

# Dangerous driving occasioning death

**From 1 January 2021**

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

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

No.	Case	Antecedents	Summary/ facts	Sentence	Appeal
6.	<i>The State of Western Australia v Staltari</i> <b>[2024] WASCA 141</b> Delivered 12/11/2024	24 yrs at time offending. 27 years at time sentencing.  Convicted after PG (20% discount).  Minor criminal history; one prior drug conviction.  Adopted at 4 mths old; adopted family provided a supportive home environment; supportive family at time of sentencing.  Completed yr 12; performance diminished due to ADHD; bullied at school; frequently truant from yr 11.  Employed in various unskilled or semi-skilled jobs; difficulty maintaining employment.  Not married; no dependants; in stable relationship at time sentencing.  Generalised anxiety disorder and major depressive episodes.  History of alcohol and polysubstance abuse; drank socially from 16 yrs.	1 x DDOD.  Just before midnight the respondent was driving his vehicle south along a highway. He was speeding and heavily intoxicated with alcohol and cannabis.  At a point on the road, a large tree limb had fallen onto the road blocking the southbound lane. Another driver had stopped, activated his hazard lights and was directing traffic around the tree.  As the respondent approached the fallen tree limb, he crossed the double white lines on the road and continued to drive at speed on the wrong side of the road.  The victim was driving a car approaching from the opposite direction. He reduced his speed to 32 km per hour but was unable to avoid a head-on collision with the respondent's vehicle. At the point of impact, the respondent's vehicle was travelling at 108km per hour.	3 yrs imp.  EFP.  MDL disq 3 yrs.  The sentencing judge found the offending was serious.  The sentencing judge found considerations of general deterrence remained important; personal mitigation was of lesser importance.  The offending had a significant impact on the victim's family; the victim had recently moved in with his daughter and grandson; the victim assisted his daughter physically, financially, and emotionally; he assisted in caring for his grandson.  The respondent was considered to be at low risk of reoffending and had taken steps towards rehabilitation.	Appeal allowed.  Appeal concerned length of sentence.  Resentenced:  4 yrs 8 mths imp.  EFP.  At [66] 'in the present case, the circumstances of the offence placed it at the upper end of seriousness for offences of this type. This was not a momentary aberration or a mere failure to react to a sudden hazard ... [the respondent] had voluntarily consumed a large quantity of alcohol and cannabis prior to the incident. He had filmed himself driving with a can of beer in his hand some hours earlier.'  At [67] 'either the alcohol or the cannabis separately had the effect of seriously impairing the appellant's ability to drive. The expert evidence was that they would have had an additive effect ... To drive in this condition was ... a serious abrogation of the respondent's duty as a driver on public roads.'  At [68] 'the level of risk to members of the public will depend on the particular circumstances and not merely by characterising the location as urban or rural.'  At [69] 'the respondent's manner of driving as he approached the tree limb on the road was also highly dangerous.'  At [71] '... the only factor that could attract any significant mitigation was his plea of guilty.'  At [72] 'the respondent's personal circumstances are otherwise unremarkable.'  At [84] 'the circumstances in this case demanded a starting point that would, after making reductions for the plea of guilty and other mitigating factors, produce a sentence significantly higher than that imposed on the respondent...the sentence of 3 yrs immediate imprisonment was unreasonable or plainly unjust.'
5.	<i>The State of Western Australia v Ridout</i> <b>[2024] WASCA 98</b> Delivered 15/08/2024	18 yrs at time offending. 20 yrs at time sentencing.  Convicted after PG (20% discount).  Born in UK; moved to WA at 9 yrs old; adjustment was difficult.	Ct 1: Agg DDOD. Ct 2: Agg DDOBH.  The respondent and his friends, B, M, and H had been out at a casino. They were travelling together, returning home.	Ct 1: 2 yrs imp. Ct 2: 8 mths imp (conc).  Release from imp after 6 mths; then, 18 mths susp for 2 yrs.  MDL disq 2 yrs.	Appeal allowed.  Appeal concerned length and type of sentence on ct 1.  Resentenced:  Ct 1: 4 yrs 4 mths. Ct 2: 8 mths imp (conc).

		<p>Completed yr 11; completed apprenticeship as a panel beater.</p> <p>Cannabis use from 13 yrs; alcohol from 16 yrs.</p> <p>Probationary driver at time offending; driving for approximately 12 mths.</p>	<p>The respondent drove the vehicle, B was in the front passenger seat, M was in the centre rear passenger seat, and H was in the rear right passenger seat.</p> <p>The weather was raining, it was dark, and the roads were wet. The speed limit on the road was 80 km per hour.</p> <p>At an intersection, the respondent lost control of the vehicle. The vehicle struck a traffic light warning sign, before the rear of the vehicle struck two trees. The vehicle flipped and came to a rest on its roof after striking another tree.</p> <p>B suffered a head injury and died two days later. M suffered a laceration to his scalp, abrasions, and a concussion. The respondent's vehicle was estimated at moving at 151 km per hour two seconds before the crash.</p>	<p>The sentencing judge found that the respondent's driving put other members of the public at danger.</p> <p>The death of B had a devastating effect upon his family; M and H suffered psychological injuries from the accident.</p> <p>The sentencing judge found the respondent was driving at excessive speed as a result of being a 'relatively inexperienced driver, being tired and failing to pay attention.'</p> <p>The sentencing judge found the respondent was genuinely remorseful and took full responsibility for his offending.</p> <p>The sentencing judge found the respondent had suffered extra-curial punishment.</p>	<p>TES: 4 yrs 4 mths.</p> <p>EFP.</p> <p>At [39] '... it may be noted that the individual sentences imposed in [<i>Glasfurd &amp; Billing</i>] for dangerous driving occasioning death in circumstances of aggravation were significantly higher than the sentence imposed for that offence in the present case.'</p> <p>At [48] 'the sentence imposed on the respondent in the present case is, in any event, difficult to reconcile with sentences imposed in cases of DDOD when circumstances of aggravation are not established ...'</p> <p>At [49] 'the fact that the deceased's death may have a severe impact on the offender does not generally preclude the imposition of a significant sentence of immediate imprisonment. This is illustrated by this court's decision in <i>Kirby v The State of Western Australia [2016] WASCA 199</i>.'</p> <p>At [57] 'in our view, this was a serious example of the offence of aggravated DDOD. The objective danger posed to the respondent's passengers and members of the public by the way the respondent drove the vehicle was very heigh.'</p> <p>At [58] 'it is difficult to imagine that driving with the throttle fully engaged at over 150 km per hour on a wet road in the dark while it was raining could be the product merely of inexperience, tiredness, and inattention ... even if the respondent did not subjectively appreciate how fast he was travelling, the extreme danger presented by the manner in which he drove the vehicle was objectively obvious and should have been appreciated by the respondent.'</p> <p>At [59] 'in drawing that conclusion, we accept that 18-year-olds may often be more impulsive, lack judgment and be less cognisant of the seriousness of particular offending and that this may reduce a young offender's culpability.'</p> <p>At [60] 'there was significant mitigation to be found in the respondent's personal circumstances in addition to his early plea of guilty ... The fact that the respondent was only 18 yrs old at the time of offending was a very significant mitigating factor ...'</p> <p>At [62] '... the appellant's sole ground of appeal is established. The sentence imposed for count 1 failed to reflect the seriousness of the offending having regard to the aggravating and mitigating factors ... Although there were substantial mitigating factors, the seriousness of the offence remained such that it was not open to the sentencing judge to be satisfied that a partially suspended sentence of imprisonment was an appropriate kind of sentence.'</p>
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<p>4.</p>	<p><i>Glasfurd v The State of Western Australia</i></p> <p>[2024] WASCA 7</p> <p>Delivered 25/01/2024</p>	<p>62 yrs at time sentencing.</p> <p>Convicted after late PG on second day of trial (12.5% discount).</p> <p>Extensive criminal history of driving offences; disqualified from driving at time of offending.</p> <p>Express remorse for causing another person's death.</p> <p>Farming family; spent much of childhood on family farm; suffered accident as a teenager resulting in 3 mths in coma.</p> <p>Expelled from boarding school for truancy; had problems with authority.</p> <p>Married for 12 yrs; three adult children; acrimonious divorce proceedings; required to sell family farm and property prior to offending.</p> <p>Escalating drug use following loss of unborn child; abstinent while in custody.</p> <p>Presented as typical of ADHD or some head injury; in hospital had dangerously high levels of blood glucose, consistent with type 2 diabetes; evidence of neurocognitive impairment.</p>	<p>1 x Agg DDOD. 1 x Agg DDOGBH. 4 x Agg DDOBH.</p> <p>The appellant drove into the city and parked in a multi-storey car park. He spent the afternoon in the city and consumed alcohol and used methylamphetamine.</p> <p>That evening, the appellant returned to the carpark. The appellant was drinking from an open beer and appeared unsteady on his feet. He got into his vehicle and drove down to the ground level. As the appellant navigated the carpark, he would slow down for corners and rapidly accelerate in the straight sections of the car park. This pattern was repeated for most of the journey.</p> <p>The appellant exited the car park and travelled a short distance. He then mounted a median strip and conducted an illegal three-point turn. After this manoeuvre, the vehicle was stationary.</p> <p>The appellant then accelerated very heavily causing his vehicle to lurch forward and move rapidly towards the intersection. It was calculated the appellant's speed was 61.6 km/h. The traffic lights were red throughout this movement. The appellant claimed he attempted to brake, but due to a 'pedal error' mistakenly depressed the accelerator again.</p> <p>The appellant's vehicle entered the intersection, against the red light, narrowly missing a slow-moving vehicle, which he swerved to avoid. The appellant's vehicle hit the raised kerb, mounted the footpath and collided into a parked car.</p> <p>The parked car was propelled by the impact into a crowd of people. One man died and five other people suffered</p>	<p>Agg DDOD: 6 yrs 6 mths imp (cum). Agg DDOGBH: 3 yrs imp (cum). Agg DDOBH : 4 x 2 yrs 6 mths (conc).</p> <p>TES: 9 yrs 6 mths</p> <p>EFP.</p> <p>MDL disq 7 yrs.</p> <p>The sentencing judge found that the appellant had accelerated heavily, for three seconds, commanding 100% power. The three second before the crash, the appellant commanded 65% power, before removing his foot from the accelerator and applying 100% power.</p> <p>The appellant had a blood alcohol level of 0.028% at the time of the crash. The sentencing judge noted that this was not a primary contributing factor to the crash.</p> <p>Victim impact statements from Ms R, Mr T's brother, and Mr H were received. Mr T was a gentle soul who is missed by all his family; Mr H had many months of rehabilitation; cannot return to his previous employment; suffers from migraines and memory loss; battles with mental trauma and constant pain; the incident has adversely impacted on his employment prospects, financial security and enjoyment of life.</p> <p>The sentencing judge found the offending as being very serious, and both general and personal deterrence were paramount factors in sentencing.</p> <p>The sentencing judge accepted that the appellant had accepted responsibility for his actions and that he has an understanding of the impact of his conduct on the victims and their families. The sentencing judge accepted that the appellant was remorseful for his conduct.</p> <p>The sentencing judge found that the cognitive issues identified in the psychiatric report provided no mitigation.</p>	<p>Appeal dismissed (leave refused regarding first limb of totality).</p> <p>Appeal concerned first limb of totality principle, and the discount applied for the PG.</p> <p>At [81] 'it was necessary for the total sentence to reflect all of the relevant facts and circumstances including the deliberately dangerous manner in which the appellant drove, the risk that was posed to other road users, including pedestrians, the appellant's use of methylamphetamine prior to driving, his decision to drive whilst disqualified, the importance of both general and personal deterrence, the severe consequences suffered by the victims and the limited mitigation available to the appellant.'</p> <p>At [82] 'to characterise the seriousness of the offending as three seconds of acceleration reaching a speed of 60km per hour does not accurately reflect the true nature of the appellant's conduct.'</p> <p>At [83] 'the error in depressing the accelerator rather than the brake was a product of the dangerous situation that the appellant created. The necessity to brake suddenly was a consequence of the appellant's unnecessary and deliberate high acceleration towards the red light.'</p> <p>At [85] '... this case was a very serious example of dangerous driving. It was indisputably offending deserving of a significant term of imprisonment.'</p> <p>At [86] 'care needed to be taken not to impose double punishment for the dangerous driving; however, the total sentence also needed to reflect the total impact on all of the victims.'</p> <p>At [88] 'it is difficult to identify sentences that are commonly imposed for an offence of DDOD. This is quintessentially an area in which the discretion residing in the first instance judicial officer must be accorded due respect ... Sentencing patterns with respect to the offence were yet to emerge. That remains the position.'</p> <p>At [89] '... in cases where more than one person is killed or injured, a very significant degree of accumulation may often be appropriate.'</p> <p>At [99] 'as previously noted, in the present case, the appellant's dangerous driving involved a deliberate act of acceleration in an inner-city area in circumstances where he was disqualified from driving and under the influence of methylamphetamine. Those circumstances place this offending at the high end of seriousness.'</p> <p>At [111] 'in the present case the pleas were entered on the second day of trial. That was at a very late stage of the proceedings, but the delay is explained to some extent by the change in the prosecution case.'</p>
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3.	<p><i>Smith v The State of Western Australia</i></p> <p>[2022] WASCA 170</p> <p>Delivered 16/12/2022</p>	<p>32 at time offending. 33 at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Diagnosed with ADHD.</p> <p>Supportive family.</p> <p>Commenced, but did not complete yr 12.</p> <p>Struggled to find work; employed FIFO worker in mining industry past five yrs.</p> <p>Seven yr relationship; no children; partner diagnosed with cancer; at time of sentencing free from detectable cancer but 5%-10% chance of a recurrence within next 10 yrs.</p> <p>Good physical health; most of his life suffered anxiety and depression.</p>	<p>1 x DDOD.</p> <p>The victim, Sorensen, was driving her motor vehicle on the freeway. She was the sole occupant of the vehicle.</p> <p>The weather was fine, the road was dry and visibility was good.</p> <p>Roadworks were being carried out in the area so the speed limit was reduced to 80 km p/h. The traffic in Sorensen's lane slowed until she was stationary behind other vehicles.</p> <p>Smith, was driving a motor vehicle with a bull bar when he collided with the back of Sorensen's vehicle. At the time of the collision he was travelling at 88 km p/h.</p> <p>The collision shunted Sorensen's vehicle into the rear of the vehicle in front of her. She died from injuries sustained in the collision.</p> <p>Prior to the collision Smith was noticed by several drivers and passengers in other vehicles because of his speed and the manner in which he was driving. He drove his vehicle very close to the rear of a number of vehicles travelling at the 80 km p/h speed limit, before accelerating past them.</p>	<p>3 yrs imp.</p> <p>EFP.</p> <p>MDL disq 2 yrs.</p> <p>The sentencing judge found the appellant's behaviour prior to the collision involved a 'selfish disregard for other road users'; he failed to keep a proper lookout and moments before impact he had been speeding from 95 down to 88 at impact.</p> <p>Significant and ongoing grief suffered by victim's family.</p> <p>Low-risk of reoffending; co-operative; accepting of responsibility; aware of significant impact of his offending; suffered emotionally; thoughts of self-harm; helped and continuing to receive counselling at time sentencing.</p>	<p>Dismissed (leave refused).</p> <p>Appeal challenged type and length of sentence.</p> <p>At [47] In the present case, the offence committed by the appellant involved serious offending of its kind.</p> <p>At [48] The appellant's interaction with [other drivers prior to the collision] is part of the context in which his moral culpability for the offending must be assessed. The appellant was driving a vehicle of significant size and weight. The vehicle was fitted with a bull bar. The appellant's driving ... was aggressive. He drove in excess of the speed limit and dangerously close to their vehicles. ...</p> <p>At [49] The appellant's driving behaviour in relation to Mrs Sorensen and her vehicle was dangerous in that: ... [he] failed to keep a proper lookout in relation to the vehicles in front of him ... [He] had driven frequently on that part of the [freeway]. ... [He] was travelling at about 15 km p/h in excess of the speed limit of 80 km p/h. The extent to which the appellant exceeded the limit was, in the circumstances, significant. ...</p> <p>At [53] ... after evaluating all relevant facts and circumstances and all relevant sentencing factors, that the sentence ... was commensurate with the seriousness of the appellant's offence.</p>

<p>2.</p>	<p><b>Rhodes v The State of Western Australia</b></p> <p>[2022] WASCA 168</p> <p>Delivered 16/12/2022</p>	<p>27 yrs at time offending. 29 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior traffic history.</p> <p>Born Tasmania; resided in WA since 2009.</p> <p>Left school middle of yr 11.</p> <p>Commenced employment with a local business; at time of sentencing carried on a cleaning business.</p> <p>Daughter aged 8 yrs; son aged 2 mths; 4 yr relationship, partner the father of her young son.</p> <p>Good health; does not drink or use illicit drugs.</p>	<p>1 x DDOD.</p> <p>Rhodes was driving a high-powered vehicle. Her 6 yr-old daughter was a passenger in the vehicle.</p> <p>At a controlled intersection Rhodes stopped her vehicle on the red traffic signal. Traffic was moderate and the area was well lit. Also stopped at the intersection was the driver of a Holden motor vehicle. While stationary at the intersection the driver of the Holden revved the vehicle's engine. Rhodes responded by revving her vehicle's engine. The driver of the Holden moved slightly over the white line so Rhodes revved her engine, activating both the brake and the accelerator, before releasing the brake.</p> <p>Rhodes' vehicle launched into the intersection, contrary to the red traffic signal, resulting in a collision between her vehicle and another motor vehicle driven by Mr A.</p> <p>Mr A died at the scene from injuries he sustained in the collision.</p> <p>Rhodes' daughter was also injured.</p>	<p>4 yrs 6 mths imp.</p> <p>EFP.</p> <p>MDL disq 3 yrs 6 mths.</p> <p>The trial judge found a number of agg factors; the appellant was initially stationary at the red traffic signal; the cross-traffic was entitled to expect other drivers to obey the red traffic signal and to assume it was safe to travel through the intersection; the appellant's vision was blocked by a truck so she could not ascertain whether any traffic, such as Mr A's vehicle, was entering the intersection; she drove at an excessive speed as a result of the extraordinary acceleration of her vehicle over a short distance before the collision; her manner of driving before the collision was attributable to her informed and deliberate decision in circ where it should have been obvious to her that to drive in the manner she did was dangerous and inviting possible disaster.</p> <p>Appellant not fully and genuinely remorseful; not accepting of responsibility for her offending.</p>	<p>Dismissed (leave refused).</p> <p>Appeal challenged length of sentence.</p> <p>At [41] ... the appellant's offending conduct was undoubtedly serious. ... She made a deliberate decision to launch her vehicle into the intersection at a high rate of acceleration by activating both the brake and the accelerator and then releasing the brake. ... The interplay between the appellant and the driver of the Holden Nova had the flavour of a challenge as to which of them could accelerate more quickly from their stationary position at the intersection. So, to that extent, the challenge involved, in essence, an invitation to race their vehicles. The appellant's offending conduct was extremely dangerous. ...</p> <p>At [43] It is also true that the appellant's vehicle travelled a distance of only about 14 metres before the collision. However, that fact does not diminish the seriousness of the dangerous manner in which [she] drove her vehicle. ...</p>
<p>1.</p>	<p><b>Lyons v The State of Western Australia</b></p> <p>[2022] WASCA 81</p> <p>Delivered 07/07/2022</p>	<p>35 yrs at time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (25% discount).</p> <p>No prior criminal history; prior traffic convictions.</p> <p>Born UK, migrated to Australia to join elder brother; remaining family continue to reside in the UK; formative yrs positive without any significant trauma or abuse.</p> <p>Visa cancelled; unable to work; ineligible for welfare or Medicare assistance; relies on financial</p>	<p>1 x DDOD.</p> <p>In the early hrs of the morning Lyons commenced driving a motor vehicle from Perth to Albany. At the time she was not entitled to drive and she had slept very little in the preceding three days.</p> <p>During the journey Lyons stopped and messaged her boyfriend that she had fallen asleep twice, perhaps three times.</p> <p>Some two hrs later, Lyons was driving on a sealed two-way road, separated by double continuous white lines. The road was in good repair. The victim was driving his vehicle in the opposite direction.</p>	<p>7 yrs imp.</p> <p>MDL disq 7 yrs.</p> <p>EFP.</p> <p>The sentencing judge found the appellant's offending more serious than the average and in the upper end of offending of the kind in question.</p> <p>Offending enormous and devastating impact on victim's family.</p> <p>Appellant genuinely remorseful.</p>	<p>Dismissed (leave refused).</p> <p>Appeal concerned length of sentence.</p> <p>At [75] The appellant's offending was very serious. ... The appellant embarked on a 400 km journey at night on a country road. ... The appellant did not have a valid MDL. ... When she embarked on the journey and during the journey [she] knew that she was fatigued. ... The appellant fell asleep two or three times while she was driving and awoke when her vehicle was on the gravel shoulder of the road. ... The appellant's response to her fatigue was to intoxicate herself with methyl to such an extent as to make her incapable of having proper control of her vehicle. ... The appellant drove for long periods while she was, to her knowledge, fatigued or intoxicated by methyl and therefore not in a fit state to have proper control of her vehicle.</p> <p>At [80] In our opinion, the sentence ... was commensurate with the seriousness of the offence. ... The sentence is not manifestly excessive.</p>

		<p>assistance friends, acquaintances, cash employment.</p> <p>Completed equivalent of yr 12 and 2 yr apprenticeship in disability support work.</p> <p>Dysfunctional on/off five yr relationship; subjected to emotional, psychological and physical abuse; no dependants.</p> <p>History of depression and anxiety.</p> <p>Experimented variety of illicit drugs; however no protracted or entrenched history of substance abuse.</p>	<p>Lyons failed to negotiate a sweeping bend and drove onto the incorrect side of the road, colliding with the victim's vehicle head-on.</p> <p>The victim sustained life-threatening injuries. He was airlifted to hospital and died from his injuries.</p> <p>Analysis of Lyons blood showed it contained 0.36 mg per litre of methyl and 0.03 mg per litre of amphetamine. Also located in her vehicle was a clicheal bag containing methyl.</p>		
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