurred on the school grounds. He used physical force, threats and he ignored the victim’s attempts to repel his sexual advances.</p> <p>On four separate occasions the appellant rubbed his hand on A’s vagina on the outside of her clothing.</p> <p><u>Cts 5 -6</u> On two separate occasions the appellant penetrated A’s vagina with his finger. In Ct 6, as he penetrated her vagina he masturbated to the point where he ejaculated over her.</p> <p><u>Ct 7:</u> The appellant exposed his penis to A and</p>	<p>TES 12 yrs imp.</p> <p>EFP.</p> <p>The appellant was interviewed and denied any wrongdoing.</p> <p>No remorse.</p> <p>The charges concerning both victims were representative of his conduct.</p> <p>Appellant had groomed ‘A’.</p> <p>Both victims badly affected; ongoing consequences.</p> <p>The sentencing judge characterised the offences against each victim as being at the upper end of the range of seriousness.</p>	<p>Dismissed - on papers.</p> <p>At [48] the appellant will be 80 when he becomes eligible for parole and will be 82 upon the completion of the total effective sentence. It must be accepted that the appellant may well die in gaol or that a very significant proportion of his remaining life will be spent in custody.</p>

			<p>started rubbing it. He asked the victim to kiss his penis but she refused.</p> <p><u>Cts 8-9</u> The appellant penetrated A's vagina with his penis. His acts of sexual penetration caused the victim physical pain. The offending against A continued until she transferred to another primary school. At about this time, the appellant ceased working as a teacher.</p> <p><u>Ct 10:</u> H is the appellant's granddaughter and was living with the appellant and his wife. The appellant commenced abusing her from 4 yrs of age. The abuse continued for the next three years. The abuse would occur on the pretence of playing games and would end up with the victim being rewarded with a chocolate covered sweet. On one occasion the appellant the victim to tickle him, he pulled his pants down and moved H's hands up and down his penis to the point of ejaculation.</p> <p><u>Cts 11-13:</u> Were committed in the appellant's bedroom in the one incident. He lay on his bed without trousers or underwear. He asked H to play with him and to take her pants off. The appellant got the victim to masturbate him and then suck his penis. He then told her he wanted to show her how to have sex. He inserted his penis</p>		
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			into her vagina. The appellant would tell the victim that the sexual activity between grandfathers and granddaughters was normal.		
2.	<i>Hughes v The State of Western Australia</i> [2014] WASCA 78 Delivered 15/04/2014	43-44 yrs at time offending. 73 yrs at time sentencing. Convicted after Trial. Suffers from Parkinson's disease, coeliac disease, prostate cancer, depression, osteoarthritis and dementia – all stable.	4 x s315 <i>Criminal Code</i> Indecent assault of male. 1 x s181(1) <i>Criminal Code</i> Carnal knowledge. 1 x s183 <i>Criminal Code</i> Indecent dealing Child U14 yrs. The offences were committed between September 1980 and December 1982. At the time the appellant operated a handyman business. The appellant advertised in a local newspaper for young boys to assist him in his work. Two of the 3 victims were employed by the appellant. The victims were aged between 13-14 yrs. <u>Cts 1-3:</u> On one occasion the appellant touched TP's penis. On another the appellant penetrated TP's anus with his penis. On a third occasion TP performed fellatio on the appellant. <u>Cts 4-5:</u> On PW's last day of employment, the appellant encouraged PW to suck his penis, which he did. The appellant ejaculated in PW's mouth. PW then went to the bathroom and as he was washing, the appellant penetrated his anus digitally.	TES 8 yrs imp. EFP. No remorse. In relation to two of the victims, the offences were representative of what had happened over a period of time. Groomed his victims; used coercion and blackmail in relation to some of the offending. Offending was at the 'upper level'. Low risk of re-offending.	Allowed. (Pullin J dissenting). Re-sentenced to 5 yrs imp. At [12] A survey of the most relevant comparable cases show that a total effective sentence of 8 years' immediate imprisonment and less have been imposed in cases where the offending as a whole is more serious with greater maximum penalties and less mitigating factors. At [13] The total effective sentence of 8 years is significantly more than is fairly necessary to achieve all of the recognised sentencing objectives including punishment, retribution and deterrence. Moreover, the consequence of the combination of the

			<p>The appellant then indicated that he wished to have anal sex with PW, which PW declined.</p> <p><u>Ct 6:</u> MT was not employed by the appellant. The appellant's neighbour's son was a student and had invited friends from school to a party at his house. MT, a student at the time, attended the party. A number of students went to the appellant's house during the party to consume alcohol. MT became heavily intoxicated to the point of sickness and fell asleep in the appellant's bed. MT awoke to the appellant sucking his penis.</p>		<p>appellant's advanced age and degenerative health problems is that the sentence of 8 years will destroy and reasonable expectation of a useful life after release and this is crushing.</p>
1.	<p><i>GHK v The State of Western Australia</i></p> <p>[2014] WASCA 19</p> <p>Delivered 29/01/2014</p>	<p>27-41 yrs at time offending. 73 yrs at time sentencing.</p> <p>Convicted after late PG (morning of trial following negotiations).</p> <p>Criminal record; 1 conviction of indecent dealing against daughter in 1982 (part of same course of conduct – did not re-offend thereafter).</p> <p>Subject to verbal, physical and sexual abuse as a child.</p> <p>Received head injuries in a motorcycle accident when 19 yrs and king hit at a hotel when 26 yrs – injuries may have caused some memory deficits.</p>	<p>9 x s189(2) <i>Criminal Code</i> Indecent deal child U13 yrs. 2 x s185 <i>Criminal Code</i> Carnal knowledge child U13 yrs. 1 x s552,182 <i>Criminal Code</i> Att carnal knowledge. 7 x s183 <i>Criminal Code</i> Incite indecent deal child U 14 yrs. 5 x s197 <i>Criminal Code</i> Carnal knowledge of daughter.</p> <p>The offences were committed over 15 years between about 1966 and 1981. The offending involved numerous acts of sexual violation against 6 children. Four were the appellant's own biological children (2 boys and 2 girls). The others were a girl who was a ward of the State and a girl was a friend of one his</p>	<p>TES 16 yrs imp.</p> <p>EFP.</p> <p>The offences were representative of a course of conduct that occurred over an extended period of time.</p> <p>Admitted some of the offending but denied any acts of penile penetration; claimed to have no memory of some offences; No allegations put to him because interview was terminated at his insistence.</p> <p>Sentencing judge noted 'the</p>	<p>Allowed.</p> <p>Re-sentenced to 14 yrs imp.</p> <p>At [8] Advanced age is a relevant consideration in determining whether a sentence will be crushing. The rationale is that each year of a sentence represents a substantial proportion of the period of life which is left to an offender of advanced age.</p> <p>At [13] ... The fact that an offender is otherwise of good character has only</p>

		<p>Twice married; 3 children to first marriage; 5 children to second marriage.</p> <p>Abused alcohol until about 20 yrs ago.</p> <p>No evidence of serious mental illness; presence of paedophilia.</p> <p>Suffered from some ill health – ischaemic heart disease, Paget’s disease and arthritis.</p> <p>Had not undertaken any counselling or treatment in relation to his offending and taken no steps to assist the victims.</p>	<p>daughters.</p> <p>When the offences were committed the victims ranged in age from 4 yrs to 13 yrs. The offending was not impulsive and involved some planning and premeditation.</p> <p>The offences ranged in seriousness from indecent dealings to multiple offences of sexual penetration, including digital/ vaginal, oral/ vaginal penetration, penile/vaginal penetration, masturbation in the presence of the victims and attempted penile/anal penetration. On one occasion the oral penetration of his daughter occurred when her mother was in hospital having just given birth.</p> <p>The appellant unsuccessfully attempted to persuade one of his daughters to bring other young girls to their home.</p> <p>The appellant exposed several of the victims to pornographic material.</p> <p>The appellant ensured that each victim was aware of the abuse being committed against the others. Some of the counts involved the appellant abusing each of his daughters simultaneously and in each other’s presence. Also, he committed several acts against his daughters in the presence of the female victim who was a friend of one of them.</p>	<p>offending ceased when there were no more victims readily accessible to the appellant’.</p> <p>Sentencing judge said the appellant’s offending was in ‘the worst category of offending of this nature’.</p> <p>Low risk of re-offending.</p> <p>No victim empathy; lacked insight into his offending and its consequences.</p> <p>The long-term impact of the offences on the victims had been substantial.</p>	<p>little weight because the offences are of a kind that, until revealed, generally do not impact on other people or upon their perception of the offender.</p> <p>At [104] the sentencing judge referred to the fact that there was a considerable passage of time since the commission of the offences... passage of time by itself is not a mitigating factor.</p>
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Transitional provisions repealed – 14/01/2009

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Transitional provisions enacted – 31/08/2003

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