

# Possess methylamphetamine with intent to sell or supply (trafficable quantity)

ss 6(1)(a); 6(1)(c) and 34(1)(a) *Misuse of Drugs Act*

**From 1 January 2021**

## Glossary:

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

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
32.	<b>HVA v The State of Western Australia</b>  [2024] WASCA 156  Delivered 12/12/2024	<p>Early 40s at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Extensive criminal history; traffic, property, nuisance, weapons poss and drug-related offences; repeat offender (home burglaries).</p> <p>Youngest of three children; difficult childhood due to father's violence and alcoholism.</p> <p>Expelled from school in yr 10.</p> <p>Worked intermittently; mainly unemployed or in prison.</p> <p>Two children; intermittent contact with eldest child.</p> <p>Diagnosed ADHD, depression and anxiety.</p> <p>Cannabis use since 12 yrs old; methyl use since 13 yrs old; heavy user of methyl.</p>	<p>Ct 1: Burg.</p> <p>Ct 2: Poss methyl wiss 325.4 g at 74–81% purity.</p> <p>Ct 3: Poss unlawfully obtained property \$6,100.</p> <p>Ct 4: Poss methyl wiss 32.5 g.</p> <p><u>Ct 1</u></p> <p>The appellant drove a co-offender to the victim's home and parked outside the front gate of the house. A short time later, the co-offender entered the property and stole more than \$10,000 worth of assorted items while inside.</p> <p><u>Ct 2 &amp; 3</u></p> <p>The co-offender then exited the house and got into the car driven by the appellant, who drove to a unit. The appellant retrieved a black Rip Curl bag from the boot of the car. The appellant then parked the car inside a garage at the unit. A short time later, police conducted a SW at the unit. Police located 325.4 g of methyl and \$6,100 inside the Rip Curl bag.</p> <p><u>Ct 4</u></p> <p>About six weeks later, police executed a search warrant at the appellant's unit. Police located a clip-seal bag containing 32.5 g of methyl.</p>	<p>Ct 1: 2 yrs imp (cum).</p> <p>Ct 2: 6 yrs imp (HS).</p> <p>Ct 3: 8 mths imp (conc).</p> <p>Ct 4: 1 yr imp (cum).</p> <p>TES: 9 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found that the appellant was a significant drug dealer who did not occupy a minor position in the hierarchy of drug dealing.</p> <p>The sentencing judge accepted that the appellant was genuinely remorseful, as evidence by his attendance at counselling.</p>	<p>Appeal dismissed (leave refused).</p> <p>Appeal concerned length of sentence imposed on ct 2 and first limb of totality principle.</p> <p>At [33] 'in the present case the appellant was conducting a commercial drug operation from which he was found to have derived a substantial amount of money. For the purposes of that operation he was in possession of 325.4 g of methylamphetamine – over 11 times the threshold for a trafficable quantity of 28 g of methylamphetamine. The appellant had previously been sentenced to significant terms of immediate imprisonment in 2017 and 2021 for drug related offences. The offending the subject of count 2 was committed only shortly after the appellant's release from prison ... Even having regard to the appellant's early pleas of guilty, remorse and other mitigating factors which the record indicated the sentencing judge took into account, the sentence of 6 yrs imprisonment imposed for ct 2 cannot be regarded as unreasonable or plainly unjust ...'</p> <p>At [34] '... although the offences charged in counts 1-3 were committed on the same day, the home burglary offence was separate to the offending charged in counts 2 and 3. The offending charged in count 4 involved a continuation of the appellant's commercial drug dealing operation even after he had been released on bail for previous offending. At least some degree of accumulation of the appropriate individual sentences for counts 1, 2 and 4 was required to reflect the overall criminality involved in all of the appellant's offending.'</p> <p>At [35] '... having regard to ... [all relevant factors] a total effective sentence of 9 years' imprisonment was not unreasonable or plainly unjust.'</p>
31.	<b>GRL v The State of Western Australia</b>  [2024] WASCA 146  Delivered 25/11/2024	<p>40 yrs at time offending.</p> <p>42 yrs at time sentencing.</p> <p>Convicted after PG (20% discount; 15% for past and future cooperation),</p> <p>Modest criminal history; summary convictions for poss drugs; poss drug paraphernalia and utensils.</p>	<p>Ct 1: Poss methyl wiss 1.978 kg at 74–82% purity.</p> <p>Ct 2: Poss unlawfully obtained property \$61,000.</p> <p>Ct 3: Poss methyl wiss 22.89 at g 74–82% purity.</p> <p><u>Cts 1 &amp; 2</u></p> <p>Australia Post identified a suspicious package which had been sent from NSW to a fictitious recipient in WA.</p>	<p>Ct 1: 6 yrs imp (cum).</p> <p>Ct 2: 6 mths imp (cum).</p> <p>Ct 3: 2 yrs 5 mths imp (cum).</p> <p>TES: 8 yrs 11 mths.</p> <p>EFP.</p> <p>The sentencing judge found the offending was extremely serious. The offender was motivated by financial gain.</p>	<p>Appeal allowed.</p> <p>Appeal concerned the sentencing judge's error in failing to account for past and promised cooperation as separate mitigating factors.</p> <p>Resentenced:</p> <p>Ct 1: 6 yrs 10 mths imp (cum).</p> <p>Ct 2: 10 mths imp (conc).</p> <p>Ct 3: 1 yr 2 mths imp (cum).</p> <p>TES: 8 yrs imp.</p>

		<p>Supportive childhood.</p> <p>Completed yr 12; bullied at school.</p> <p>Completed a Certificate IV in sound engineering; worked in the music industry.</p> <p>Commenced using cannabis, MDMA and amphetamines from mid-teens; managed ADHD symptoms through substance use.</p> <p>One child who lives with her mother; regular contact with his child.</p> <p>Diagnosed ADHD post arrest; chronic depression; anxiety and Complex PTSD.</p>	<p>Police seized the parcel and found that it contained 1.978 kg of methyl. The methyl was replaced with an inert substance and delivered to the destination address.</p> <p>The appellant attended the property, collected the package and took it inside a residential unit. A SW conducted at the residential unit resulted in the appellant's arrest. The appellant had opened the package and placed its contents into a large kitchen bowl. Police also located a black cooler bag containing \$60,000 in cash at the premises, and \$1,000 cash in the appellant's wallet.</p> <p><u>Ct 3</u></p> <p>Another SW at the appellant's residential address resulted in 22.89 g of methyl being seized.</p>	<p>The sentencing judge found the appellant was responsible for the collection and storage of a large quantity of illicit drugs. It was found the appellant was 'somewhat of a trusted individual within the drug network.'</p> <p>The sentencing judge found that the appellant's involvement in the drug network also extended to repackaging the drugs for onward sale and supply.</p> <p>The sentencing judge found the appellant was genuinely remorseful for his offending. The appellant had taken steps towards rehabilitations, including undergoing psychological counselling.</p> <p>The sentencing judge took into account the appellant's cooperation with law enforcement authorities.</p>	<p>EFP.</p> <p>At [43] 'the requirement in s 8(5) [of the <i>Sentencing Act 1995</i>] that the court must state the fact and the extent of the reduction for promised future cooperation in open court is important to the sentencing process ...'</p> <p>At [44] '... when a court reduces the sentence it would otherwise have imposed on an offender for an offence because the offender has undertaken to assist law enforcement authorities, the court is obliged to state that fact, and the extent of the reduction, in open court.'</p> <p>At [45] '... while [the sentencing judge] stated in open court that he gave a discount for the appellant's promised future cooperation, he did not state the extent of the reduction for this factor.'</p> <p>At [59] 'there can be no doubt that the appellant's offending was very serious. We agree with the sentencing judge's finding that the appellant was part of a well-planned and well-orchestrated importation of illicit drugs into WA from NSW ... Although the appellant was not at the upper echelon of the enterprise, he played an important and trusted role in it. The offending was not isolated.'</p> <p>At [61] 'there were substantial mitigating factors, the most important of which were the appellant's pleas of guilty and his cooperation. In addition, the appellant appears genuinely remorseful...'</p> <p>At [62] 'the appellant has a modest criminal history.'</p> <p>At [65] 'we agree with the submission of the appellant ... that the totality of the appellant's cooperation should be characterised as past cooperation. The provision of the statement in respect of the co-offender significantly assisted the State to bring to justice a significant drug dealer ...'</p>
30.	<p><i>Wood v The State of Western Australia</i></p> <p>[2024] WASCA 143</p> <p>Delivered 14/11/2024</p> <p><u>Co-offender:</u></p> <p><i>Peagram v The State of Western</i></p>	<p><u>Wood</u></p> <p>26 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Born in Vic; three siblings; parents separated at 6 yrs old and remained in mother's care; mother re-partnered; one of his stepfathers was violent towards him; father's partner was also</p>	<p>1 x Poss methyl wiss 9.974 kg at 78–80% purity.</p> <p>Both offenders were charged on the same indictment.</p> <p>Wood and Peagram drove a car from Victoria to Sydney. They were unknown to each other prior to the journey.</p> <p>On arrival in Sydney, a bag containing 9.974 kg of methyl was placed into the car. They were each provided with an</p>	<p>11 yrs 6 mths imp (both offenders).</p> <p>EFP.</p> <p><u>Wood</u></p> <p>Sentenced as a courier who was not aware of the weight, purity or type of drug.</p> <p>The sentencing judge found that Wood had known drugs were involved from the moment he agreed to participate in the enterprise.</p> <p>The sentencing judge found that at the time of</p>	<p><u>Wood</u></p> <p>Appeal dismissed (leave refused).</p> <p>Appeal concerned length of sentence.</p> <p>At [54] 'the circumstances of the offence in this case were also serious ... The appellant sold or supplied 9.974 kg of methylamphetamine ... The appellant was motivated by financial gain ... the appellant's involvement in this offence was not a fleeting or brief one.'</p> <p>At [55] 'whilst the appellant's role can be fairly described as that of a courier, it was clearly a critical role in the drug enterprise. Further, the appellant was trusted to transport the drugs across the country on his</p>

<p><i>Australia</i></p> <p><b>[2024] WASCA 144</b></p> <p>Delivered 14/11/2024</p>	<p>abusive.</p> <p>Left high school in yr 11; bullying and difficulty with reading.</p> <p>Worked at a cheese factory then a fitness centre; later returned to the cheese factory.</p> <p>No dependants; long term partner since time of bail.</p> <p>Diagnosed ADHD; symptoms associated with complex PTSD.</p> <p>Long history of substance use; alcohol from 12 yrs; cannabis from 16 yrs; methyl from 17 yrs.</p> <p><u>Peagram</u></p> <p>33 yrs at time sentencing.</p> <p>Convicted after late PG (10% discount).</p> <p>Criminal history; mostly traffic related; one offence of trafficking in ecstasy</p> <p>Youngest of three brothers; parents were alcoholics and gamblers; father was violent; mother abandoned family at 17 yrs.</p> <p>Expelled from school in yr 10; frequently truant.</p> <p>Worked in fast food outlets until commenced painting apprenticeship; worked in construction and as a personal trainer.</p> <p>Cannabis and alcohol use from 13 yrs; amphetamines form 17 yrs; addicted to cocaine during COVID-19.</p>	<p>encrypted mobile telephone. Wood drove the pair to a town in regional NSW and dropped Peagram off there. Wood continued the journey to WA. Peagram then independently travelled by plane.</p> <p>The pair rendezvoused in WA and drove to a nature reserve. As Wood remained in the car, Peagram took a bag containing the drugs and left it in the reserve. A third party took the drugs and replaced it with a box containing \$888,650 in cash.</p> <p>Wood and Peagram returned to the reserve and collected the box of cash. Police arrested the pair shortly after.</p> <p>Wood maintained he did not know the weight, purity or type of the drugs involved in the enterprise; but, he knew that it was drugs. He did not know that there would be money to collect.</p> <p>Peagram maintained he knew he was involved in a criminal activity, but initially thought he was transporting a large quantity of foreign currency. The day before the exchange was when he became aware it was a substantial quantity of drugs.</p> <p>Both offenders were motivated by financial gain. Peagram was offered \$20,000 for the offending, Wood was offered between \$10,000 and \$15,000.</p>	<p>the offence, Wood was struggling financially and was motivated to participate by the promise of financial gain.</p> <p>The sentencing judge found that Wood did not have beneficial ownership of the drugs, but nonetheless played an integral role in the enterprise.</p> <p>The sentencing judge found that the offending was not part of an ongoing course of conduct.</p> <p>The sentencing judge found that the Wood was remorseful and expressed a deep regret about his offending. Further, he had shown a commitment to rehabilitation and that he was a moderate or low risk of reoffending.</p> <p><u>Peagram</u></p> <p>Sentenced as a courier.</p> <p>The sentencing judge found that Peagram knew he was involved in criminal activity, and he later knew it was drug related.</p> <p>The sentencing judge accepted that by the time Peagram knew the offending involved drugs, he was in another State and was confronted with a difficult decision because he was already implicated; however, he still took no action to extricate himself.</p> <p>The sentencing judge found that the offending was not part of an ongoing course of conduct.</p> <p>The sentencing judge found that Peagram had used his time on remand wisely and was remorseful for his offending.</p>	<p>own.’</p> <p>At [56] ‘the appellant’s circumstances were favourable in that he had no relevant prior criminal record and had made efforts towards rehabilitation.’</p> <p>At [77] ‘having regard to the maximum penalty, the circumstances of the offence, the personal circumstances of the appellant, the mitigating factors, and the comparable cases, the sentence of 11 yrs 6 mths was not unreasonable or plainly unjust.’</p> <p><u>Peagram</u></p> <p>Appeal dismissed (leave refused).</p> <p>Appeal concerned parity of sentence with Wood.</p> <p>At [57] ‘to establish a ground of appeal that relies on a breach of the parity principle, it is not sufficient to show that there is some difference between co-offenders. The difference must be such that the imposition of the same sentence is productive of an injustice.’</p> <p>At [58] ‘the appellant principally relies upon the difference in culpability arising from his state of knowledge as compared to that of the co-offender. The sentencing judge accepted that the appellant did not become aware that illicit drugs were involved until the night before the supply transaction occurred. However, that does not mean that the appellant was an innocent participant in this enterprise prior [to becoming aware].</p> <p>At [59] ‘to the contrary ... the appellant travelled by car with Wood from Victoria to Sydney on the understanding that he would be participating in a significant criminal enterprise, for which he would be paid \$20,000, \$10,000 of which was paid in advance. Wood was promised \$10,000 to \$15,000, none of which was paid ... Viewed as a whole, the appellant’s culpability was not significantly less than that of Wood.</p> <p>At [60] ‘as to personal circumstances, there was no significant difference between the appellant and Wood.’</p>
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29.	<p><i>The State of Western Australia v YCL</i></p> <p>[2024] WASCA 124</p> <p>Delivered 07/10/2024</p>	<p>34 yrs at time offending. 35 yrs at time sentencing.</p> <p>Convicted after PG (22% discount, 10% discount for past cooperation).</p> <p>Limited criminal history.</p> <p>Grew up in a loving family.</p> <p>Left school in yr 11; bullied at school; commenced apprenticeship but did not complete it.</p> <p>Worked in a number of occupations; fruit picking; warehouse work; business became strained from COVID-19 leading to offending.</p> <p>In a long-term relationship; two children; family moved interstate after arrest.</p> <p>Cannabis user from 19 yrs old.</p>	<p>Ct 1: Poss methyl wiss 139 g at 78% purity. Ct 2: Poss cocaine wiss 558 g at 16–19% purity.</p> <p>The respondent was found in possession of the drugs inside his house. The prohibited drugs were located in a pencil case inside a black backpack belonging to the respondent.</p> <p>The drugs had been sent to the respondent via the mail, and his role was to temporarily keep the drugs and deliver them when instructed. The respondent was paid a small sum of cash in return for each delivery.</p> <p>The respondent cooperated with police and received recognition for that cooperation.</p>	<p>Ct 1: 18 mths imp (conc). Ct 2: 3 yrs 6 mths imp.</p> <p>TES: 3 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found the respondent was ‘at the absolute bottom’ of the drug distribution chain. The sentencing judge characterised the appellant’s role as the ‘package holder’ and a ‘passer-on-er’.</p> <p>The sentencing judge found the appellant had a low level of culpability. However, the offender was sentenced on the basis that the offending was not isolated and that he had been involved in the venture for a period of time.</p> <p>The sentencing judge found that personal deterrence was not a significant factor; the sentencing judge had ‘every confidence’ that the respondent would never find himself before the court again.</p>	<p>Appeal allowed.</p> <p>Appeal concerned length of individual sentences and first limb of totality principle.</p> <p>Resentenced:</p> <p>Ct 1: 4 yrs 3 mths imp (conc). Ct 2: 5 yrs 3 mths imp.</p> <p>EFP after 5 yrs 3 mths.</p> <p>At [66] ‘the cases referred to by the appellant show that, even allowing for a 22% discount for the plea of guilty, the 10% discount for past cooperation and all other mitigating circumstances, the sentence of 18 mths imp imposed upon the respondent for ct 1 is very much an outlier.’</p> <p>At [68] ‘... this court has generally treated cocaine and other prohibited drugs such as methylamphetamine and heroin as being of similar seriousness.’</p> <p>At [75] ‘an analysis of the cases cited by the appellant in respect of ct 2 reveals that the individual sentence imposed on the respondent was very lenient, even when the respondent’s plea of guilty, cooperation and other mitigating factors are taken into account. However, an important difference is that the cocaine the subject of ct 2 was of a significantly lower purity than the prohibited drugs the subject of the offences in the appellant’s comparable cases.’</p> <p>At [77] ‘the sentencing judge plainly regarded the respondent’s criminal culpability as being at a very low level and made a series of very generous findings to that effect. For example, her Honour found that the respondent was “naïve”, a person of good character, and did not require personal deterrence.’</p> <p>At [79] ‘in addressing culpability, what matters is not the label that is placed on the offender ... as labels are apt to mislead ... Instead, what matters is what the respondent actually did.’</p> <p>At [81] ‘the respondent was lower in the drug distribution enterprise than [others]. However, this does not mean that the respondent’s role was unimportant or significant... His motive was commercial. Doubtless, the respondent saw what he was doing as providing easy money, but it could not have been lost on him that his conduct involved serious criminality and that he was assisting persons who were involved in the business of distributing substantial quantities of</p>

					prohibited drugs into the community.’  At [84] ‘in our opinion ... the individual sentence imposed by her Honour on ct 1 was erroneously low. Importantly, it did not properly reflect the respondent’s criminality and provided insufficient general deterrence.’
28.	<b>Diamantopoulos v The State of Western Australia</b>  [2024] WASCA 82  Delivered 12/07/2024	30 yrs at time offending. 32 years at time sentencing.  Convicted after PG (20% discount).  Extensive criminal history; on parole for drug offending; two prior poss pwiss methyl.  Second of three children; supportive family.  Left school mid yr 12; sporadic employment since.  Cannabis user from 13 yrs; used methyl from 17 yrs; extensive drug use; drug dependent.  Stimulant use disorder; borderline personality disorder; major depression; anxiety; and PTSD.	Ct 1: Dealing with money proceeds of an offence \$4,498,790. Ct 2: Poss methyl wiss 42.92 kg at 77–82%.  <u>Co-offender – Edwards</u>  Ct 1: Poss methyl wiss (119 kg). Ct 2: Poss methyl wiss (43 kg). Ct 3: Dealing with money proceeds of an offence \$4,503,630.  Prior to the offending, the appellant had been informed his previous drug debt of \$20,000 had been increased to \$60,000. The appellant was informed that if he accepted a courier job his debt would be wiped. The appellant accepted the job.  One afternoon, Edwards parked a white truck in a truck bay along a highway. Shortly after, Mr R parked next to the truck. Edwards then unloaded multiple boxes from his truck to Mr R. Mr R then left with the boxes. A police SW at Mr R’s address located 11 boxes with 119 kg of methyl.  On the same day, the appellant drove a van into the same truck bay alongside Edwards. The appellant exited the van and placed a number of large suitcases in Edwards’ truck. Edwards then retrieved multiple boxes from the truck and handed them to the appellant. The police attempted to arrest the appellant at the truck bay. After a short chase, the appellant was taken into custody and 42.92 kg of methyl was found in the appellant’s van. The methyl was between 77%–82% purity.  A search of Edwards’ truck revealed the suitcases contained \$4,498,790 in cash.	Ct 1: 8 yrs imp (conc). Ct 2: 14 yrs 6 mths imp.  TES: 14 yrs 6 mths. EFP.  Co-offender – <b>The State of Western Australia v Edwards</b> [2022] WASCA 141:  Ct 1: 17 yrs imp. Ct 2: 15 yrs imp (conc). Ct 3: 8 yrs imp (conc).  The sentencing judge found that the appellant’s offending was very serious. The enterprise was ‘sophisticated, well planned and well resourced’ with a ‘clear commercial motivation’.  The sentencing judge was satisfied that the appellant was genuinely remorseful and that there were good prospects of rehabilitation.  The sentencing judge found that in many respects, the appellant and Edwards were at the same level of the drug distribution’s hierarchy, although performing different tasks.  The sentencing judge identified two facts that suggested Edwards’ role was more significant: he transported the methyl into WA from the Eastern States, and his motivation was purely commercial gain.  The sentencing judge identified three countervailing factor that suggested the appellant’s offending was more serious: Edwards pleaded guilty at an earlier stage; the appellant had a significant criminal history; and he was on parole at the time of offending.	Appeal dismissed (leave refused).  Appeal concerned parity and length of sentence imposed on ct 2.  At [51] ‘... the authorities make it clear that there is no hard and fast rule in terms of what might be a relevant comparator as to sentence in the case of co-offenders. The parity principle may apply to each and every component of the co-offenders’ respective sentences. Generally speaking, in evaluating parity, all the facts and circumstances must be considered ...’  At [56] ‘in his sentencing remarks, the sentencing judge expressly referred to Mr Edwards’ additional offending (the 119 kg of methyl supplied to Mr R) and the term of imprisonment for that offending ...’  At [60] ‘ground 1 fails. In our view the ground was based on an overly technical view of the sentencing remarks. When the sentencing remarks are read in full and in context, as they should be, ground 1 had no reasonable prospect of succeeding.’  At [63] ‘we accept that there was a relevant difference between the appellant’s motivation for his offending and Mr Edwards’ motivation for Mr Edwards’ offending. Mr Edwards was solely motivated by commercial gain ... By contrast the appellant was clearing a \$60,000 drug debt.’  At [64] ‘it is apparent, however, that Mr Edwards was also under pressure, albeit pressure of a different kind.’  At [65] ‘the unfortunate reality is that many offenders commit offences because they are under pressure of some kind. The extent to which this minimises the criminal culpability of the offender for the offending, if at all, depends on the facts and circumstances that bring about the pressure.’  At [66] ‘in the present case no actual threats were directed to the appellant’s family. The appellant was simply told to settle the debt or face the consequences.’  At [67] ‘the primary consideration in assessing the seriousness of the appellant’s offending is to consider what the appellant did. That is unaffected by the appellant’s motivation. In terms of what motivated the appellant to offend there was, on his own account, a personal advantage that accrued by reason of the offending — the appellant

					<p>cleared a substantial drug debt ... Accordingly, so far as the appellant was under a degree of pressure to participate in the offending, it was the appellant's prior actions and involvement with illicit drugs that made the appellant susceptible to that pressure.'</p> <p>At [69] '... it remains the case that the appellant was actuated, at least in part, by commercial gain. The appellant was clearing a substantial drug debt. The appellant therefore acted for reward.'</p> <p>At [81] 'once very lengthy sentences are reached there is a diminishing marginal effect so far as personal and general deterrence are concerned in further increases in the severity of the sentence imposed on an offender. Accordingly, it is not to be expected that sentences concerning very large quantities of prohibited drugs should have a linear relationship with the weight of the prohibited drugs involved in the offending.'</p> <p>At [83] 'the limited disparity in the total effective sentences is explained by the proper application of sentencing law and principles.'</p>
27.	<p><b>Watson v The State of Western Australia [No 2]</b></p> <p><b>[2024] WASCA 66</b></p> <p>Delivered 14/06/2024</p>	<p>27 yrs at time offending. 30 yrs at time sentencing.</p> <p>Convicted after PG (20% discount for IND 1136 and 25% discount for IND 925).</p> <p>Minor criminal history; traffic offences in both NZ and Australia.</p> <p>Born in NZ; happy childhood.</p> <p>Left school in yr 13 and undertook some study before finding gainful employment.</p> <p>Moved to Australia; became isolated and unmotivated; stopped working; receiving Centrelink payments at time of offending.</p> <p>In a relationship; partner remained supportive; no children.</p> <p>Bi-weekly cannabis use; social drinker.</p>	<p><u>IND 1136</u></p> <p>Ct 1: Supplied methyl 3.99 kg at 69–72%.</p> <p>Ct 2: Poss money that was the proceeds of an offence (\$5,987,220).</p> <p><u>IND 925</u></p> <p>Ct 2: Conspiracy to poss methyl wiss 30 kg.</p> <p>Ct 3: Conspiracy to poss cocaine wiss 10 kg.</p> <p>Ct 4: Conspiracy to poss heroin wiss 10 kg.</p> <p><u>IND 1136</u></p> <p>The appellant was observed by police parking his vehicle near a bush reserve. The appellant got out of the car and entered the reserve carrying a black backpack. A short time later he returned to the car, no longer carrying the backpack.</p> <p>On the same day, another man, Mr C was observed entering the reserve. A short time later, Mr C was observed carrying the black backpack left by the appellant. Police executed a SW of Mr</p>	<p><u>IND 1136</u></p> <p>Ct 1: 10 yrs imp.</p> <p>Ct 2: 3 yrs imp (cum).</p> <p>13 yrs imp.</p> <p><u>IND 925</u></p> <p>Ct 2: 8 yrs imp (conc).</p> <p>Ct 3: 7 yrs imp (conc).</p> <p>Ct 4: 7 yrs imp (conc).</p> <p>8 yrs (cum on IND 1136).</p> <p>TES: 21 yrs imp.</p> <p>EFP.</p> <p><u>IND 1136</u></p> <p>The appellant was sentenced on the basis that he was more than a warehouseman and more than a courier.</p> <p>The sentencing judge found the appellant's involvement in the criminal enterprise was continuous, and not isolated.</p> <p>The sentencing judge found that the appellant was an enthusiastic supporter, but not a</p>	<p>Allowed.</p> <p>Appeal concerned the first limb of the totality principle.</p> <p>Resentenced:</p> <p><u>IND 925</u></p> <p>Ct 2: 4 yrs imp (conc).</p> <p>Ct 3: 4 yrs imp (conc).</p> <p>Ct 4: 4 yrs imp (conc).</p> <p>4 yrs imp (cum on IND 1136).</p> <p>TES: 17 yrs imp.</p> <p>At [93] 'the totality principle ... [i]n practical terms will require the sentencing judge to consider the whole of the offending conduct and give consideration to whether the total effective sentence is a fair and just punishment for that conduct.'</p> <p>At [94] 'in this case two other issues also impacted on sentencing. First, the possession of the cash, whilst the subject of a separate charge, was also relevant as part of the conduct relating to the conspiracy ... It is apparent from the facts relied on in the two sentencing proceedings that all of the charges arose from a series of closely connected events. It was important in that context to ensure that the appellant was not doubly punished for any part of the conduct.'</p> <p>At [95] 'second, the exact nature of the conspiracy was significant in assessing the seriousness of the appellant's conduct ... The conspiracy</p>

			<p>C's vehicle and found a package containing 3.999 kg.</p> <p>On another occasion, the appellant and two co-offenders Mr W and Mr O were packaging cash at the appellant's home. The cash was packed into six boxes containing a total of \$5,987,220. The boxes were left in the appellant's residence, and later transported by Mr O to another residence. During a SW of the appellant's residence, police located a Ciph phone, cash counting equipment and boxes matching the \$5,987,220.</p> <p><u>IND 925</u></p> <p>The three conspiracy cts relate to a single agreement between Mr O, Mr W and the appellant to import 50 kg of drugs into WA. The Ciph phone seized from the appellant revealed an agreement to possess 30 kg of methyl, 10 kg of cocaine, and 10 kg of heroin.</p>	<p>decision maker. However, the people higher in the hierarchy did repose a large degree of trust in him.</p> <p>The appellant has participated in the commission of the offence was commercial reward; the paltry compensation he received did not excuse his offending.</p> <p><u>IND 925</u></p> <p>The sentencing judge found that cts 2–4 alleged separate offences, but they were the same criminal conduct.</p> <p>The criminality of the appellant found to be co-extensive with the scope of the broader criminal enterprise. The sentencing judge found that there was no meaningful distinction between the role of the appellant and that of Mr O.</p> <p>The sentencing judge found that the offending was motivated by personal gain.</p> <p>As with IND 1136, the appellant was found to have been an enthusiastic participant in the agreement.</p> <p>The sentencing judge found that appellant was sincerely remorseful for his conduct. It was also accepted that the appellant had undertaken study and passed bridging courses whilst in custody.</p>	<p>the appellant was convicted of was not necessarily coextensive with the activities and objectives of the broader criminal enterprise.'</p> <p>At [100] 'although the description of a courier was disavowed by defence counsel, the appellant's role was closer to that of a courier than someone at a more senior position in the criminal enterprise. He also had a role in the movement of the cash that was used to purchase the drugs, but only in a role that was likened to that of a clerk who counted and stored the money.</p> <p>At [101] 'the sentencing judge's descriptions of the agreement to which the appellant was a party were an inaccurate reflection of the admitted facts ... The effect of this was that the appellant was dealt with on a basis that attributed to him much greater criminality than he had in fact admitted.'</p> <p>At [102] 'in our view, the total sentence of 21 yrs' imprisonment was unreasonable or plainly unjust having regard to the appellant's limited role in both sets of offending and his early pleas of guilty. Where large amounts of drugs are involved there are likely to be many people in the enterprise, and those people are likely to vary significantly in their level of criminality. In such cases the role of the offender is often a more significant consideration than the amount of drugs.'</p>
<p>26.</p>	<p><i>Owen v The State of Western Australia</i></p> <p>[2024] WASCA 28</p> <p>Delivered 27/03/2024</p>	<p>35 yrs at time offending. 38 yrs at time sentencing.</p> <p>Convicted after trial (ct 1) Convicted after PG (cts 2–13).</p> <p>Criminal history in WA and Qld; unlawful poss of motor vehicle; traffic offences; importing prohibited imports; AOBH.</p> <p>Born in Brisbane; loving and supportive family; good relationship with family.</p>	<p>Ct 1: Att to poss methyl wiss 133 g at 56%.</p> <p>Cts 2–13: Att to poss various quantities of human growth hormone and anabolic steroids.</p> <p><u>Ct 1</u></p> <p>The appellant was heavily involved in bodybuilding. In addition to using various performance enhancing drugs, he also sold growth hormones and steroids to other bodybuilders.</p> <p>The appellant was the part owner of an</p>	<p>Ct 1: 6 yrs imp. Cts 2–13: 12 mths imp (cum).</p> <p>The sentencing judge found that the explanation of the appellant that he was tracking the parcel on behalf of someone else without any knowledge that it contained an illicit substance lacked credibility.</p> <p>The sentencing judge found the appellant had taken actions to distance himself from the illegality of the offending.</p> <p>The sentencing judge found the appellant's role was that of a middleman or drug courier</p>	<p>Appeal dismissed (leave refused).</p> <p>Appeal concerned length of sentence imposed on ct 1.</p> <p>At [43] 'the major sentencing considerations for offences of dealing in or trafficking dangerous drugs of addiction are general and personal deterrence.'</p> <p>At [46] 'as to the seriousness of the offence, the appellant's attempt to obtain the methylamphetamine was not a momentary aberration. His actions also involved some degree of sophistication. The appellant set up an APCN in a false name so that he could track the movement of parcels containing prohibited drugs. He used that APCN to track the parcel containing methylamphetamine.'</p>



		<p>Completed yr 12; completed mechanic apprenticeship; qualified as a mechanical fitter and Microsoft System engineer.</p> <p>Gainful employment since leaving school; workshop manager at time of conviction; described as a dedicated and hard-working employee.</p> <p>Began use of hormones after doctor prescribed testosterone; continued use of testosterone for personal use; supplied steroids to others for discount on his own; maintains having never used illicit substances that weren't anabolic steroids.</p> <p>Married and living with his wife.</p> <p>Experienced some anxiety and depression.</p>	<p>investment property. The property was leased to tenants. Australia Post attended the property to deliver two packages. Expecting a parcel, the tenants accepted delivery. After opening the parcels. The tenants discovered a vacuum sealed bag containing a crystalline substance. The tenant returned it to the deliver officer and told him it contained drugs. Police attended the post office and seized the parcel. The parcel contained 133 g of methyl with a purity of 56%.</p> <p><u>Cts 2–12</u></p> <p>The relevant parcel had a tracking number, which was been tracked by two separate Australia Post Consumer Numbers (APCN). One of the APCN's was registered in the name of an ex-girlfriend of the appellant. That APCN was linked to a SIM card found in the possession of the appellant. The Australia Post database identified two further parcels addressed to the appellant's ex-girlfriend. Those two parcels were seized and contained numerous steroids. The appellant later travelled to the parcel locker and attempted to collect one of the packages seized by police.</p> <p><u>Cts 13</u></p> <p>The following day, the appellant attended another locker and collected a different parcel addressed to his ex-girlfriend. That parcel contained human growth hormone. During his police interview, the appellant made full admissions about the human growth hormone and anabolic steroids.</p>	<p>in a mid to high level drug operation.</p> <p>The sentencing judge found that the appellant did not act for altruistic reasons and that it was implausible that he would have undertaken such risk for no reward. The sentencing judge was satisfied that there was commerciality in the appellant's offending.</p>	<p>At [47] 'it should be noted that to say that knowledge of the precise nature and quantity of drugs was not proved beyond reasonable doubt does not equate with a positive finding that the appellant did not know these things.'</p> <p>At [48] 'we have regard to the cases referred to by the appellant. When the circumstances of those case are considered, it is apparent that the sentences imposed in them do not support the claim that the appellant's sentence was manifestly excessive.'</p> <p>At [54] '... there is no proper basis for arguing that the sentence imposed in this case was manifestly excessive.'</p>
25.	<p><i>Astone v The State of Western Australia</i></p> <p>[2024] WASCA 18</p> <p>Delivered</p>	<p>59 yrs at time sentencing.</p> <p>Convicted after PG (17.5% discount).</p> <p>No criminal history; minor road traffic record.</p>	<p>Ct 1: Poss unlawfully obtained property \$13,950.</p> <p>Ct 2: Offer to supply methyl 27.96 g.</p> <p>Ct 4: Offer to supply methyl 28 g.</p> <p>Ct 5: Poss methyl wiss 111 g at 81% purity.</p> <p>Ct 6: Poss heroin wiss 60.79 g 74–77%</p>	<p>Ct 1: 9 mths imp (conc).</p> <p>Ct 2: 3 yrs 3 mths imp (cum).</p> <p>Ct 4: 4 yrs 3 mths imp (HS).</p> <p>Ct 5: 4 yrs imp (conc).</p> <p>Ct 6: 3 yrs 3 mths imp (conc).</p> <p>Ct 7: 6 mths imp (conc).</p>	<p>Appeal dismissed (leave refused for length of sentence).</p> <p>Appeal concerned first limb of totality principle and parity with co-offender's sentence.</p> <p>At [57] 'the appellant played a sustained and integral role in her son's drug dealing business ... the business required the appellant's</p>

<p>16/02/2024</p>	<p>Youngest of three sisters; parents migrated to Australia from Sicily; parents were strict; raised on a farm in a reclusive environment; father was physically and emotionally abusive.</p> <p>Completed yr 10 at high school; bullied and ostracised at school.</p> <p>Completed a clerical course at TAFE; worked for extended period in bookkeeping and clerical positions; former employers spoke highly of her work ethic and confirmed she was drug free.</p> <p>Forced into an arranged marriage; husband was abusive and a drug-user; appellant was afraid to leave the marriage; two children from the marriage (the oldest was the co-offender); marriage ended after 20 yrs.</p> <p>Later commenced a relationship with Mr E; Mr E was a heroin addict and drug dealer; was abusive to towards the appellant; on and off relationship; died one yr before sentencing.</p> <p>Poor mental health; anxiety; depression and possibly PTSD.</p> <p>Became involved in drug dealing to assist her son (the co-offender) with his debts.</p> <p><u>Co-Offender</u></p> <p>29 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Ct:1 poss methyl wiss (13.8 g at 63% purity).</p>	<p>purity. Ct 7: Poss unlawfully obtained property \$3,000.</p> <p><u>Ct 1</u></p> <p>Police executed a SW at the appellant's home whilst the co-offender was present. Police seized and charged the co-offender with poss methyl together with poss a firearm, parts and ammunition. Police located \$13,950 in cash. An intercepted phone call revealed the appellant was aware of the cash in her home.</p> <p><u>Ct 2</u></p> <p>A listening device in the appellant's property recorded a conversation between the appellant and co-offender during which the appellant offered to supply the co-offender with 28 g of methyl.</p> <p><u>Ct 4</u></p> <p>The listening device captured the appellant offering to supply an individual with 28 g of methyl.</p> <p><u>Ct 5</u></p> <p>Surveillance devices later recorded the co-offender and Mr T (another co-offender) discussing a plan to collect drugs. Mr T went to the appellant's home, and the appellant and co-offender told Mr T the plan for the day. The appellant gave Mr T \$40 for fuel and the three offenders drove in a two-car convey to a truck stop. Mr T waited at a café and the appellant and co-offender later returned to his location. The co-offender placed a package of methyl under the bonnet of Mr T's car and the two vehicles drove away. Police stopped and searched the vehicles, discovering a package containing 111 g of methyl at 81% purity.</p>	<p>TES: 5 yrs 3 mths.</p> <p>EFP.</p> <p><u>Co-offender</u></p> <p>Ct 1: 15 mths imp (cum). Ct 2: 4 yrs imp (HS).</p> <p>The sentencing judge found the appellant had remorse. But the appellant's poor mental health did not reduce her culpability.</p> <p>The sentencing judge expressly referred to imposing comparable sentences to the co-offender and Mr T.</p> <p>The sentencing judge found that the drug dealing business belonged to the co-offender; however, the appellant's role allowed the business to operate more efficiently.</p> <p>The sentencing judge found that the circumstances of the appellant's offending were at least equal to the co-offender.</p> <p>The sentencing judge found the appellant had knowledge of the legal consequences and harm caused by drug dealing activities. Nonetheless, the appellant became involved and helped facilitate the co-offender's drug dealing activities.</p> <p>The sentencing judge found that the appellant's involvement was — to some extent — related to a long history of being exposed to domestic violence and being fearful of her then partner.</p>	<p>organisation to function. The appellant herself offered to supply 28 g of methyl to a client and 27.96 g of methyl to her son. She was closely involved in the transport of 111 g of methyl...The transport involved a degree of planning in which a third person was recruited in an effort to conceal the appellant and her son's role in the offending. Separately, she held just over 60 g of heroin for Mr E in her home, which she knew was to be used ... in a commercial operation. A significant degree of accumulation ... was required for the total sentence to reflect the overall criminality.'</p> <p>At [58] 'we do not accept ... that there is a material distinction to be drawn between a person pursuing a drug dealing enterprise for their own financial benefit and doing so for the financial benefit of a close family member. Nor does the appellant's motivation to protect [the co-offender] from threats ... fundamentally alter the appellant's culpability.'</p> <p>At [58] 'the appellant did not attempt to extricate [the co-offender] from the trade by finding lawful means of assisting him...Rather, she chose to facilitate the continuation of her son's unlawful drug dealing business.'</p> <p>At [79] 'overall, there was little to distinguish the roles the appellant and [the co-offender] played in the drug dealing business.'</p> <p>At [80] 'it is also true the appellant's antecedents provided significantly greater mitigation than those of [the co-offender] ... Based on the mitigating factors that were available to the appellant, it would be expected that she would receive a lower sentence ...'</p> <p>At [81] 'however, the overall criminality of the offending for which the appellant and [the co-offender] received their respective total effective sentences was not the same. The appellant was convicted of more offences ... the difference between the appellant's and [co-offender's] total effective sentences reflects the greater level of criminality involved in the larger number of offences of which the appellant was convicted.'</p> <p>At [84] 'considered in isolation, the lack of disparity between the individual sentences for the offences relating to the same 111 g of methyl would not be justifiable given the appellant's significantly better antecedents and other mitigating factors.'</p> <p>At [85] 'however, it is relevant that the sentenced imposed for ct 5 on the appellant's indictment is to be served concurrently with other sentences and so does not add to the length of her total effective sentence.'</p> <p>At [87] 'it was therefore reasonably open for the sentencing judge to take the view that the parity principle was appropriately</p>
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		<p>Ct 2: supply methyl (111 g).</p> <p>Criminal history; imp for serious drug offences; drug and weapon offences.</p> <p>Left school at 17 yrs; receiving Centrelink benefits; drug use; in good physical health.</p> <p>Depressive symptoms.</p>	<p><u>Ct 6 &amp; 7</u></p> <p>After searching the offender's vehicles, a SW was conducted at the appellant's home. Police found 60.79 g of heroin with a purity between 74% and 77%. Police also located \$3,000 in cash. The appellant was holding and hiding the heroin and money for her then-partner Mr E — who was a heroin user and dealer. The appellant was not personally selling or supplying heroin for commercial purposes.</p>		<p>accommodated by the difference in the total effective sentences imposed.'</p>
<p>24.</p>	<p><i>Wijnen v The State of Western Australia</i></p> <p>[2024] WASCA 1</p> <p>Delivered 04/01/2024</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No criminal history.</p> <p>Stable and loving home; average school student; left school at 16 yrs to commence apprenticeship.</p> <p>Changed employment due to injuries sustained in a car accident; later became a crane driver and truck driver; diagnosed with testicular cancer and was in remission at sentencing.</p> <p>Depression; medicated since 2018; showed some signs of ADHD or autism.</p> <p>Escalating methyl use; daily use by time of offending; acknowledged that he had previously sold or supplied drugs; ceased use of methyl in custody.</p> <p>Well regarded by family and friends; supported by long-term partner.</p>	<p>Ct 1: Att to possess methyl wiss 291 g at 81–82% purity.</p> <p>Australian Border Force intercepted a package sent to a residential premises. The package contained vacuum-sealed bags containing methyl.</p> <p>The package was reconstructed and substituted with an inert substance. A listening device was installed in the package. The package was then delivered.</p> <p>At the residence, the female co-accused answered the door and received the package. She attempted to call the appellant. When he did not answer, she sent a text message to the appellant asking whether he was expecting a package. The appellant responded he would come to the house in an hour.</p> <p>On arrival, the appellant asked the co-accused for some gloves. Police executed a search warrant and found the appellant near the package. He was wearing a pair of latex gloves and holding a Stanley knife. The appellant was searched and a clip-seal bag containing 24g of methyl was located in his sock. In his wallet a small piece of paper had the same name and address details on the package.</p>	<p>Ct 1: 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>The sentencing judge found that the appellant played an important part in the offence. The offending was not merely a fleeting involvement.</p> <p>The sentencing judge characterised the appellant as an important cog in the offence, which would have involved the distribution of the drugs to somebody else.</p> <p>The sentencing judge found that the appellant was, apart from his drug issues and offending, a person capable of making a positive commitment to society.</p> <p>The sentencing judge accepted that the appellant had facilitated the course of justice by narrowing issues at trial.</p> <p>The sentencing judge was unwilling to accept the appellant was remorseful for his actions.</p>	<p>Appeal dismissed (leave refused).</p> <p>Appeal concerned length of sentence.</p> <p>At [30] 'the major sentencing considerations for offences of dealing in or trafficking dangerous drugs of addiction are general and personal deterrence. The weight of the drugs in question is not generally the chief factor to be taken into account in fixing a sentence, but it is a matter of importance.'</p> <p>At [32] '... the appellant attempted to possess a significant quantity of methyl of high purity. That quantity was more than ten times the trafficable quantity prescribed ...'</p> <p>At [33] 'although no finding of commerciality was made...the appellant's role was nonetheless significant...His role was a trusted one that would plainly have facilitated the further distribution of the drugs into the community.'</p> <p>At [46] 'in the present case, whilst the appellant's role was not described as being commercial, he was nonetheless an important cog in the criminal enterprise ... Whilst the appellant had a number of favourable personal circumstances, such factors are of less weight in respect of offending of this nature and are subsumed to the importance of general and personal deterrence.'</p>

			During his interview, the appellant claimed he was a coin collector, and he was wearing gloves because he did not want to risk infecting his fragile grandparents with COVID-19.		
23.	<b>Gray v The State of Western Australia</b>  [2023] WASCA 188  Delivered 22/12/2023	48 yrs at time sentencing.  Convicted at trial.  Limited criminal history.  Born in NSW; parents separated after birth; lived with mother during early years; mother re-married; had two half-siblings; maintained good relationships with stepfather and half-siblings; alleged mother had mental health issues and she subjected him to physical and emotional abuse; lived with his father from 13 yrs; stable upbringing.  Attended several schools; left school in yr 10; started apprenticeship in cabinetmaking.  Worked in logistics and transport.  Previously married; not in a relationship at time of offending; no children; no family connections to WA; no social visits for more than two-yrs.  History of depression.	Ct 1: Att to supply methyl 56kg at 80.91% purity.  The appellant was one of three men convicted of playing an important part in an unsuccessful attempt to transport 56kg of methyl from NSW into WA. Appellant was jointly charged with Newton. Maksimovic was charged with att poss of methyl.  Newton established a transport and logistics company ('7 Roads'). Newton later arranged for the appellant to become involved in the business. The appellant lived in Melbourne and arranged for 7 Roads to use warehouse premises in Vic.  Maksimovic was the head of a sophisticated drug syndicate operating in WA. Newton and the appellant decided to use 7 Roads to transport methyl to WA for financial reward.  Newton and the appellant arranged for a shipping container to be transported from Melbourne to Perth. The appellant received 56kg of methyl at the warehouse, repackaged the methyl into 59 vacuum-sealed bags and stored them within the container bound for Perth. Police substituted the methyl with an inert substance.  Newton and the appellant travelled to Perth to facilitate the hand over to Maksimovic. The appellant unloaded the container's contents into a van, and left the vehicle in a Bunnings carpark according to the instructions of Maksimovic. Another member of the syndicate unloaded the van, and left \$142,500 as payment for Newton and	Ct 1: 20 yrs.  EFP.  Sentencing judge found the appellant and Newton played an integral role in bringing a large amount of methyl into WA.  Sentencing judge described the appellant and Newton as 'essential conduits between the eastern states and the syndicate'.  The sentencing judge found the offending was a carefully planned and considered course of conduct demonstrated by: the use of 7 Roads; the use of encrypted mobile phones; the dry-run to test their planning; and the offence was committed for financial reward.  The sentencing judge found the moral blameworthiness of the appellant was high.  The sentencing judge found Maksimovic was the head of the syndicate; operated a large-scale and sophisticated drug-dealing business; was responsible for sourcing the methyl; and operated the syndicate for financial reward.  The sentencing judge found Maksimovic's moral blameworthiness as very high.  The sentencing judge found that all three offenders had experienced some hardship as a result of the COVID-19 pandemic.	Appeal dismissed (leave refused).  Appeal concerned parity of sentences with co-offender.  At [56] '... it is necessary to note that the offences committed by the appellant and by Mr Maksimovic were not identical offences. The appellant was convicted of attempting to supply methylamphetamine to another, whereas Mr Maksimovic was convicted of attempting to possess methylamphetamine with intent to sell it to another. However, both offences related to the same quantity of methylamphetamine.'  At [57] 'the appellant and Mr Maksimovic committed their individual offences in the course of acting on different sides of the same transaction.'  At [62] 'there is no dispute that Mr Maksimovic's culpability was greater than that of the appellant. As the head of a syndicate that operated a large-scale, sophisticated, and commercially motivated drug dealing business in WA, Mr Maksimovic was responsible for sourcing 59 kg of high quality methylamphetamine.'  At [63] 'on the other hand, the appellant engaged in a determined course of conduct using his knowledge of the transport and logistics industries in an ultimately unsuccessful effort to transport a very large quantity of valuable methylamphetamine ... the sentencing judge did find that the appellant played a "hands on" role in the attempt to supply the methylamphetamine'.  At [66] 'what the appellant did was perform a crucial role in ensuring the safe transfer of a very large amount of methylamphetamine across State borders, thereby facilitating a significant unlawful transaction...what should not be overlooked is that the ultimate purpose of what the appellant did was to facilitate the objectives of Mr Maksimovic and his syndicate, namely to distribute it into the Western Australian community for profit. In that regard, a proper assessment of the appellant's criminality cannot be divorced from Mr Maksimovic's criminal activities and motivations.'

			the appellant's role in the operation.		
22.	<p><i>Searle v The State of Western Australia</i></p> <p>[2023] WASCA 129</p> <p>Delivered 30/08/2023</p>	<p>31 yrs at time sentencing.</p> <p><u>IND 136</u> Convicted after late PG (5% discount).</p> <p><u>IND 1013</u> Convicted after PG (25% discount).</p> <p>Unstable family life; raised by mother, frequently physically and emotionally abusive; often left with his grandmother; exposed to drug abuse and violence; absent father; abandoned by his mother entirely aged 15 yrs; no contact with her since.</p> <p>Frequently moved schools; no close friendships; completed yr 10; obtained certificates in various trades.</p> <p>Good work history and good employment prospects.</p> <p>Stable family and partner; current partner non-drug user; close relationship with his sister and stepfather; supportive family.</p> <p>Commenced cannabis use aged 15 yrs; introduced to methyl aged 19 yrs; drug-free for extended periods.</p>	<p><u>IND 136</u> Cts 1; 3-6; 8; 14-31 &amp; 33: Offer to sell/supply methyl 0.1 g – 7 g.. Cts 2; 7; 9-13: Offer to sell/supply cannabis. Ct 32: Offer to sell/supply methyl 28 g (trafficable quantity).</p> <p><u>IND 1013</u> Ct 1: Poss methyl wiss 43.44 g at 80-81% purity (trafficable quantity). Ct 2: Obstruct police officer. Cts 3-5: Use identification material with intention to commit fraud.</p> <p><u>IND 136</u> Searle committed the offences over a period of about five months in the course of a small-scale drug-dealing business.</p> <p>Searle was stopped driving a motor vehicle and following a search, two mobile telephones were seized. Later analysis of the phones revealed communications via text message and Facebook Messenger in which he offered to sell or supply prohibited drugs to various people.</p> <p>On seven occasions Searle offered to sell or supply cannabis in quantities ranging from 7g – 140g.</p> <p>On 25 occasions Searle offered to sell or supply methyl in quantities ranging from 0.1g – 7g.</p> <p>On one occasion Searle offered to sell or supply a trafficable quantity of methyl.</p> <p><u>IND 1013</u> Whilst driving a motor vehicle police stopped Searle for a random breath and drug test. He tested positive for drugs. Searle ran from the police and despite a</p>	<p><u>IND 136</u> Cts 1; 3; 9; 14 &amp; 33: 6 mths imp (conc). Cts 2 &amp; 7: 1 mth's imp (conc). Cts 4-5; 15-17 &amp; 30: 12 mths imp (conc). Cts 6; 8; 18 &amp; 20: 15 mths imp (conc). Cts 10-12: 4 mths imp (conc). Ct 13: 10 mths imp (conc). Cts 19; 21; 23-24; 26-27 &amp; 31: 18 mths imp (conc). Ct 22: 20 mths imp (conc). Ct 25: 2 yrs imp (conc). Cts 28 &amp; 29: 8 mths imp (conc). Ct 32: 3 yrs imp (cum).</p> <p><u>IND 1013</u> Ct 1: 5 yrs imp (cum). Ct 2: 12 mths imp (conc). Cts 3-5: 9 mths imp (conc).</p> <p>Ct 32 (IND 136) cum on sentence imposed ct 1 (IND 1013).</p> <p>TES 8 yrs imp. EFP.</p> <p><u>IND 136</u> The sentencing judge found the appellant's offending was for a commercial purpose, offering and selling methyl and cannabis in part to help fund his own drug use; sentenced on basis he was towards the middle of the drug-distribution network, above the street-level user/dealer.</p> <p>The sentencing judge accepted that the transactions the subject of cts 32 and 25 did not proceed; sentenced on the basis the balance of transactions generally did proceed and the appellant was able to readily source methyl and cannabis.</p> <p><u>IND 1013</u> The sentencing judge found the offending serious; it occurred while he was on bail for the offending the subject of IND 136; ct 1 involved a significantly greater quantity of</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and totality principle.</p> <p>At [48] '... the appellant's 2019 offending had a number of serious features. ... The fact that [he] was dealing in two different drugs adds an additional element to his criminality. Further, one of the appellant's offers concerned 28 g of methyl.'</p> <p>At [49] 'had the appellant been sentenced for the offences on the first ind standing alone, a sentence appreciably in excess of 3 yrs' imp would have been appropriate, particularly given the persistence and duration of the offending the subject of the fist ind.'</p> <p>At [50] 'there is no challenge to the sentence of 5 yrs imp for ct 1 on the second ind. That sentence reflects the serious features of the offence, ... Further, it should not be overlooked that the second ind included cts 2 – 5, which involved additional criminality of a different character from the drug-dealing the subject of the appellant's other offending. While the sentences for cts 2 – 5 were made conc, those offences involved distinct additional criminality that forms part of the appellant's overall criminality.'</p> <p>At [51] '... the 8-yr sentence reflects, as it should, the overall criminality manifested in all of the appellant's offending.'</p> <p>At [52] 'nothing in the consideration of other comparable cases supports a conclusion that the TES in the present case was so high as to reveal error.'</p> <p>At [59] '... giving full weight to the appellant's PG, and to all the mitigating factors in his favour, his TES of 8 yrs imp does not reveal error.'</p>

			<p>chase he was unable to be located and apprehended.</p> <p>Inside Searle's vehicle a bag containing a total of 43.44 g of methyl was located, along with \$5,540 in cash.</p> <p>About two weeks later Searle was located and arrested at an address. During a search of the property a wallet containing three counterfeit MDLs, each featuring his image and false identification details. He had used the fake MDLs to obtain accommodation under false identities, which enabled him to avoid police detection during the period up to his arrest.</p>	<p>methyl than the earlier offending and confirmed the appellant's ability to access significant quantities of methyl; the appellant played a significant role in the distribution of large quantities of methyl into the community and he did so for commercial purposes.</p> <p>Remorseful; insight into his offending behaviour; accepting of responsibility and contributing factors to his offending.</p>	
21.	<p><i>Stipanich v The State of Western Australia</i></p> <p>[2023] WASCA 118</p> <p>Delivered 11/08/2023</p>	<p>41 yrs at time sentencing.</p> <p><u>IND 1926</u> Convicted after early PG (ct 1 20% discount) (ct 2 15% discount).</p> <p><u>IND 1878</u> Convicted after early PG (17.5% discount).</p> <p>Extensive criminal history.</p> <p>Dysfunctional and disadvantaged childhood; alcoholic mother; violent father; sexually abused.</p> <p>Educated to yr 10.</p> <p>10 yrs stable relationship; two teenage children from previous relationship.</p> <p>Commenced, but did not complete, an apprenticeship; employed in rigging and general construction.</p> <p>Struggled with drug addiction many yrs; using methyl at time of offending.</p>	<p><u>IND 1926</u> Ct 1: Poss methyl 6.78g. Ct 2: Poss unlawfully obtained property (\$75,170 cash).</p> <p><u>IND 1878</u> Ct 1: Poss methyl wiss 107.1g at 52% and 74% purity (trafficable quantity).</p> <p><u>IND 1926</u> In the early hrs of the morning Stipanich and his partner checked into a hotel.</p> <p>A hotel security camera recorded their movements.</p> <p>Stipanich was seen carrying a backpack.</p> <p>In the afternoon Stipanich and his partner left the hotel room. He was again seen carrying the backpack. They later returned to their room with the backpack.</p> <p>That evening Stipanich was arrested outside the hotel. A clipseal bag containing 6.78 g of MDMA was found in his pocket. The backpack was located in the hotel room and was found to contain 15 bundles of cash totalling</p>	<p><u>IND 1926</u> Ct 1: 8 mths imp (conc). Ct 2: 10 mths imp (cum).</p> <p><u>IND 1878</u> Ct 1: 7 yrs imp (cum).</p> <p>TES 7 yrs 10 mths imp.</p> <p>EFP.</p> <p>Sentenced on basis a mid-level user/dealer for profit.</p> <p>The sentencing judge found the offending serious; there was a significant quantity of methyl, well in excess of the trafficable quantity; the offending was committed for commercial purposes, but accepted the appellant was selling drugs partly to fund his own heavy drug use; the extent of the commerciality was reflected by the sum of \$75,170 found in his poss; the offending was not isolated or one-off and the offending must be considered in the context of and against a background that he was involved in drug dealing activities over an extended period of time.</p> <p>The sentencing judge also took into account that the offending took place while the</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence ct 1 (IND 1878) and totality principle.</p> <p>At [36] '... the quantity of 107.1 g possessed by the appellant is nearly four times the trafficable quantity prescribed for methyl. Furthermore, it is important to bear in mind that the quantity possessed at the time of arrest must be seen in the context that the sentencing judge found that the appellant had been involved in commercial drug dealing over an extended period, a finding that is not challenged. The role of the appellant in the offending is also clearly important. He was not a mere courier or aider, who only came into poss of the drugs for a short time or for modest reward. He was, and accepted that he was, a mid-level commercial dealer.'</p> <p>At [37] 'The third offence was also aggravated by the fact that it was committed when the appellant was on bail for the first two offences, one of which was also a drug offence ...'</p> <p>At [38] '... it can be misleading to view cases primarily from the perspective of the quantity of drugs involved without proper regard for the role of the offender and whether the offending was part of a course of conduct, as it was here.'</p> <p>At [50] 'in the present case the appellant's role did not involve a one-off or single instance of criminality. As the sentencing judge properly noted, the appellant's role was one of involvement in commercial drug dealing over an extended period of time. He was a mid-level drug dealer, engaged in dealing for a profit as well as for the purpose of feeding his own habit. This places into proper context the quantity of</p>

			<p>\$75,170.</p> <p>In the room elastic bands matched those found on the bundles of cash. Digital scales, a smoking implement and a clipseal bag containing three oxazepam tablets were also located.</p> <p>Also found were two further bundles of cash, in the amounts of \$1,850 and \$850, and three mobile telephones.</p> <p>Stipanich claimed he could not remember the PINs to the mobile telephones.</p> <p>Stipanich's DNA was later found on the backpack and clipseal bag.</p> <p><u>IND 1878</u> While Stipanich was on bail for the offences the subject of IND 1926, a search warrant was executed at his home. Inside an exercise roller, in a box wrapped in an elastic band, were clipseal bags containing three separate quantities of methyl.</p> <p>DNA consistent with that of Stipanich and his partner was detected on the outside of the box.</p> <p>Two sets of digital scales and two mobile telephones were also found. Stipanich declined to provide the PIN numbers for the mobile phones. When the contents of one of the mobile phones was able to be downloaded it revealed he had sent and received messages consistent with the sale of methyl.</p>	<p>appellant was on parole and on bail.</p> <p>Courses undertaken while in prison; demonstrated commitment to rehabilitation.</p>	<p>the drugs involved. ...'</p> <p>At [51] '... the sentence for the second offence was, if anything, a lenient sentence when regard is had to the amount of cash involved, the circumstances of the offending and the max penalty for that offence ... The relatively low sentence for that offence is accounted for by the fact that the sentencing judge reduced it for totality reasons. ... Nor can there be any sensible suggestion that a cum sentence for the second offence was inappropriate, given that it was serious independent offending conduct ...'</p>
20.	<p><i>Humes v The State of Western Australia</i></p> <p>[2023] WASCA 110</p> <p>Delivered</p>	<p>34 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>Prior criminal history; no previous sentences of imp.</p>	<p>Ct 1: Poss methyl wiss 166.3 g at 80-81% purity (trafficable quantity).</p> <p>Ct 2: Poss unlawfully obtain property.</p> <p>Humes drove his utility from Perth to Bunbury 'to assist with a job'. He did not know precisely what the job entailed until his arrival in Bunbury.</p>	<p>Ct 1: 6 yrs 2 mths imp (conc).</p> <p>Ct 2: 6 mths imp (conc).</p> <p>TES 6 yrs 2 mths imp.</p> <p>EFP.</p> <p>Appellant sentenced on the basis that the</p>	<p>Allowed (Quinlan J dissenting).</p> <p>Appeal concerned length of sentence ct 1.</p> <p>Resentenced ct 1 (20% discount):</p> <p>Ct 1: 5 yrs imp.</p>

	<p>17/07/2023</p>	<p>Mother died when he was about 8 yr old; good childhood but generally very unstable; family moved constantly.</p> <p>Left school aged 17 yrs.</p> <p>Employed various labouring jobs; not worked since 2016-2017 as a result of injury; started own business prior to his incarceration.</p> <p>Married; one child; child from wife's previous relationship.</p> <p>Member of OMG since 2018.</p> <p>Good physical health; mixed antisocial-borderline personality disorder; PTSD and disorders relating to alcohol and stimulate use.</p> <p>History of illicit substance abuse.</p>	<p>At an address in Bunbury Humes met Mr L. Both Humes and Mr L then got into a vehicle and drove away.</p> <p>Sometime later the vehicle, being driven by Mr L, was stopped by police. Humes was seated in the front passenger seat. The vehicle was searched and \$15,030 in cash was located.</p> <p>Three cipseal bag were also found concealed in the front of Humes' underwear. The three packages weighed a total of 166.3 g of methyl (ct 1).</p> <p>Humes' utility was also searched and a further \$1,066 in cash was located in the vehicle (ct 2).</p>	<p>methyl had been in the front passenger seat footwell of the vehicle and he had put the drug in his underwear with the intention of returning it to Mr L.</p> <p>The sentencing judge found the offending serious; the appellant possessed six times the minimum trafficable quantity of methyl and characterised the quantity of the drug as 'significant'.</p> <p>The sentencing judge found the \$15,000 cash located in the car an aggravating feature; confirming the appellant was an essential part of a commercial drug dealing organisation.</p> <p>No demonstrated remorse; participated and engaged in drug counselling.</p>	<p>TES 5 yrs imp.</p> <p>EFP.</p> <p>At [90] ... it appears that the appellant travelled from Perth to Bunbury to do 'a job' without knowing precisely what the job entailed. Given that he was paid \$1,066 for the job, it may be inferred that [he] was aware that the job entailed some kind of illegal conduct.</p> <p>At [91]-[92] ... Exactly how long the appellant was in poss of the drug is not known. It is agreed that the appellant, in effect, hid the drug in his underwear, with the intention of giving it back to the driver of the vehicle, ... The appellant was aware that the drug would be distributed into the community, although he was not to be a part of that process. ... it therefore appears that [he] was in temporary possession of the drug for a short period of time. Nevertheless, as [he] acknowledges, he involved himself in a commercial drug trafficking operation of some scale, and did so for personal reward. Having regard to what is known about the circumstances, we accept the appellant's submission that he was at the low end of the commercial drug trafficking operation.</p> <p>At [94]-[104] Discussion of comparable cases.</p> <p>At [108] ... the appellant's poss of the methyl was brief, if not fleeting, and involved an intention to, in effect, return the methyl to the driver of the vehicle. Although it is true that the quantity of methyl involved was significant and [he] was paid for his actions, he was, at the end of the day, at a low level in the commercial drug trafficking enterprise. There is nothing to indicate that he was the owner of the methyl or that he was to be involved or have some continuing role in the actual sale of the drugs. ...</p>
<p>19.</p>	<p><i>HSH v The State of Western Australia</i></p> <p>[2023] WASCA 113</p> <p>Delivered 14/07/2023</p>	<p>50 yrs at time sentencing.</p> <p>Convicted after PG (10% discount).</p> <p>Prior criminal history; including drug offences, no previous convictions for dealing in drugs.</p> <p>Religious upbringing; supportive family.</p> <p>Number of intimate relationships; children and stepchildren.</p> <p>Long and varied working life.</p> <p>Left with chronic pain following significant injury early adulthood;</p>	<p>Ct 2: Poss methyl wiss 70.7 g at 77%-78% purity (trafficable quantity).</p> <p>HSH was a passenger in a vehicle stopped by police. In the boot of the vehicle a magnetic lock box was found, inside which were two clip seal bags. The first bag contained 55.7 g of methyl, with a purity of 77% and the second bag contained 15 g of methyl, with a purity of 78%.</p> <p>In HSH's pants two Post-it Notes with a series of names and numbers consistent with a 'tick list' were also found.</p> <p>At a location rented by HSH digital scales, iPads and a notebook containing several pages of notations consistent</p>	<p>Ct 2: 3 yrs 6 mths imp.</p> <p>EFP.</p> <p>At time of sentencing serving a TES of 2 yrs 2 mths imp, and eligible for release to parole, in relation to two further offences on the same IND, namely:</p> <p>Ct 3: Poss methyl wiss (17.59 g).</p> <p>Ct 4: Failing to obey data access order.</p> <p>Ct 3: 20 mths imp (cum).</p> <p>Ct 4: 6 mths imp (cum).</p> <p>TES 5 yrs 5 mths 5 days imp.</p> <p>The sentencing judge found the appellant acted as a courier, delivering drugs to a</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence.</p> <p>At [92]-[99] Discussion of comparable cases.</p> <p>At [100] The appellant in this case committed a serious drug offence. As the authorities reveal, the major sentencing considerations for offences of this type are general and personal deterrence. The appellant's involvement in the illegal trade in methyl called for a term of imp that would achieve that necessary deterrence. The appellant's efforts and motivation towards rehabilitation were to his credit, but there was nothing exceptional about his personal circumstances.</p> <p>At [101] In all of the circumstances, ..., there is no basis to conclude from the sentence imposed by the learned sentencing judge that her Honour's consideration of those matters involved any error. On the contrary, in our view, in the absence of the matters referred to in the Schedule, the appellant could have expected a significantly greater</p>



		lead to morphine and then methyl addiction; abstinent from drug use while in prison.	with tick lists were found.  Telephone intercept data indicated HSH's involvement in the sale of prohibited drugs, including the use of encrypted communication applications.	purchaser for the purchase price of \$12,000; in return he was to be given an eight-ball (3.5 g) of methyl; the seriousness of the offence was found in the quantity and the purity of the methyl, being just over two and a half times the trafficable quantity.  The sentencing judge found the appellant a trusted person to the dealer; he was trusted with such a quantity of methyl and with the proceeds of the sale; he was also in the business of commercial drug dealing himself in quantities between a half-ball and an eight-ball (1.75 g to 3.5 g); the courier job was a means of sourcing material for his own commercial drug dealing; his drug dealing was not only to support his own drug use but to generate income generally.  Genuinely remorseful; attempts made to rehabilitate himself from drug use; insight into his drug use.	sentence than he received. The sentence was not plainly unjust or unreasonable.
18.	<b>VRW v The State of Western Australia</b>  [2022] WASCA 177  Delivered 30/12/2022	33 yrs at time offending. 34 yrs at time sentencing.  Convicted after early PG (25% discount).  No criminal history.  Born outside Australia; moved to WA as an adult.  Positive childhood; mother constant source of support.  Consistent employment history.	Ct 1: Poss methyl wiss 3 kg (trafficable quantity). Ct 2: Poss unlawfully obtain property.  VRW was the sole occupant of a vehicle stopped by police. A search of the vehicle revealed a bag containing methyl hidden in the boot.  The same day a search warrant was executed at VRW's home. There, police located \$1,085 in cash.  VRW admitted he had been paid the cash for transporting drugs.  Also located in the home were scales, gloves, a cryovac machine and cryovac bags, which he told police were items used to package cash.  On the day of the offending VRW received messages on his telephone from a person identified as 'X'. These messages referred to both 'product' and 'coin'. X messaged VRW and offered him the sum of \$1,500 to take delivery of 'product' and to take it to three	Ct 1: 8 yrs imp (conc). Ct 2: 9 mths imp (conc).  TES 8 yrs imp. EFP.  Discount for cooperation on ct 1 of 1 yr 5 mths imp or about 15%.  The sentencing judge found the offending the subject of ct 1 serious; it was not isolated, having regard to the appellant's admissions he had delivered drugs the previous day; the offending involved a degree of sophistication, using a CIPHR phone and code names and the offending was planned in such a way as to reduce the risk of detection.  Genuinely remorseful; cooperative; low risk of reoffending.	Dismissed.  Appeal concerned length of sentence ct 1.  At [31] The appellant's offending was, ... serious. [He], having already been involved in the transportation of a significant quantity of a prohibited drug, voluntarily participated in the offending the subject of c 1 purely for financial gain, albeit a modest one.  At [32] The appellant not only picked up the large quantity of methyl with the intention of delivering it to three different customers, but he was also prepared to accept payment for the sale of the prohibited drug and store the money temporarily on behalf of those higher in the drug hierarchy than him. The amount and the purity of the drug was high. Accordingly, the potential for harm to others in the community, once distributed, was great.

			locations. He was provided with detailed instructions as to how to carry out this task. VRW carried out the directions that he had been given until he was apprehended by police and before he could effect the 'drop'.		
17.	<i>Le v The State of Western Australia</i> <b>[2022] WASCA 163</b>  Delivered 08/12/2022	<p>41 yrs time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>Extensive criminal history.</p> <p>Born WA; parents refugees; two older siblings; father suffered trauma as a result of experiences in Vietnam; domestic violence; parents worked long hrs; often left to fend for himself.</p> <p>Sexually abused as a child.</p> <p>Education disrupted by frequent moves; experienced bullying; difficulties making friends; began misbehaving high school; often truanted; repeated yr 11.</p> <p>Commenced, but did not complete, TAFE course.</p> <p>Employed family business when still at school; continued to work in the business for many yrs.</p> <p>One child from former relationship.</p> <p>Long history of illicit drug use; commenced using alcohol and marijuana aged 13 yrs; methyl and ecstasy aged 19 yrs; daily user of heroin.</p>	<p>Cts 1-4: Sold methyl 3.4 g - 14.27 g at 69%-77% purity.</p> <p>Ct 5: Sold methyl 83.7 g at 63% purity (trafficable quantity)</p> <p>Ct 6: Offer to sell methyl 56 g (trafficable quantity).</p> <p>Ct 7: Poss methyl wiss 31.91 g (trafficable quantity).</p> <p>Ct 8: Poss unlawfully obtained property (\$7,580 cash).</p> <p>Ct 9: Poss methyl wiss 7.13 g.</p> <p>Le sold a quantity of methyl to an UCO in exchange for \$900. Analysis found the drug weighed 3.4 g and at 77% purity (ct 1).</p> <p>Two days later Le sold the UCO 3.44 g of methyl at 76% purity for \$900 (ct 2).</p> <p>About a fortnight later Le offered the UCO 56 g of methyl. At an arranged meeting Le said he could only supply 28 g of the drug. Lee supplied the UCO with a parcel of drugs for which he was paid \$5,500. Analysis found the methyl weighed 13.5 g and at 74% purity (ct 3).</p> <p>The following day Le met the UCO and supplied the UCO with a further 14.27 g of methyl at a purity of 69%. There was no payment, as this quantity was the balance for the 28 g promised the day before (ct 4).</p> <p>A few days later Le arranged to meet the UCO again. On this occasion Le arrived with another man. It was arranged the other man would provide the UCO with methyl on behalf of Le. The man then supplied the UCO with a quantity of methyl for which he paid \$16,500 cash (ct 5).</p>	<p>Cts 1 &amp; 2: 15 mths imp (conc).</p> <p>Cts 3 &amp; 4: 2 yrs imp (conc).</p> <p>Ct 5: 4 yrs 6 mths imp.</p> <p>Ct 6: 3 yrs imp (cum).</p> <p>Ct 7: 2 yrs 6 mths imp (conc).</p> <p>Ct 8: 9 mths imp (conc).</p> <p>Ct 9: 20 mths imp (conc).</p> <p>TES 7 yrs 6 mths imp.</p> <p>The sentencing judge found the appellant committed the offences for financial gain; his conduct was repeated and persistent and the offences were committed within a short time after being released from prison.</p> <p>Remorseful; desire to overcome drug dependency; past attempts at rehabilitation unsuccessful.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned totality principle.</p> <p>At [87] The total offending in this case was clearly very serious. On six separate occasions the appellant either sold or offered to sell methyl including trafficable amounts on two occasions. ... When his car was searched ..., the police located another trafficable amount of methyl as well as over \$7,000 reasonably suspected to have been unlawfully obtained. ... A further quantity of methyl was found when the appellant's house was searched. ...</p> <p>At [88] The appellant had numerous previous convictions for possessing drugs with intent to sell or supply. He had only been released from a lengthy prison sentence for similar drug offending five months prior to the current offending. ...</p> <p>At [94] It has not been established that the TES ... breached the first limb of the totality principle. In particular, it has not been established that the TES failed to bear a proper relationship to the overall criminality involved in all of the offences, viewed in their entirety, having regard to all relevant facts and circumstances (including those referable to the appellant personally), all relevant sentencing factors, and sentences imposed in comparable cases.</p>

			<p>Some days later Le offered to sell the UCO 56 g of methyl for \$11,000. This offer was made via messages sent using WhatsApp (ct 6).</p> <p>The next day, Le was apprehended. A search of his vehicle located a clipseal bag containing 75.5 g of methyl. A further search of the vehicle also revealed a pouch, containing about 1.75 g of methyl secreted behind a panel. Also found was a set of digital scales and numerous unused clipseal bags. A clipseal bag containing 1.75 g of methyl and more unused clipseal bags was also located in the roof lining. Two mobile phones were also found. The phones contained messages indicating his involvement in the sale of prohibited drugs (ct 7).</p> <p>Le was searched and cash totalling \$1,650 was found in one of his pockets. A further \$480 was found in his wallet and in the car a further \$5,450 was found (ct 8).</p> <p>The home at which Le was residing was also searched. A clipseal bag containing 7.13 g of methyl was found (ct 9).</p>		
16.	<p><i>The State of Western Australia v Stocker</i></p> <p>[2022] WASCA 178</p> <p>Delivered 17/11/2022</p>	<p>Age at time of offending and sentencing not available.</p> <p>Convicted after early PG (cts 1 &amp; 2 - 20% discount).</p> <p>Convicted after very early PG (cts 3 &amp; 4 - 25% discount).</p> <p>No prior criminal history.</p> <p>Raised close-knit, loving and supportive family environment; parents and siblings remain supportive.</p> <p>Completed yr 12; trade apprenticeship.</p> <p>Commenced working father's business aged 25 yr; operational</p>	<p>Ct 1: Poss methyl wiss 26.01 g at 35-72% purity.</p> <p>Ct 2: Poss unlawfully obtained property (\$107,270 cash).</p> <p>Ct 3: Poss methyl wiss 28.13 g at 81% purity (trafficable quantity).</p> <p>Ct 4: Poss unlawfully obtained property (\$10,595 cash).</p> <p>Stocker was engaged in the business of dealing in methyl.</p> <p>A SW was executed at Stocker's home. At the time he was not at home, although a co-accused was present.</p> <p>On the kitchen bench in a glove, police found two clipseal bags and a plastic wrapper containing quantities of methyl. In addition, two clipseal bags</p>	<p>Ct 1: 3 yrs imp (conc).</p> <p>Ct 2: 2 yrs imp (conc).</p> <p>Ct 3: 3 yrs 6 mths imp (conc).</p> <p>Ct 4: 1 yrs imp (conc).</p> <p>Individual sentences for cts 1 and 2 cum upon conc individual sentences for cts 3 and 4.</p> <p>TES partly susp; upon serving 20 mths imp balance (3 yrs 4 mths imp) susp period of 2 yrs.</p> <p>The sentencing judge found the offending 'very serious'; the offending was not isolated; over a period of at least six mths and, in all likelihood, much longer the respondent was conducting a drug-dealing business in which he was the principal and the amount of money he possessed suggested the business was 'very lucrative.</p>	<p>Allowed.</p> <p>Appeal concerned error in sentencing (partial conc and partial susp imp infringed s 88(4) <i>Sentencing Act 1995</i>); type of individual sentences ct 1 and 3 and totality principle.</p> <p>Resentenced (20% discounts cts 1 &amp; 2 and 25% discounts cts 3 &amp; 4):</p> <p>Ct 1: 3 yrs imp (cum).</p> <p>Ct 2: 2 yrs imp (conc).</p> <p>Ct 3: 3 yrs 6 mths imp (cum).</p> <p>Ct 4: 12 mths imp (conc).</p> <p>TES 6 yrs 6 mths imp.</p> <p>EFP.</p> <p>At [188] ... There is no dispute that the respondent's overall offending was very serious. It involved dealing in methyl over a relatively extended period of time, in part, at least, for profit. ... the presence of in excess of \$100,000 in cash, ... indicates that the respondent's drug</p>

		<p>manager by aged 29 yrs; did well financially; able to build own home; made redundant 2020.</p> <p>Turbulent and dysfunctional relationship; until partner's tragic death 2019.</p> <p>Commenced another relationship; partner a methyl user.</p> <p>Introduced to cannabis aged 14 yrs; methyl use from aged 25 yrs; methyl use increased following partner's death; \$1,000 a day habit time offending; prior attempt made to address methyl addiction.</p>	<p>were found on the bench.</p> <p>Stockers DNA profile was found on the surfaces of the glove, the plastic wrapper and a cipseal bag (ct 1).</p> <p>Bags containing \$107,270 in cash were also found in a bedroom. Stockers DNA profile was found on a satchel in which the bulk of the cash (\$74,960) was found (ct 2).</p> <p>Items consistent with being engaged in the business of drug dealing, including multiple electronic scales, tick lists, cipseal bags and disposable gloves, were also found.</p> <p>Stocker was arrested and released on bail.</p> <p>Stocker was on bail when police again attended his home. He arrived when police were still present and found in poss of 25.8 g of methyl in a bumbag he was carrying. Also discovered in the bumbag were three cipseal bags containing 0.99 g, 0.18 g and 1.16 g of methyl (ct 3).</p> <p>A search of his bedroom located \$10,000 in cash and a further \$595 in cash in the bumbag (ct 4).</p> <p>Two mobile CIPHR phones were also found in the house.</p>	<p>Genuinely remorseful; participated in training course and drug intervention program in custody; low risk of reoffending if drug problem addressed.</p>	<p>dealing derived a substantial commercial gain. Cts 3 and 4 were committed some five mths afters cts 1 and 2 and ... when ... on bail for cts 1 and 2.</p> <p>At [193] ... Having evaluated the respondent's overall criminality ... and having regard to the respondent's personal circumstances, which are favourable, and the other mitigating factors ... and all relevant sentencing considerations and principles, it was not open to the primary judge to order partial concurrency of the sentences. While some concurrency was required ... having regard to the totality principle, the orders for partial concurrency as between ct 1 ... and ct 3 ... resulted in an overall term of imp which was not commensurate with the overall seriousness of the offences committed by the respondent ...</p>
15.	<p><i>The State of Western Australia v Radford</i></p> <p>[2022] WASCA 142</p> <p>Delivered 15/11/2022</p> <p>Co-offender:</p> <p><i>The State of</i></p>	<p>52 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Very minor criminal history.</p> <p>One of three sons to parent's union; parents; siblings and long-term friend remain supportive.</p> <p>Left school yr 11.</p> <p>Solid work history; various fields;</p>	<p><u>Ind 517</u></p> <p>Ct 1: Poss methyl wiss 119 kg (trafficable quantity).</p> <p>Ct 2: Poss unlawfully obtained property (\$1,300 cash).</p> <p>Ct 3: Poss unlawfully obtained property (\$24,750 cash).</p> <p>Ct 4: Poss unlawfully obtained property (\$10,000 cash).</p> <p><u>Ind 1920</u></p> <p>Ct 1: Supplied methyl 14.6 kg.</p> <p>Ct 2: Dealt with money the proceeds of an offence (\$3.5 million).</p>	<p><u>Ind 517</u></p> <p>Ct 1: 14 yrs imp.</p> <p>Ct 2: 1 yr's imp (conc).</p> <p>Ct 3: 3 yrs imp (cum).</p> <p>Ct 4: 2 yrs 6 mths imp (conc).</p> <p><u>Ind 1920</u></p> <p>Ct 1: 12 yrs imp (conc).</p> <p>Ct 2: 8 yrs imp (conc).</p> <p>TES 17 yrs imp.</p> <p>EFP.</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences ct 1 (Ind 517) ct 1 (Ind 1920) and totality principle.</p> <p>Resentenced:</p> <p><u>Ind 517</u></p> <p>Ct 1: 17 yrs imp (cum).</p> <p>Ct 2: 1 yr's imp (cum).</p> <p>Ct 3: 3 yrs imp (conc).</p> <p>Ct 4: 2 yrs 6 mths imp (conc).</p> <p><u>Ind 1920</u></p>

	<p><b>Western Australia v Edwards</b></p> <p><b>[2022] WASCA 141</b></p> <p>Delivered 15/11/2022</p>	<p>significant debts from a failed business.</p> <p>Volunteer fire fighter prior to incarceration.</p> <p>Single; no children.</p> <p>Some issues with methyl use.</p>	<p><u>Ind 1920</u> Radford was involved in packing approx. 14.6 kg of methyl and approx. \$3.5 million into cardboard boxes. The boxes were sealed with tape and he arranged for them to be delivered to a Mr Kreidie.</p> <p>A prime mover truck towing three trailers and being driven by Mr Kreidie was stopped by police. The truck and trailers were subjected to x-rays and it revealed a number of suspicious anomalies in the trailers. Among other cargo five cardboard boxes containing 14.6 kgs of methyl and large amounts of Australian cash were located.</p> <p>Radford's DNA profile was identified on one of the cardboard boxes and a bag located inside the box.</p> <p><u>Ind 517</u> Radford met the co-accused Edwards at a truck bay. Edwards had driven a truck into WA from NSW. Edwards unloaded boxes from his truck and passed them to Radford, who loaded them into his van.</p> <p>Later that same day police attended Radford's home address and conducted a search of the van. Inside they located 11 cardboard boxes containing a total of 119.05 kg of methyl.</p> <p>Radford admitted hiring the van and putting the boxes in the van. He declined to make any comment as to any knowledge of the contents of the boxes.</p> <p>A search of Radford's residence located \$1,300 cash in a draw; \$24,750 in a robe and \$10,000 inside a gun safe.</p>	<p>The sentencing judge it a very serious instance of this type of offending and the offending agg by the weight and purity of the methyl; the large scale of the sophisticated, well-planned and well-resourced operation; the nature and level of the respondent's participation in the enterprise, which was an essential role in the continued operation of the criminal enterprise and that his role enabled those higher up in the drug distribution chain to make profits in a way that escapes detection.</p> <p>The sentencing judge regarded the respondent and the co-offender Edwards as equally culpable in relation to the offending the subject of ct 1 on Ind 417.</p> <p>Very good prospects of rehabilitation.</p>	<p>Ct 1: 14 yrs imp (conc). Ct 2: 8 yrs imp (conc).</p> <p>TES 18 yrs imp.</p> <p>EFP.</p> <p>At [31] In <i>The State of Western Australia v Edwards</i>, we have concluded that the individual sentence of 14 yrs imp imposed on Mr Edwards for selling or supply 119 kg of methyl to the respondent was manifestly inadequate. The same reasoning leads us to the conclusion that the sentence imposed the respondent in this matter for ct 1 on [Ind 517] was also manifestly inadequate. The criminality of both offenders was substantially the same, having regard to the nature of the offending and the similar personal circumstances of the two men. ...</p> <p>In [37] In the present case, the sentencing outcome for very serious offending of the kind in question requires correction in order to maintain public confidence in the proper administration of criminal justice. ...</p>
14.	<p><b>The State of Western Australia v Edwards</b></p> <p><b>[2022] WASCA</b></p>	<p>41 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p>	<p>Ct 1: Sold/supplied methyl 119 kg (trafficable quantity). Ct 2: Sold/supplied methyl 43 kg (trafficable quantity). Ct 3: Poss unlawfully obtain property</p>	<p>Cts 1 &amp; 2: 14 yrs imp (conc). Ct 3: 8 yrs imp (conc).</p> <p>TES 14 yrs imp.</p>	<p>Allowed.</p> <p>Appeal concerned length of individual sentences cts 1 &amp; 2 and totality principle.</p>

	<p><b>141</b></p> <p>Delivered 15/11/2022</p>	<p>Prior criminal history NSW and QLD.</p> <p>Born NSW; good childhood; one of five children; parents separated when young; mother remarried; raised by mother and stepfather; good, hardworking parents; family in NSW supportive.</p> <p>Completed yr 10 high school.</p> <p>Good work ethic; employed mostly in rural NSW and QLD; commenced working as a truck driver 2018; own business 2019.</p> <p>Single at time sentencing; no children.</p> <p>In good health; apart from suffering arthritis; very depressed by current situation.</p> <p>Social drinker; past cocaine use.</p>	<p>(\$4,503,630 cash).</p> <p>Edwards drove a truck, registered in NSW, into WA.</p> <p>Edwards stopped in a truck bay. A van, driven by the co-offender Radford arrived and parked next to the truck. Edwards entered the rear of the truck and handed Radford multiple boxes. Radford loaded the boxes into the van and then left the area.</p> <p>A second van arrived, driven by the co-accused Diamantopoulos. He also parked next to the truck. Multiple boxes were loaded into this van before Diamantopoulos left the area.</p> <p>Edwards was arrested at the truck bay. He was holding a mobile 'Ciphr' phone, a dedicated encryption communication device, costing approx \$2,500 - \$3,000 for six months' use.</p> <p>A search of the rear of the truck located five individually padlocked suitcases, found to contain \$4,503,630 in Australian cash.</p> <p>The first van was located at Radford's home. Inside 11 boxes, containing approx. 119 kg of methyl, were located.</p> <p>The second van was also located and four boxes, containing approx 43 kg of methyl, was found.</p> <p>A total of 162.74 kg of methyl was located in the two vans, with the purity of the drug between 77% and 84%.</p>	<p>EFP.</p> <p>The sentencing judge it a very serious instance of this type of offending; the offending agg by the fact the drugs would have caused enormous harm if distributed in the community; the large scale of the sophisticated, well-planned and well-resourced operation illustrated the quantity of drugs and cash involved in the offending and the nature and level of the respondent's participating in the enterprise, which enabled those higher up in the drug distribution chain to make profits in a way that escaped detection.</p> <p>The sentencing judge found the respondent a very well trusted courier; and he was to be paid \$30,000 for his role in bringing the drugs into WA.</p> <p>Genuinely remorseful; accepting of responsibility for his offending.</p>	<p>Resentenced (25% discount):</p> <p>Ct 1: 17 yrs imp (conc). Ct 2: 15 yrs imp (conc). Ct 3: 8 yrs imp (conc).</p> <p>TES 17 yrs imp.</p> <p>EFP.</p> <p>At [44] ... the very large quantity of the drugs involved in this case is a significant agg feature of the offence. The quantity of drugs involved increases the potential harm which would have resulted from their distribution into the community. Those running the operation demonstrated a high degree of trust placed in the respondent. He knowingly involved himself in a large scale and well-organised drug distribution operation. [He] participated in the operation for significant commercial gain. His involvement in the offending was not fleeting, and he performed the important task in the criminal enterprise of transporting the drugs into WA and shielding the organisers of the drug operation from apprehension and punishment.</p> <p>At [45] It must also be recognised that the respondent's involvement in the operation was apparently at a relatively low level in the criminal syndicate. ...</p> <p>At [48] ... Having regard to ... the quantity of drugs involved; ... the respondent's role and position in the drug operation; ... the respondent's commercial motive for involvement in the operation; ... the mitigating factors; and ... all relevant sentencing principles, ... it was not open to the sentencing judge to regard a sentence of 14 yrs imp as commensurate with the seriousness of the offence charged in ct 1. ...</p>
13.	<p><i>Siskopoulos v The State of Western Australia</i></p> <p>[2022] WASCA 138</p> <p>Delivered</p>	<p>42 yrs at time offending. 45 yrs at time sentencing.</p> <p>Conviction after late PG (17% discount).</p> <p>No criminal history.</p>	<p>1 x Att poss methyl wiss (trafficable quantity).</p> <p>The co-offender Kezkiropoulos was in custody, serving a sentence of imp. Siskopoulos would visit him in prison.</p> <p>During these prison visits conversations</p>	<p>16 yrs imp.</p> <p>EFP.</p> <p>Co-offender Kezkiropoulos sentenced to 21 yrs imp. EFP.</p>	<p>Dismissed.</p> <p>Appeal concerned parity principle.</p> <p>At [46] ... Whilst all elements of the sentence imposed on Kezkiropoulos are relevant, the need to reflect principles of totality in his sentence represents an obvious reason why there is not a marked difference between the sentence imposed on him and the sentence</p>

	<p>28/10/2022</p>	<p>Experienced trauma throughout his life.</p> <p>Married 21 yrs; daughter aged 20 yrs.</p> <p>Unemployed; assisted wife in her business.</p> <p>No assets; outstanding family debt of around \$100,000.</p>	<p>between the Kezkiropoulos, and Siskopoulos were covertly recorded. They revealed a plan to acquire a large quantity of methyl through an Asian syndicate. It was arranged Kezkiropoulos would arrange the transaction and Siskopoulos would deal with the methyl. He expected to sell or supply large quantities, around 1 or more kgs, to various associates.</p> <p>An OCO spoke with Siskopoulos and they arranged to meet at a café. During the meeting Siskopoulos confirmed an order for 20 kg of methyl and arrangements were made for delivery the following day.</p> <p>Siskopoulos was given a \$5 note with a serial number and told to use that as a token to validate his identity with the delivery driver. There was a delay with delivery and, during subsequent messages, Siskopoulos increased the amount of methyl ordered to 40 kg. When Siskopoulos became suspicious he stopped communicating.</p> <p>Siskopoulos was arrested and a search of his car revealed paperwork for the lease of a storage unit. He denied the storage unit was for storing drugs. A search of his home located notes containing the names and telephone numbers of associates, who he had referred to in the course of his recorded conversions. Also found was the \$5 note that the UCO had given to him.</p>	<p>The sentencing judge sentenced the appellant on the basis that he intended to gain poss of 40 kg of methyl from the UCO and that he carried out a series of acts which were more than merely preparatory, with the result that he had att to commit the substantive offence.</p> <p>The sentencing judge found the quantity the subject of the attempt as 'vast', reflecting a large-scale, wholesale drug operation; the appellant and Kezkiropoulos anticipated a profit in the order of between \$200,000 to \$400,000 and that they hoped it would be an ongoing, profitable operation; the appellant was an equal and active participant, undertaking significant and crucial steps in what was a joint venture and while his role was somewhat lesser, it was nevertheless significant.</p> <p>No genuine remorse.</p>	<p>imposed on the appellant for their common offending. The question of parity cannot overlook that the sentence of Kezkiropoulos was affected by totality, an issue which was not relevant to the appellant.</p> <p>At [51] The sentencing judge appropriately recognised that the appellant and Kezkiropoulos were engaged in a joint venture, albeit that it was necessary to reflect the appellant's good record and lower level of culpability. ...</p> <p>At [52] It cannot be said that, in the proper exercise of her sentencing discretion, the sentencing judge failed to properly bring these matters to account when addressing the parity principle. It cannot be said that, when all considerations relevant o the sentences imposed on the co-offenders are brought to account, that the appellant's ... sentence reflects a failure to properly apply the parity principle, or that those principles required a shorter sentence.</p>
<p>12.</p>	<p><b><i>FZA v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 124</b></p> <p>Delivered 23/09/2022</p>	<p>38 yrs at time offending. 39 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Prior criminal history.</p> <p>Raised WA; close to parents and family.</p>	<p>Ct 1: Poss methyl wiss 28.9 g at 62% purity (trafficable quantity). Ct 2: Poss methyl wiss 13.46 g at 64%-71% purity. Ct 3: Poss methyl wiss 2.87 g. Ct 4: Poss unlawfully obtain property (\$11,750 cash).</p> <p>A SW was executed at the house occupied by FZA and the co-offender A.</p>	<p>Ct 1: 4 yrs imp (cum). Ct 2: 14 mths imp (conc). Ct 3: 9 mths imp (conc). Ct 4: 6 mths imp (cum).</p> <p>TES 4 yrs 6 mths imp.</p> <p>EFP.</p> <p><u>Co-offender A</u> Also charged with poss of the methyl subject</p>	<p>Allowed – parity principle.</p> <p>Appeal concerned error (discount for past cooperation) and parity principle.</p> <p>Resentenced (25% discount):</p> <p>Ct 1: 3 yrs 6 mths imp (cum). Ct 2: 15 mths imp (conc). Ct 3: 6 mths imp (cum). Ct 4: 4 mths imp (conc).</p>

		<p>Completed yr 10.</p> <p>Good work history; employed retail sector and pharmacy technical; victim of two armed robberies while working in a pharmacy; engaged in sex work to alleviate financial difficulties.</p> <p>Twice married.</p> <p>Suffers back and neck pain since motor vehicle accident.</p> <p>Commenced methyl using to cope with physical and emotional pain of sex work.</p>	<p>FZA and A were in the bedroom. A CCTV home security system was operating through a television in the room.</p> <p>During the search a package wrapped in paper towels and electrical tape containing methyl was located (ct 1).</p> <p>In a storage box eight clipseal bags containing methyl were also found. The weights of the methyl in the bags varied between 1.62 g and 1.72 g (ct 2).</p> <p>In a draw 17 clipseal bags of methyl, containing between 0.08 g and 0.5 g of the drug, were also found.</p> <p>A total of \$11,750 cash was located.</p> <p>At various places in the bedroom items commonly associated with the sale of prohibited drugs, including unusual clipseal bags, several sets of electronic scales, glass smoking implements and handwritten 'tick lists', were also found.</p>	<p>of ct 1 - the 'common offence'. Sentenced to 4 yrs 4 mths imp with a TES of 5 yrs 2 mths imp. EFP.</p> <p>The sentencing judge found the appellant's involvement in the commercial distribution of methyl as mid-level.</p> <p>Remorseful; insight into her drug addiction; offending closely tied to drug dependency; completed drug and alcohol course while in custody; motivated to continue rehabilitation; reasonable risk of re-offending if addiction not addressed.</p>	<p>TES 4 yrs imp.</p> <p>EFP.</p> <p>At [47] ... As the appellant's cooperation was limited to past cooperation and did not include an undertaking to give future assistance, her Honour was not obliged to comply with s 8(5) of the <i>Sentencing Act</i>.</p> <p>At [73] It is clear that the common offence was the most serious of the offences committed by the appellant and A and, ... we consider that the appellant and A were equally involved in the commission of the common offence.</p> <p>At [82] When all relevant facts and circumstances are evaluated, ... a disparity of 8 mths imp in the TES is, in our view, markedly insufficient to reflect the differences between the appellant and A which favoured the appellant. ...</p> <p>At [87] The offences committed by the appellant were undoubtedly serious. ... The appellant was part of a reasonably sophisticated commercial drug distribution operation. ...</p>
11.	<p><b><i>Den Ridder v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 113</b></p> <p>Delivered 26/08/2022</p>	<p>36 yrs at time offending. 39 yrs at time sentencing.</p> <p>Convicted after PG (18% discount). Convicted after very late PG (cts 3, 6 &amp; 9) (8% discount).</p> <p>Formidable criminal history; prior terms of imp.</p> <p>Three siblings; fairly stable upbringing; at times subjected to violence and threats of violence.</p> <p>Stealing and fighting from aged 14 yrs; involved local gangs aged 15 yrs; left home due to his behaviour.</p> <p>Family supportive.</p> <p>Two significant relationships; two</p>	<p>Ct 1: Sold methyl 28 g (trafficable quantity). Ct 2: Conspired to sell methyl 1.75 g. Cts 3; 5; 6; 7; 8 &amp; 11: Supplied methyl. Ct 4: Sold cannabis 28 g. Cts 9 &amp; 10: Offered to sell/supply methyl (trafficable quantity). Ct 13: Poss unlawfully obtain property (\$6,260.70 cash).</p> <p>The offending took place over a period of about five wks.</p> <p>All offences were committed while Den Ridder was on bail for firearm offences.</p> <p>Den Ridder agreed to supply an associate with methyl. He met the associate and supplied him with 28 g of the drug for \$5,000 (ct 1).</p> <p>On another occasion Den Ridder arranged for a Mr Davidson to supply a</p>	<p>Ct 1: 4 yrs imp (conc). Ct 2: 9 mths imp (conc). Ct 3: 4 yrs imp (conc). Ct 4: 3 mths imp (conc). Ct 5: 18 mths imp (cum). Ct 6: 3 yrs imp (conc). Ct 7: 2 yrs imp (conc). Ct 8: 2 yrs imp (cum).. Ct 9: 4 yrs 6 mths imp. Ct 10: 5 yrs imp (cum). Ct 11: 2 yrs 3 mths imp (conc). Ct 13: 10 mths imp (conc).</p> <p>Not genuinely remorseful; no insight into his offending.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence ct 10 and totality principle.</p> <p>At [45] In the present case, the appellant offered to sell or supply 42 g [ct 10] of methyl, against the background that he was a dealer in methyl who had access to substantial quantities of the drug and that he dealt in the drug for profit. There is no reason to doubt that he had the capacity to source the drug and that he intended to fulfil the offer. The seriousness of the offence is aggravated by the fact that he was on bail at the time of the offence.</p> <p>At [48] ... having regard to all of the relevant facts and circumstances and the sentencing principles to be applied, it is not reasonably arguable that the sentence on count 10 ... was unreasonable or plainly unjust and was therefore manifestly excessive.</p> <p>At [51] ... The quantities of methyl involved in the commission of cts 1, 3, 6, 8, 10 and 11 were reasonably significant and showed that the appellant had ready access to such quantities, and that his offers to sell or supply methyl were serious and able to be fulfilled. It cannot be overlooked that [he] was subject to the higher max penalty of life imp in respect of cts 1, 9 and 10.</p>



		<p>sons; both children removed from mother's care due to neglect and his incarceration; daughter and stepdaughter to current relationship.</p> <p>Commenced using methyl aged 14 yrs; methyl addiction problematic aged 19 yrs; commenced selling drugs to fund his addiction.</p>	<p>female associate with 1.75 g of methyl in exchange for \$600 (ct 2). On the same day he supplied an associate with 27.2 g of methyl with a purity of 81% (ct 3). Again on the same day, he offered to supply a female associate with a half-ounce of cannabis for \$150. When she asked whether she could instead obtain an ounce of cannabis he agreed and supplied her with the drug (ct 4).</p> <p>On another occasion Den Ridder agreed and supplied an associate with 3.5 g of methyl (ct 5).</p> <p>The following day Den Ridder spoke with a male associate, who later attended his home and purchased 13.4 g of methyl at 79% pure (ct 6).</p> <p>On further occasions Den Ridder received a series of calls from two associates and agreed to provide them with quantities of methyl. He supplied one associate with 7.12 g of the drug (ct 7) and the other 14 g (ct 8).</p> <p>On another occasion Den Ridder spoke via mobile telephone to an associate. Den Ridder asked if he wanted 'a big one', being an ounce of methyl. The associate replied, 'Yes, the usual' (ct 9). On the same day, following a series of telephone calls he agreed to supply an associate with 42 g of methyl (ct 10).</p> <p>On another occasion Den Ridder received another series of calls from an associate in which he agreed to supply the associate with 14 g of methyl. The associate attended his home and obtained 13.7 g of the drug (ct 11).</p> <p>A SW was executed at Den Ridder's home and \$6,260.70 in cash was located and seized (ct 13).</p>		<p>At [53] ... the TES imposed upon the appellant bore a proper relationship to the overall criminality involved in all of the offences the appellant committed, viewed in their entirety and having regard to all relevant facts and circumstances, ...</p>
10.	<i>Walker v The State of Western Australia</i>	<p>38 yrs at time offending. 40 yrs at time sentencing.</p>	<p>Ct 6: Supplied methyl 83.3 g (trafficable quantity). Ct 9: Supplied methyl 373.6 g</p>	<p>Ct 6: 5 yrs 6 mths imp (partially cum, to commence after having served 4 yrs 6 mths). Ct 9: 8 yrs 6 mths imp (cum).</p>	<p>Dismissed - Buss P dissenting. Appeal concerned parity principle and length of sentence ct 9.</p>

	<p><b>[2022] WASCA 100</b></p> <p>Delivered 08/08/2022</p>	<p>Convicted after PG (20% discount).</p> <p>Prior criminal history.</p> <p>Dysfunctional upbringing; marred by parents drug use and domestic violence.</p> <p>Married ex-wife 15 yrs; two children.</p> <p>Suffered depression after disintegration of his marriage.</p> <p>History of association with OMC; held the position of sergeant at arms.</p>	<p>(trafficable quantity).</p> <p>An UCO communicated with the co-offender Alo using an encrypted messenger service known as Ciphre.</p> <p>During these communications Alo arranged to sell the UCO a quantity of methyl. Walker met with Alo and supplied him with the drug (ct 6). The UCO gave Alo \$15,000 in exchange for the methyl.</p> <p>The methyl was seized and later analysis showed it weighed 83.3 g (at approx 53% purity).</p> <p>On another date Walker and another co-accused, Robinson, met at an address. The meeting was arranged by Walker in order to facilitate the sale of 10 ounces of methyl to Alo.</p> <p>That same day a SW was executed at the address. Walker and Robinson were located in the house and arrested. The search located a clip seal bag containing 82.9 g of methyl (65% to 67% purity); a wrapped package containing 10 smaller clip seal bags each containing 1 ounce of methyl, weighing a total of 277 g (at between 57% and 76% purity). In Walker's car a clip seal bag containing 13.7 g of methyl (at 65% purity) was also located (ct 9).</p>	<p>TES 10 yrs imp.</p> <p>EFP.</p> <p>Co-offender Alo: Charged with seven offences on same indictment, two overlapping, albeit not identical, set of facts. TES 10 yrs imp. EFP.</p> <p>The sentencing judge found the appellant as equally culpable as his co-offender.</p> <p>The sentencing judge found the quantities of the drug to be very significant; his ability to fulfil at relatively short notice, 3 ounces and then 10 ounces of methyl, highlighted the level of his involvement in the hierarchy of the drug dealing community.</p> <p>The sentencing judge found the appellant had the capacity to source significant quantities of illicit drugs; he played a major role in the distribution of drugs and was high up in the chain of command in relation to the distribution of drugs within the community.</p> <p>Appellant undertaken all available programs; ceased all involvement with OMC gang at time sentencing.</p>	<p>At [71]-[72] ... the individual sentence for ct 9 may properly be described as heavy and that the exercise of a sound sentencing discretion could have led to a lighter individual sentence. Nevertheless, ... in our view the sentence cannot properly be characterised as unreasonable or plainly unjust. ... to the extent that the individual sentence for ct 9 was heavy (albeit not manifestly excessive), it was in any event softened by the order that it be served partly conc with the sentence for ct 6 ...</p> <p>At [98]-[99] ... the lack of disparity in the TES imposed on each of the appellant and Mr Alo must be explained, if it can be, by the greater seriousness of ct 9 (committed by the appellant), compared to ct 7 (committed by Mr Alo) ... the additional quantities of methyl included in ct 9 compared to ct 7, readily justify the disparity of 1 yr imp for the individual sentences imposed in relation to those cts. ... the appellant's possession of an additional 93.6 g of methyl was a significant distinguishing feature of that offending.</p>
<p>9.</p>	<p><b><i>Watson v The State of Western Australia</i></b></p> <p><b>[2022] WASCA 80</b></p> <p>Delivered 06/07/2022</p>	<p>27 yrs at time offending. 28 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Prior criminal history.</p> <p>Family in New Zealand; imp more difficult because of absence of family support.</p> <p>Positive character references.</p>	<p>Ct 1: Supplied methyl 3.999 kg at 68-72% purity. Ct 2: Poss unlawfully obtained property (\$5,987,220 cash).</p> <p>Watson and others were part of a significant drug and money laundering enterprise.</p> <p>Watson was observed entering bushland on foot carrying a backpack. A short time later he left the bushland, no longer in possession of the backpack. A</p>	<p>Ct 1: 10 yrs imp (cum). Ct 2: 3 yrs imp (cum).</p> <p>TES 13 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the appellant willingly participated in the commission of ct 1 for commercial reward (\$1,000), this offending was not an aberration or a one-off; although the reward was 'paltry' it did not excuse or reduce the seriousness of the</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence and totality principle.</p> <p>At [56] The objective facts and circumstances of the appellant's offending on ct 1 were very serious. ...</p> <p>At [59] In our opinion, the sentence ... for ct 1 was commensurate with the seriousness of the appellant's offending .... It is not reasonably arguable that the offence is manifestly excessive.</p> <p>At [64] The objective facts and circumstances of the appellant's offending on ct 2 were very serious ...</p>

		<p>No history of drug use.</p>	<p>male person then entered the same bushland and returned, carrying the backpack towards a vehicle. The vehicle was searched and the backpack, containing the methyl, was located.</p> <p>A forensic examination of the backpack provided a DNA match to Watson.</p> <p>Watson was also involved in packaging cash. At his home, he and two co-accused, White and O'Callaghan, vacuum sealed cash in plastic bags and packed it into six boxes, each box contained about \$1,000,000 cash.</p> <p>A SW was later executed at O'Callaghan's premises and the boxes were located. The cash was seized and substituted with paper. The boxes were resealed and left in place. A few days later O'Callaghan transported the cash to White's home.</p> <p>About two wks later O'Callaghan returned to White's premises, collected the boxes, drove them to a carpark and unloaded them into the vehicle of another co-accused. This person then drove the boxes to his home. Several days later he drove the boxes to a place where they were transferred to a truck.</p> <p>On the same day a warrant was executed at Watson's home. A CIPHR encrypted mobile phone was located, along with boxes, strapping and clips identical to the boxes containing the cash.</p> <p>Watson admitted the mobile phone was his, that he had attended the park and dropped the backpack containing the methyl and that he was paid \$1,000 to supply the drug.</p> <p>CIPHR messages downloaded from Watson's phone and that of each co-accused revealed he was involved in arranging the distribution, sale and</p>	<p>offending and his conduct provided protection to the principals of the drug dealing enterprise.</p> <p>The sentencing judge found the appellant knew the cash the subject of ct 2 was the proceeds of the sale of prohibited drugs and he expected to receive a commercial benefit for his participation in the commission in the offence; although not 'a decision maker' he was an ambitious and enthusiastic supporter of the enterprise and 'more than a warehouseman' and 'more than a courier'; the amount of cash demonstrated the vast reach and magnitude of the enterprise and he was a person who people higher in the chain of hierarchy reposed a large degree of trust.</p>	<p>At [66] In our opinion, the sentence ... for ct 2 was commensurate with the seriousness of the appellant's offending.</p> <p>At [69] The TES bears a proper relationship to the overall criminality involved in both of the offences, viewed in their entirety, and having regard to all relevant facts and circumstances, ...</p>
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8.	<p><i>Ta v The State of Western Australia</i></p> <p>[2022] WASCA 49</p> <p>Delivered 05/05/2022</p>	<p>36 yrs at time offending. 38 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>No prior criminal history.</p> <p>Born Vietnam, migrated to Australia 2005.</p> <p>Educated in Vietnam to equivalent of yr 12.</p> <p>Employed in a bakery on arrival in Australia; ceased working after birth of second child.</p> <p>Single at time sentencing; three children now cared for by an aunt; no contact with her children since her arrest.</p> <p>Struggled emotionally as a result of separation from her children.</p>	<p>supply of prohibited drugs.</p> <p>Ct 1: Poss methyl wiss 2.875kg at 78-81% purity. Ct 2: Poss methyl wiss 245 g at 79% purity. Ct 4: Poss unlawfully obtained property (\$361,000 cash).</p> <p>Ta was a member of a syndicate transporting significant quantities of prohibited drugs from Victoria to WA. A unit, known as the Forrest Avenue unit, was used to store prohibited drugs and cash.</p> <p>Ta flew from Melbourne to Perth on 19 occasions in 2018. On each occasion she remained in Perth for a short period. She leased seven hire cars, which were driven to WA, from various companies in Victoria.</p> <p>Over several days police intercepted telephone messages and conversations between Ta and the co-offenders Mr Le, Mr Tran and ELA that revealed they were planning to transport a significant quantity of drugs to Perth.</p> <p>Ta leased a vehicle in Melbourne and Mr Tran drove the vehicle from Melbourne to Perth. On the day Mr Tran's arrived in Perth Ta flew from Melbourne to Perth on a commercial airline flight. At an arranged meeting Mr Tan provided Ta with the keys to the vehicle he had driven from Melbourne.</p> <p>Ta drove the vehicle to the Forrest Avenue unit. On her arrival ELA opened the electronic gate to the unit complex. Ta alighted the vehicle and walked to the passenger side while ELA approached the driver's seat. At this point, she and ELA were arrested by police.</p> <p>A search of the vehicle located 12 cryovac bags containing a total of 2.875</p>	<p>Ct 1: 11 yrs imp (conc). Ct 2: 2 yrs 6 mths imp (cum). Ct 4: 3 yrs 6 mths imp (conc).</p> <p>TES 13 yrs 6 mths imp.</p> <p>EFP.</p> <p>The co-offender Mr Le was sentenced to a TES of 16 yrs 6 mths imp with EFP.</p> <p>The co-offender Mr Tran was sentenced to a TES of 11 yrs imp with EFP.</p> <p>The co-offender ELA was sentenced to a TES of 9 yrs 6 mths imp with EFP.</p> <p>The sentencing judge found the co-offender Mr Le central to the operation and more culpable than the appellant; however the appellant co-ordinated Mr Tran, who acted as a courier, to distance herself from the prohibited drugs.</p> <p>The sentencing judge found Mr Le, the appellant and Mr Tran were involved in the offending for personal gain.</p> <p>The sentencing judge found the overall offending very serious and the criminality high. It involved the dissemination of serious quantities of high-grade drugs into the community for substantial profit and it involved sophisticated systems for the purpose of avoiding detection.</p> <p>Appellant remorseful and accepting of responsibility.</p>	<p>Appeal allowed.</p> <p>Appeal concerned parity principle.</p> <p>Resentenced (15% discount):</p> <p>Ct 1: 11 yrs imp (cum). Ct 2: 5 yrs 6 mths imp (conc). Ct 4: 12 mths imp (cum).</p> <p>TES 12 yrs imp. EFP.</p> <p>At [65] ... the offending by the appellant and Mr Le reveals that Mr Le had, without doubt, a materially higher level of culpability than the appellant.</p> <p>At [66] ... Although the appellant coordinated various activities including Mr Tran's activities, she did not coordinate matters to the same extent as Mr Le. ... Each of the appellant and Mr Le committed cts 1, 2 and 4. However, in addition, Mr Le (but not the appellant) committed ct 3. The offence charged in ct 3 involved the poss of heroin wiss it to another. The quantity of heroin was substantial ... and the purity of the drug was high ...</p> <p>At [69] In our opinion, the individual sentences imposed on Mr Le for cts 1 and 2 and the TES he received were, without doubt, lenient. That unwarranted leniency contributed to an outcome in the relativities as between the appellant and Mr Le, for the purposes of the parity principle, that is unreasonable or plainly unjust. ...</p> <p>At [71] We are satisfied that the TES imposed on the appellant, compared to the TES imposed on Mr Le, reveals that there was a marked and unjustifiable lack of disparity adverse to the appellant and favourable to Mr Le.</p>
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			<p>kg of methyl concealed in the centre console (ct 1).</p> <p>A search of ELA located a satchel bag containing \$30,835 in cash, the keys to an electric gate fob for the unit and for another premises.</p> <p>A search of the Forrest Avenue unit located 245 g of methyl in a clip seal bag concealed in a wardrobe (ct 2). Also located was \$361,000 in cash concealed in the lining of three eskies (ct 4). The cash was packaged in bundles and either cryovac sealed or wrapped with glad wrap.</p> <p>Various items connected with the sale and supply of prohibited drugs were found in the Forrest Avenue unit, including a set of digital scales with traces of white powder; large-size scales with detectable traces of a white crystal substance; a cryovac machine and unused cryovac rolls; a money counter; large glad wrap rolls, several tick lists and a press machine and cash, used to compress heroin into block form.</p>		
7.	<p><b>Curry v The State of Western Australia</b></p> <p><b>[2022] WASCA 36</b></p> <p>Delivered 25/03/2022</p>	<p>31 yrs at time sentencing.</p> <p>Convicted after PG (20% discount).</p> <p>Long criminal history; including offences involving violence and weapons; on parole for offence of agg burg at time offending.</p> <p>Raised by single mother; absent father; aged 12 yrs parents unsuccessfully attempted to revive their relationship.</p> <p>Left school aged 16 yrs; undertook four-yr apprenticeship.</p> <p>Two significant relationships; first involved mutual substance abuse; second partner positive and supportive; two young children at</p>	<p>Ct 1: Poss methyl wiss 248 g at 74% purity. Ct 2: Poss unlawfully obtained property (\$146,225 cash).</p> <p>A SW was executed at an apartment and Curry was found in a bedroom of the apartment</p> <p>A vacuum sealed bag containing the methyl was also located in the bedroom.</p> <p>Also in the bedroom was \$146,225 in cash, a box magazine, five shotgun rounds, a stun device, metal baton and identification documents in Curry's name.</p> <p>The box magazine fitted a rifle seized earlier from the apartment complex.</p> <p>Curry was involved with a group of</p>	<p>Ct 1: 6 yrs 6 mths imp (cum). Ct 2: 8 mths imp (cum).</p> <p>TES 7 yrs 2 mths imp.</p> <p>The sentencing judge found the offending part of a serious criminal enterprise in which the appellant was an essential part; he offended for commercial gain and there was a clear connection between his poss of the methyl and his poss of the \$146,225 in cash.</p> <p>The sentencing judge found text messages suggested the appellant dealt with 'lower level' dealers and users; indicating his involvement was much more than that of a courier or storekeeper, the messages helped better identify his role and showed that his offending the subject of ct 1 was sustained rather than isolated; it was significant the criminal enterprise possessed firearms and weapons; although the appellant was not</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned plea discount and totality principle.</p> <p>At [46] ... The appellant did not enter his PG to cts 1 and 2 at the first reasonable opportunity. ...</p> <p>At [49] ... There is no basis to suppose that the judge failed to apply the 20% discount to both cts 1 and 2.</p> <p>At [60] Bearing in mind ... the appellant's essential role in what [was] found ... to be a prolonged drug-dealing enterprise ...; the weight and purity of the methyl; and ... the fact that [he] committed the offence while on parole, [his] sentence on ct 1 was well within the range of sentences available on a proper exercise of the sentencing discretion. A materially higher sentence could have been imposed without revealing error. ...</p> <p>At [61] The same is true, in our opinion, of the sentence imposed on ct 2, and the TES on cts 1 and 2 as a whole.</p> <p>At [69] ... the appellant was not being sentenced for offences</p>

		<p>time sentencing.</p> <p>Commenced methyl use aged 20 yrs; long-standing entrenched drug addiction at time sentencing.</p>	<p>people who dealt drugs and he did not possess the drugs and the cash alone.</p>	<p>being sentenced for poss of weapons, they formed part of the circ of the offending.</p> <p>The sentencing judge found the offending aggravated by the fact the appellant committed the offences while on parole and while cts 1 and 2 were connected, their seriousness made it appropriate to impose cum sentences.</p> <p>Remorseful; insight into his offending; courses undertaken while in custody; steps taken to address his drug use; expressed desire to avoid reoffending and to fulfil his responsibilities as a father.</p>	<p>concerning the firearms, ammunition and weapons. However, the fact that the criminal enterprise of which [he] was a part was in poss of those items formed part of the circumstances relevant to [his] offending. The judge did not err in so finding. The nature, scale and characteristics of the criminal enterprise of which the appellant's offending formed a part was a matter relevant to the judge's evaluation of the seriousness of the appellant's offences.</p>
<p>6.</p>	<p><i>ATH v The State of Western Australia</i></p> <p>[2021] WASCA 149</p> <p>Delivered 24/08/2021</p>	<p>36 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Minor criminal history.</p> <p>Raised stable household until aged 11 yrs; parents separated; mother's new relationship marred by domestic abuse; sexually abused by mother's new partner; relationship with mother broke down; subsequently lived with her father and then her aunt.</p> <p>Three children; separated from their father 5 yrs prior to sentencing; one child diagnosed ADHD, another autism; one abused by a step-brother.</p> <p>Father supportive; cares for her children whilst in custody.</p> <p>New relationship marred by domestic abuse; hospitalised on one occasion; partner arrested and threatened to kill her.</p> <p>Employed number of roles; receiving unemployment benefits at time offending.</p> <p>Suffered stress after death of her sister in MV accident.</p>	<p>1 x Poss methyl 977 g at 75-77% purity.</p> <p>ATH drove her co-offender, M, from a rural location to a Perth suburb for M to take delivery of a quantity of methyl. The length of the return journey was about 1,000 km.</p> <p>M hid the package in the roof cavity of ATH's vehicle.</p> <p>The same day they made the return journey. ATH initially drove and then M took over the driving. M was driving when he was stopped by police. ATH's vehicle was confiscated because M did not have a valid MDL.</p> <p>The vehicle was searched and the drugs were located in the roof cavity.</p>	<p>7 yrs imp.</p> <p>EFP.</p> <p><u>Co-offender M</u> PG (20% discount) 6 yrs imp.</p> <p>The trial judge found the appellant's role was similar to that of a courier; she agreed to drive M to Perth in the knowledge M was intending to take poss of a significant quantity of methyl; she gave M permission to hide the methyl in the roof cavity of her vehicle; she intended to supply the drugs to M upon their return by permitting M to retrieve the drugs from her vehicle and it was a reasonable inference that she stood to gain a benefit by driving M to and from the rural location in one day.</p> <p>The trial judge found the facts and circumstances of the appellant's offending were less serious than those of M; she acted, in essence, under M's instructions and the extent to which she was to benefit from the offending was much less than that of M; however M, unlike the appellant, had the benefit of three important mitigating factors; an early PG; cooperation and assistance; remorse.</p> <p>No demonstrated remorse; genuine attempts made at rehabilitation and to abstain from illicit drugs.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned parity principle.</p> <p>At [31] The facts and circumstances of the offending by the appellant and M reveal that M had a higher level of culpability than the appellant. However, the appellant's role was still important. The fact that [she] did not know that she was transporting as much as a kg of methyl (in circumstances where she knew the quantity was significant) carries, at best, very limited weight in assessing her culpability. ...</p> <p>At [36] We are satisfied, after evaluating and weighing all relevant sentencing factors, in the context of the facts and circumstances of the offending by the appellant and M, and after taking into account the similarities and differences between their offending and their personal circumstances and antecedents, that the sentence imposed on the appellant ... did not infringe the parity principle or the principle of equal justice.</p>

		<p>Medicated for depression and anxiety; att suicide about two mths after offending; sought and participated in counselling.</p> <p>Commenced using methyl 2018; drug use quickly escalated; drug rehabilitation undertaken.</p>			
5.	<p><b>McGrath v The State of Western Australia</b></p> <p><b>[2021] WASCA 118</b></p> <p>Delivered 06/07/2021</p>	<p>27 yrs at time offending.</p> <p>Convicted after early PG (25% discount).</p> <p>Criminal history; 2018 and 2020 convictions for poss methyl; no prior sentences of imp.</p> <p>Positive upbringing; supportive family.</p> <p>Family financial trauma when significant amount of money stolen from family business 2012; resulted in significant family disruption and parents' personal struggles and separation.</p> <p>Stressed by previous imp of twin brother.</p> <p>Good education; completed yr 10 high school.</p> <p>Good work history; completed apprenticeship; employed in security; drug use escalated to point no longer able to hold down a job.</p> <p>Commenced using drugs on moving out of home.</p>	<p>1 x Poss methyl wiss 985 g at 78% purity.</p> <p>McGrath agreed to assist a friend with the transportation of drugs, in exchange for an amount of methyl for his own use.</p> <p>McGrath was a passenger in a vehicle, being driven by his friend, when it was stopped by police. Police observed a bag in the footwell of the passenger's seat, between McGrath's feet. He was asked to step outside the vehicle so he could be searched. As he did so he picked up the bag and attempted to run. He was restrained by one of the officers.</p> <p>McGrath then threw the bag over the car.</p> <p>The bag and its contents were secured by police. Inside was a package wrapped in tape. The package contained 985 g of methyl.</p> <p>The methyl, as a single lot, was valued at about \$125,000, or between \$500,000 and \$800,000 if sold in individual doses.</p> <p>A search of McGrath's residence found nothing to indicate he was involved in the distribution or sale of methyl, other than the drugs the subject of the offending.</p>	<p>8 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found that while the appellant did not know the amount of the drugs being transported the quantity of methyl was 'very serious' and he was to receive a commercial benefit for his role in the offending, being a quantity of the drug for his own use.</p> <p>The sentencing judge found the appellant was at the lowest end of the hierarchy and his role was that of someone who was involved only in the transportation of methyl.</p> <p>Remorseful; regretful of his conduct; insight into his offending and its effect on the community; good prospects of rehabilitation.</p>	<p>Allowed.</p> <p>Appeal concerned length of sentence.</p> <p>Resentenced (25% discount):</p> <p>5 yrs 9 mths imp.</p> <p>EFP.</p> <p>At [55]-[56] There is no doubt that the appellant's offending is properly characterised as serious. [He] willingly involved himself in assisting the transportation of a substantial quantity of methyl, almost 1 kg. ... Further, [he] offended for commercial gain, in the sense and to the extent that he was to receive an unidentified quantity of methyl in return ...</p> <p>At [58] ... putting to one side the quantity of drugs involved, the extent of the appellant's involvement, and what he actually did, puts his criminality towards the lowest end of the scale of seriousness of offences of this kind. The appellant's offending is fairly described as both fleeting and opportunistic. ... There was nothing to suggest that he had any other role in the drug dealing or had met or communicated with anyone involved in the enterprise other than the driver.</p> <p>At [62] ... We also accept that, in throwing the bag containing the methyl over the car ..., the appellant sought to prevent the police from taking poss of the bag. Nevertheless, in our view, that conduct does not undermine the opportunistic and fleeting character of the appellant's involvement. ... What the appellant did is consistent with a panicked and desperate att to avoid detection of the drugs he had at his feet when the police stopped the car.</p> <p>At [65] ... in our respectful view, the sentence of 8 yrs imp was not merely high, but, rather, is properly characterised as unreasonable or plainly unjust.</p>
4.	<p><b>Nickson v The State of Western</b></p>	<p>58 yrs at time sentencing.</p>	<p><u>Ind 2154</u> Ct 1: Poss methyl wiss 69.5 g.</p>	<p><u>Ind 2154</u> Ct 1: 3 yrs 6 mths imp (cum).</p>	<p>Dismissed (leave refused).</p>

<p><b>Australia</b></p> <p><b>[2021] WASCA 40</b></p> <p>Delivered 05/03/2021</p>	<p>Convicted after PG (Ind 2154 10% discount; Ind 990 20% discount).</p> <p>Extensive criminal history; previous convictions for drug related offences.</p> <p>Born New Zealand; unremarkable childhood; came to Australia aged 30 yrs; close with his mother and sister; father deceased.</p> <p>Educated to yr 10; completed trade apprenticeship; employed consistently until 2007.</p> <p>Marriage of 17 yrs ended 2006.</p>	<p><u>Ind 990</u> Ct 1: Poss methyl wiss 505.59 g at 4% and 77%-80%. Ct 2: Poss dexamphetamine wiss 2.95 g. Ct 3: Poss cannabis wiss 105.5 g. Cts 4-6: Poss unlawfully obtained property (\$8,745 cash; jewellery and \$700 cash).</p> <p><u>Ind 2154</u> A SW was executed at Nickson's home. A package, containing five clip seal bags, was located in a freezer. Each clipseal bag contained quantities of methyl, weighting a total of 69.5 g.</p> <p>In Nickson's bedroom three sets of digital scales, a small quantity of methyl, numerous clipseal bags, various weapons, a mobile telephone and \$6,000 cash was found.</p> <p>A further \$2,000 cash was also found in a shed, along with a quantity of the cutting agent MSM.</p> <p>Nickson was charged and released on bail.</p> <p><u>Ind 990</u> Some mths later Nickson was inside a unit when it was searched by police. The property was fortified with chains and pieces of property. Police were forced to dismantle the barricade to gain entry.</p> <p>Inside the unit three separate quantities of methyl were found in three separate locations. In a cupboard in clipseal bags a total of 194.9 g of methyl with a purity of between 77% and 80% was found. In another part of the cupboard clipseal bags containing a total of 12.69 g of methyl with a purity of 4% was found. In the shower area police also located a clipseal bag containing 298 g of methyl with a purity of 77% (ct 1).</p>	<p><u>Ind 990</u> Ct 1: 7 yrs 6 mths imp (cum). Ct 2: 18 mths imp (conc). Ct 3: 12 mths imp (conc). Ct 4: 12 mths imp (conc). Ct 5: 12 mths imp (conc). Ct 6: 12 mths imp (conc).</p> <p>TES 11 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found it was an agg factor that the offences the subject of Ind 990 were committed while the appellant was on bail for the offence charged in Ind 2154 and that all the offences were committed in the context of the appellant conducting an ongoing drug dealing business for commercial gain.</p> <p>The sentencing judge found the appellant had been selling illicit drugs since 2007 to fund his personal illicit drug use; he was within the mid to high level user/dealer range.</p> <p>Some demonstrated remorse; steps taken to rehabilitate himself and drug programmes undertaken while in custody.</p>	<p>Appeal concerned totality principle.</p> <p>At [52] It was a significant agg factor that the appellant's offending in relation to [Ind 990] occurred while he was on bail for the offence charged in [Ind 2154]. Also, it was a significant agg factor in relation to the offences involving methyl that the appellant was dealing commercially in that drug. Further, the seriousness of the appellant's drug dealing offences was underscored by his poss of a variety of weapons. ...</p> <p>At [53] ... we are satisfied that it was necessary, in order properly to mark the seriousness of the appellant's overall offending, for the individual sentences for the ct on [Ind 2154] and for ct 1 on [Ind 990] to be served cumulatively. The offences charged in those cts involved separate and distinct offending.</p> <p>At [55] The TES bears a proper relationship to the overall criminality involved in all of the offences, viewed in their entirety, and having regard to all relevant circumstances, ...</p>
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			<p>Another clipseal bag found in the unit contained 13 tablets, being 2.95 g of dexamphetamine (ct 2).</p> <p>Also located were two clipseal bags containing cannabis, with a total weight of 105.5 g (ct 3).</p> <p>In various locations within the unit a total of \$8,745 in cash was found (ct 4) and inside a safe were various items of jewellery with an estimated value of \$10,000 (ct 5).</p> <p>Data from a mobile telephone located in the unit revealed Nickson had been offered jewellery in exchange for the discharge of outstanding debts. Digital scales, numerous clipseal bags, stun guns and an electrical shotgun were also located in the unit.</p> <p>A SW was then executed at another premises. A caravan, over which Nickson had control, was searched and found to contain \$700 cash, scales and a stun gun (ct 6).</p>		
3.	<p><b><i>Trainor v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 36</b></p> <p>Delivered 26/02/2021</p>	<p>53 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No relevant prior criminal history.</p> <p>Born in UK; came to Australia aged 7 yrs.</p> <p>Married; wife significant health problems.</p> <p>Consistent employment history; previously working well-paid position; new work significantly lower remuneration; good work ethos; history of volunteer work.</p> <p>Experiencing financial pressures at time offending.</p>	<p>Ct 1: Poss methyl wiss 3892.96 g at 74%-81% purity.</p> <p>Ct 2: Poss unlawfully obtained property (\$16,655 cash).</p> <p>Police observed Trainor enter a home and a short time later leave the premises carrying a small bag.</p> <p>Later that day a SW was executed at Trainor's home. During the search a bag matching the description of the bag he was seen carrying from the house was located in his bedroom. The bag contained three packages of methyl weighing 999 g, 998 g and 1 kg with a purity between 80% - 81%.</p> <p>Also in Trainor's bedroom was a bag containing a further package of methyl, weighing 836 g of 81% purity, and two clipseal bags. The clipseal bags contained 58.4 g of 74% purity and 0.48</p>	<p>Ct 1: 14 yrs imp (conc).</p> <p>Ct 2: 16 mths imp (conc).</p> <p>TES 14 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the offending 'very serious'; the quantity and purity of the drugs involved were indicative of the seriousness of the offence and the large sum of money in the appellant's possession indicated those with whom he was working placed a high level of trust in him.</p> <p>The sentencing judge found the appellant had possession of the drugs for the purpose of passing them on further down the chain of distribution; the seriousness of the offending was significantly aggravated by the fact he was involved in the offending for commercial gain.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence ct 1.</p> <p>At [52] While the appellant's offending is by no means in the most serious category of offences of this kind, his offence was undoubtedly very serious. The appellant's offence involved a very substantial quantity of methyl of a very high level of purity. Those with whom he was working placed a high level of trust in him. He played an important role in the drug operation of which his offence was a part. As this court observed in <i>Musulin</i>, those who securely store large quantities of drugs for others play a role in the distribution networks not substantially less important than those who actually distribute the drugs to dealers or those who sell them to the ultimate users.</p> <p>At [53] ... We are not persuaded that the sentence of 14 yrs imp imposed by the sentencing judge in respect of ct 1 was unreasonable or plainly unjust. ...</p>

			<p>g of methyl.</p> <p>Methyl crystal residue and methyl shards weighing 0.22 g and 0.23 g, along with 0.3 g of methyl, were also found in a box.</p> <p>In a cryovac bag 0.3 g of methyl and 2.09 g of dimethyl sulfone (MSM) were located.</p> <p>Trainor directed police to a safe containing \$15,000 in cash. He was also found to have \$1,655 cash in his wallet.</p> <p>Trainor admitted the drugs belonged to him and that he was going to pass them on to another person.</p>	<p>Cooperative; showed police the locations of the drugs; made admissions as to his possession of the drugs.</p>	
2.	<p><b>Blasco v The State of Western Australia</b></p> <p><b>[2021] WASCA 26</b></p> <p>Delivered 12/02/2021</p>	<p>39 yrs at time sentencing.</p> <p>Convicted after PG (22% discount).</p> <p>Extensive prior criminal history; prior drug convictions.</p> <p>Chaotic and dysfunctional upbringing.</p> <p>Expelled yr 9; never returned to school.</p> <p>Worked short period; otherwise no substantial employment history.</p> <p>Three adult children; supportive current partner and mother of his fourth child born while in custody.</p> <p>Commenced using drugs aged 15 yrs; methyl use from age 17 yrs; relapsed into drug use at time offending; accumulated a drug debt to an OMG; commenced selling drugs in order to repay the debt.</p>	<p>Ct 1: Sold/supplied methoxphenidine.</p> <p>Cts 2-4: Offer to sell methyl 1 g; 14 g &amp; 14 g.</p> <p>Ct 5: Offer to sell cannabis 0.1–0.4 g.</p> <p>Ct 6: Offer to sell methyl 28 g.</p> <p>Ct 7: Poss methyl wiss 45.18 g at 72%-81% purity.</p> <p>Ct 8: Poss methoxphenidine wiss 72.9 g.</p> <p>Blasco's mobile telephone was lawfully monitored. The offending occurred over a number of months.</p> <p>Blasco telephoned a woman and offered to supply her with an unknown quantity methoxphenidine in tablet form. He agreed to meet the woman to complete the transaction (ct 1).</p> <p>During a text message conversation Blasco offered an unknown male 1 g of methyl for \$400. They arranged to meet to complete the transaction (ct 2).</p> <p>During a text message conversation with a woman, Blasco offered to sell her 14g of methy. They arranged to meet and completed the transaction (ct 3).</p>	<p>Ct 1: 12 mths imp (conc).</p> <p>Ct 2: 12 mths imp (conc).</p> <p>Ct 3: 3 yrs imp (cum).</p> <p>Ct 4: 3 yrs imp (conc).</p> <p>Ct 5: 2 mths imp (conc).</p> <p>Ct 6: 4 yrs imp (conc).</p> <p>Ct 7: 5 yrs imp (cum).</p> <p>Ct 8: 3 yrs imp (conc).</p> <p>TES 8 yrs imp.</p> <p>EFP.</p> <p>Drug trafficker declaration made.</p> <p>The sentencing judge found the appellant was involved in a very significant and substantial ongoing drug distribution for commercial gain, in the context of an OMG; the offending was in the low to mid-level of criminality.</p> <p>Appellant sought and participated in counselling while in custody; high risk of reoffending.</p>	<p>Dismissed.</p> <p>Appeal concerned totality principle. Individual sentences not challenged.</p> <p>At [58] The appellant committed a series of serious drug offences over the course of a number of months. The offences were not isolated events but reflected the reality that the appellant was a participant in a substantial business of distributing prohibited drugs. While he dealt in those drugs for the purpose of paying his own drug debts, that purpose was nevertheless a commercial one.</p> <p>At [60] ... Given the ongoing nature of the appellant's conduct, some accumulation was necessary in order to properly reflect the overall seriousness of the offending and the totality of the criminality involved. ...</p> <p>At [65] ... the TES imposed on the appellant fell within the emerging range of sentences customarily imposed for this type of offending, since the passing of the <i>2017 Amendment Act</i>. It was not unreasonable or plainly unjust.</p>

			<p>Through text messages Blasco offered to supply a man with a ‘family pack’. A reference to four balls of methyl, each being 3.5 g. The man collected the drugs from Blasco’s home (ct 4).</p> <p>Blasco received a text message from a woman requesting cannabis. He offered her a cone and then made arrangements for the woman to collect the drug (ct 5).</p> <p>During a telephone call from the same man the subject of ct 4 Blasco agreed to supply him with a 28 g of methyl for \$5,600 (ct 6).</p> <p>Blasco and an associate travelled to Perth to collect drugs. After meeting a male in Perth, his car was stopped by police. A search of his vehicle located a total of 45.18 g of methyl divided into clip seal bags (ct 7).</p> <p>The vehicle was seized and a further search revealed 258 tablet containing methoxphenidine, weighing 72.9 g (ct 8).</p>		
1.	<p><b><i>Cochrane v The State of Western Australia</i></b></p> <p><b>[2021] WASCA 5</b></p> <p>Delivered 08/01/2021</p>	<p>40 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount).</p> <p>Long criminal history; prior conviction for poss methyl wiss.</p> <p>Difficult childhood; subjected to physical and emotional abuse; transient lifestyle; parents entrenched in alcohol and illicit substance use and violence.</p> <p>Supportive family and partner.</p> <p>Educated to yr 11.</p> <p>Good work history; labouring employment various industries.</p> <p>Number of significant relationships; 19 yr-old daughter</p>	<p>1 x Poss methyl wiss 47.13 g at 71%-79% purity.</p> <p>Cochrane flew from Perth to Geraldton. He was arrested in the airport terminal. When searched he reached down the front of his jeans and produced a bag, which he tried to put into his mouth.</p> <p>A later examination of the bag revealed it contained methyl, cannabis and dexamphetamine.</p> <p>The methyl was separated into four clip seal bags.</p>	<p>5 yrs 6 mths imp.</p> <p>EFP.</p> <p>Drug trafficker declaration made.</p> <p>The sentencing judge characterise the appellant as a courier who was to receive a relatively small portion of the drugs for personal use and who facilitated the distribution of drugs into a community already severely affected by methyl use.</p> <p>Remorseful; willingness to change; efforts taken towards rehabilitation in custody.</p>	<p>Dismissed.</p> <p>Appeal concerned length of sentence and error of law (max penalty life imp - ind did not include the words ‘and the offence involved a trafficable quantity of methyl’).</p> <p>At [7] ... in our view, the appellant was charged and convicted of committing the crime [in circumstances which involved a trafficable quantity of methyl] ... and so was liable to a max penalty of life imp.</p> <p>At [152]-[153] ... having regard to the increase in the penalty and the limited assistance from comparable cases, in our view it cannot be inferred that the learned sentencing judge was in error in the present case. ... The appellant committed a serious drug offence. ... the major sentencing considerations for offences of this type are general and personal deterrence. Any involvement in the illegal trade in methyl, ... is offending which calls for terms of imp that will achieve that necessary deterrence.</p>

		<p>first marriage; baby with current partner.</p> <p>Long history of substance abuse; cannabis aged 11 yrs; alcohol 13 yrs; ecstasy and LSD from aged 14 yrs; regular user of methyl past 20 yrs.</p>			
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*Amendment to s 34(1)(a) Misuse of Drugs Act (18/09/2017)*

**Offence amended to include trafficable quantity of methylamphetamine (28 grams or more as specified in Schedule VII Item 8 of the Misuse of Drugs Act).  
Maximum penalty life imprisonment.**

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Office of the Director of Public Prosecutions