Possess methylamphetamine/amphetamine with intent to sell or supply (below 28 g)

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

From 1 January 2021

Glossary:

att	attempt
agg	aggravating
conc	concurrent
cum	cumulative
ct	count
EFP	eligible for parole
imp	imprisonment
MDL	motor drivers licence
MDMA	3,4-Methylenedioxy-n, Alpha Dimethylphenylethylamine (Ecstasy)
methyl	methylamphetamine
OMG	outlaw motorcycle gang
PCJ	pervert the course of justice
PG	plead guilty
poss	possession
SIO	suspended imprisonment order
susp	suspended
SW	search warrant
TES	total effective sentence
UCO	undercover officer
VRO	violence restraining order
wiss	with intent to sell or supply

Weight of methyl/amphetamine: 3 – 28 grams

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
10.	***NG v The State of Western Australia*** **[2025] WASCA 121** Delivered 13/08/2025	26 yrs at time offending. 30 yrs at time sentencing. Convicted after PG (5% discount). No criminal history prior to offending; minor drug offending after arrest. Born in Singapore; moved to Australia at 3 yrs of age; professional parents; stable home; supportive family. Completed an undergraduate degree; almost completed Master of Nursing Practice at time offending. Gainfully employed throughout most of adult life; later worked with parents after arrest. In a relationship at time offending. Suffers from severe anxiety. Used MDMA 3-4 times per week.	Ct 1: Poss MDMA wiss (68.54 g at 79%–82% purity). Ct 2: Poss cocaine (3.11 g at 49% purity). Ct 3: Poss dexamphetamine wiss (99.5 g at 2.5% purity). Ct 4: Poss methyl (12.18 g at 77%–82% purity). After a police SW at the appellant's home, police located 68.54 g of MDMA (ct 1). The MDMA was found in a cardboard box, in the appellant's – locked – bedroom. The carboard box also contained a set of digital scales. Police also found a shoe box containing numerous empty clipseal bags; a brown carboard box containing two clipseal bags, which contained 2.63 g and 0.47 g of cocaine respectively; drug paraphernalia and a small clipseal bag containing 0.01 g of cocaine (ct 2). Inside the appellant's walk-in robe, police located a gold box containing five bottles of dexamphetamine tablets (ct 3). Inside the pocket of a leather jacket hanging in the walk-in robe, police located 12.18 g of methyl within numerous clipseal bags (ct 4).	Ct 1: 2 yrs 6 mths imp (cum) Ct 2: 1 mth imp (conc) Ct 3: 1 yr 9 mths imp (cum). Ct 4: 2 yrs 9 mths imp (cum). TES: 7 yrs imp. EFP. The sentencing judge found that the appellant was a low-level polysubstance dealer. The appellant had been engaged in dealing for a 'period of time' and was selling drugs on a commercial basis. There was a greater element of commerciality in respect of count 4 because the appellant was not a user of methyl. The offending was found to have been 'out of character'. The sentencing judge found that the appellant was remorseful and that there were reasonable prospects of continuing rehabilitation.	Appeal allowed. Appeal concerned first limb of totality principle and the length of the sentence imposed on ct 3. Resentenced: Ct 1: 2 yrs 3 mths imp (cum) Ct 2: 1 mth imp (conc) Ct 3: 1 yr 9 mths imp (conc). Ct 4: 2 yrs 9 mths imp (cum). TES: 5 yrs imp. EFP. At [73] ' … the purity of the dexamphetamine was not referred to by the sentencing judge in his remarks. However, there is no requirement to expressly refer to every relevant sentencing factor and it cannot be assumed that purity was not taken into account merely because it was not referred to.' At [74] 'this ground amounts to a contention that the sentence imposed on count 3 is not consistent with due regard being paid to the purity of dexamphetamine. In substance, this is an assertion that the sentence on that count was manifestly excessive when regard is had to the circumstances of the offence, including the purity of the dexamphetamine.' At [75] 'the difficulty with a manifest excess argument based on purity alone is that it is not apparent that the purity in this case was unusually low for this type of drug. Dexamphetamine is commercially produced in 5 mg tablets and illicit use involves commercially produced tablets. Other cases involving dexamphetamine do not refer to the purity and in the absence of that information, it cannot be assumed that those cases involved the drug at any different level of purity to this case.' At [77] 'it is not apparent that the sentence imposed on count 3 is manifestly excessive, taking into account the maximum penalty for the offence, the circumstances of the offending, the personal circumstances of the appellant, and the limited guidance afforded by comparable cases. That assessment takes into account the purity of the dexamphetamine.'

					At [99] 'the appellant was a low-level user-dealer of MDMA and dexamphetamine. The relatively low-level nature of that activity is reflected in: the quantities of those drugs possessed by the appellant, the indicia of drug dealing, the cash found at his house, and the messages found on his mobile telephone. His possession of those drugs had to be viewed in the context of that ongoing dealing. The value of the drugs was also indicative of the relatively low level of dealing in which the appellant was engaged. The total street value of the drugs was less than $20,000, and most of that was attributable to the methylamphetamine, a drug in which the appellant was not regularly dealing.' At [100] 'the appellant was not a user of methylamphetamine. The possession of that drug appears to be part of a one-off transaction. There was nothing in the mobile telephone messages to suggest any prior dealing in methylamphetamine. Nonetheless, it was accepted that he intended to sell the drug for profit.' At [101] 'all of the drugs were located in the same place at the same time. Clearly, they formed part of the same course of criminal conduct.' At [104] 'as regards personal circumstances, the appellant had no prior criminal record. He was found to be remorseful, with good prospects of rehabilitation. He had undertaken tertiary studies, been gainfully employed and had the support of his family.' At [105] 'the comparable cases relied on for totality purposes suggest that the total effective sentence in the present case was very high.' At [110] 'having regard to all of the circumstances of the offending and the appellant's personal circumstances, and all relevant sentencing factors; we have concluded that the total effective sentence of 7 years' imprisonment was disproportionate to the overall criminality of the appellant's offending. It did not properly reflect the appellant's role as a low-level user-dealer. The total effective sentence was unreasonable or plainly unjust.'
9.	***The State of Western Australia v Tulloch*** **[2025] WASCA 17** Delivered 29/01/2025	26 yrs at time offending. 28 yrs at time sentencing. Convicted after PG (25% discount). Significant criminal history; numerous traffic offences; crim damage; receiving stolen property; multiple stealing offences; multiple breach of FVRO; breach of bail; poss controlled weapon; breach SIO;	Ct 1: Poss methyl wiss (14.48 g at .3–70% purity). Ct 2: Poss unlawfully obtained property $610. Ct 3: Poss unlawfully obtained property. Ct 4: Ready access to an offensive weapon and a prohibited drug. Ct 5: With intent to harm, did an act which life health or safety of a person was likely to be endangered. Ct 6: Poss altered firearm without a licence.	Ct 1: 12 mths imp (cum). Ct 2: 4 mths imp (conc). Ct 3: 1 mth imp (conc). Ct 4: 4 mths imp (conc). Ct 5: 4 yrs 6 mths imp. Ct 6: 4 mths imp (conc). TES: 5 yrs 6 mths imp. EFP. The sentencing judge found that the respondent was a user-dealer of methyl.	Appeal allowed. Appeal concerned length of sentence on ct 5, discount given pursuant to s 9AA, length of sentence on ct 1, and the first limb of the totality principle. Resentenced: 15% discount for cts 1, 2 and 4; 25% discount for counts 3, 5 and 6. Ct 1: 1 yr 4 mths imp (cum). Ct 2: 6 mths imp (conc). Ct 3: 1 mth imp. (conc)

		poss drug paraphernalia; and assault. Difficult upbringing; both parents inflicted physical violence upon him as a child; father was often drunk; at times there was no food in the house. Struggled at school; completed yr 10; worked intermittently as a bricklayer. Diagnosed ADHD at 4–5 yrs old; diagnosed severe conduct disorder at 9–10 yrs old.; reached the criteria for antisocial personality disorder. Used alcohol and cannabis from 8 yrs old; cannabis daily from 11 yrs; methyl use at 13 or 14 yrs old. One domestic partner who was supportive of him; one child born during the respondent's time in custody.	<u>Ct 1</u> The respondent was under observation by police at his premises. The respondent entered a motor vehicle and reversed it down the driveway. Police intercepted the vehicle and arrested the respondent. A search of the respondent's car revealed 14.48 g of methyl. <u>Ct 2 & 3</u> Police also located $610 in cash and a driver's licence in the name of another person on which the respondent had laminated his own photograph over that of the other person. <u>Ct 4</u> A large tomahawk was located in the rear passenger footwell of the vehicle. <u>Ct 5 & 6:</u> Whilst on bail, the respondent was part of an escalating feud with JS. It was alleged by the respondent that JS had made threats to the respondent and his family. After a short confrontation between JS, a witness, the respondent and his brother, JS drove away in a vehicle to avoid a confrontation. The respondent and his brother pursued JS on their motorcycles. After JS had stopped his vehicle, the respondent and his brother parked their motorcycles on either side of JS, blocking his path. The respondent dismounted and produced a cut-down firearm. The respondent and his younger brother forced the vehicle's door open	The sentencing judge found that the respondent had known JS for more than 10 years, and the alleged threats were made many months before the offending. The sentencing judge found that the respondent did not initially intend to shoot JS. But rather, the respondent decided to shoot JS after the assault had ended. The offending had a severe impact on the victim; moved to Melbourne fearing further attacks; remains hypervigilant and has trouble sleeping. The sentencing judge found that the respondent displayed limited remorse, and demonstrated insight into the wrongfulness of his conduct.	Ct 4: 6 mths imp (conc). Ct 5: 6 yrs 2 mths imp. Ct 6: 4 mths imp (conc). TES: 7 yrs 6 mths imp. EFP. At [89] 'we are satisfied … that his Honour's conclusion that the pleas of guilty on [counts 1–4] were entered at the first reasonable opportunity was erroneous.' [90] '… [the date of the plea of guilty] was more than 17 months after the respondent's first appearance on counts 1, 2 and 4 and at the ninth committal mention … As at 2 February 2022, the respondent knew all of the factual elements of counts 2 and 4. He was present on 2 December 2021 when police searched his vehicle and found the $610 cash and the tomahawk. The respondent knew the source of the $610 cash. The respondent knew the purpose for which he possessed the tomahawk. Accordingly, the respondent's delay in pleading guilty to counts 2 and 4 was not attributable to any absence of knowledge of the facts that comprised the elements of those offences … the respondent knew all of the factual elements of count 1 for at least about five months before he entered the plea of guilty on that count … In our opinion, on an objective appraisal of the facts and circumstances, it was not reasonable, for the purposes of s 9AA, for the respondent not to enter or indicate pleas of guilty on [counts 1–4] while he pursued negotiations with the State on the attempted murder charge.' At [102] 'in the present case, the very serious character of the respondent's offending on count 5 is apparent from our summary of the facts and circumstances of the offending and the sentencing judge's sentencing remarks.' At [103] 'it is necessary, in determining whether the respondent's sentence for count 5 is manifestly inadequate, to consider, amongst other things, the nature and seriousness of the respondent's intent to harm; the nature and seriousness of the respondent's act which resulted in JS's injuries; the nature and seriousness of JS's injuries; and the potential (as distinct from actual) consequences of the respondent's conduct.' At [104] 'although the respondent may not have intended to shoot JS when the incident began, he had armed himself with a loaded firearm and shot JS after the assault upon JS had ended. The respondent intended that JS should be struck by the bullet. His Honour found that the respondent's motive was to teach JS a lesson. The respondent shot JS because he had a grievance against him arising from their pre-existing feud. The respondent's act was a form of vigilantism and a

			and began assaulting JS. JS attempted to apologise and eventually the assault ended. The respondent then walked around the front of the vehicle, pointed the firearm through the open window and discharged a single round. The bullet passed through JS's upper right arm.		gratuitous act of violence.' At [107] 'the discharge of the firearm at close range, in the context of a firearm that was inaccurate, demonstrated that the respondent's act had the potential to result in more serious injuries for JS than in fact occurred. The risk to JS included the possibility of a permanent physical disability or even death.' At [108] 'after the respondent shot JS, he fled the scene. He made no effort to secure medical treatment for JS.' At [109] 'the respondent was in company when he committed count 5. The circumstances of the commission of the offence would have been frightening for JS. The respondent was not youthful for sentencing purposes.' At [110] 'there were some mitigating factors. The respondent pleaded guilty. There was some limited remorse. The respondent had evinced insight into the wrongfulness of his conduct and had taken some action to address the causes of his offending behaviour.' At [124] 'in the present case, the respondent's offending on count 1 was serious. The respondent was a dealer as well as a user of methylamphetamine. He was selling the drug for commercial gain.' At [128] 'in our opinion, the sentence of 12 months' immediate imprisonment for count 1 is not broadly consistent with the pattern of sentencing revealed by previous decisions of this court with at least some features comparable to the facts and circumstances of the respondent's offending and his personal circumstances and antecedents.' At [138] 'in our opinion, the total effective sentence of 5 years 6 months' imprisonment was not commensurate with the seriousness of the respondent's offending considered as a whole.'
8.	***Walker v The State of Western Australia*** **[2024] WASCA 153** Delivered 10/12/2024	30 yrs at time offending. 31 yrs at time sentencing. Convicted after PG (25% discount). Minor criminal history. Youngest of four siblings; loving and supportive family; family remain supportive. Completed yr 12 at school; attended boarding school on a	18 x Offer to sell methyl (totalling 14.4 g). 1 x Offer to sell cocaine 1 g. 1 x Poss methyl wiss 27.2 g at 70% purity. Police lawfully intercepted the appellant's mobile phone, resulting in an awareness he was travelling with prohibited drugs. Police intercepted the appellant's vehicle and located a package containing methyl in his partner's	Poss methyl: 3 yrs 4 mths imp. Offer to sell cocaine: 3 mths (conc). Offer to sell methyl: 9 mths (cum). TES: 4 yrs 1 mths imp. EFP. Sentenced as a lower mid-level dealer. The sentencing judge found that the appellant had an established network of people to whom he would sell and supply drugs. He was selling quantities between a point and	Appeal dismissed (leave refused on all grounds). Appeal concerned length of sentence for poss methyl; first limb of totality principle; and a contention that if the subsequent psychiatrist's report was before the sentencing judge, a lower sentence would have been imposed. At [49] 'the major sentencing considerations for offences of dealing or trafficking in 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 importance. Other matters to be taken into account include the nature and level of the offender's participation in drug dealing or trafficking within a particular organisation, or

		sporting scholarship. Qualified boilermaker; previously employed by a large mining company; resigned shortly before sentencing. Diagnosed depression; bipolar disorder; taking medication at time sentencing. Substance use from 29 yrs; used prohibited substances as a crutch to manage his decline in mental health. A further report produced after sentence opined that there was a likelihood that the appellant's stress and anxiety were consistent with PTSD; the appellant suffered from ADHD; the PTSD and ADHD caused the appellant's drug use; and the appellant had five major suicide attempts.	pants. The package contained 27.2 g of methyl. After the appellant's arrest, police analysed the communications that had been intercepted on the appellant's mobile phone. They identified the transactions the subject of cts 1 to 19.	3.5 g. The sentencing judge found that the appellant's mental health issues provided relevant context for the offending. It was not submitted at the sentencing hearing that there was a causal link between the appellant's mental health and the offending. Appellant was attending sessions with a psychiatrist and a mental health coordinator with a view to develop more appropriate coping mechanisms. The appellant had abstained from taking drugs during leading up to sentencing.	generally, and whether the offending was committed for commercial gain. The degree of purity is often regarded as significant. Matters personal to an offender will almost always be subsidiary considerations, but they are not completely irrelevant.' At [50] 'the facts and circumstances of the appellant's offending [for the poss methyl wiss offence] were very serious. The quantity of methylamphetamine was significant. It was only marginally less than a trafficable quantity… The offence was committed in the context of the appellant carrying on a successful drug dealing business. The profit he derived did not merely finance his own drug use. His activities produced a substantial commercial gain.' At [51] 'there were, of course, a number of mitigating factors. The appellant pleaded guilty at the first reasonable opportunity… He had a very good employment history … The appellant had significant mental health issues which he had taken steps to address…he abstained from taking prohibited drugs. This was a positive sign for rehabilitation.' At [52] 'the appellant's reliance upon ***Tran*** is misplaced.' At [55] 'in our opinion, the sentencing range formulated by Miller AJA in ***Bosworth*** and adopted in ***Tran***, namely that, in cases involving quantities of methylamphetamine of between 3 g and 65 g, sentences (converted in accordance with post-transitional provisions) have ranged between 2 and 5 years' imprisonment, is not a reliable guide to current sentencing patterns.' At [56] 'sentencing decisions of this court in reasonably comparable cases since ***Tran*** demonstrate that the sentence imposed on the appellant for count 20 was not manifestly excessive.' At [61] 'in our opinion, the sentence of 3 years 4 months' immediate imprisonment imposed on the appellant was commensurate with the seriousness of the offence.' At [67] 'in our opinion, it was necessary to order that some of the appropriate individual sentences for counts 1 to 19 be served cumulatively upon the appropriate individual sentence for count 20 in order to ensure that the total effective sentence imposed on the appellant was commensurate with the seriousness of his overall offending.' At [68] 'in our opinion, the total effective sentence of 4 years 1 month's immediate imprisonment did not infringe the first limb of the totality principle. A custodial term of that length was required in order properly to mark the serious character of the appellant's offending as a whole, and to give effect to all relevant sentencing considerations.'

					At [80] ‘although there was some information in [the later psychiatrist’s report] that was not before the sentencing judge, the additional material provided … was not significantly different from the material before her Honour. Nothing in [the] report established a causative link between the appellant’s mental health issues and his offending.’
7.	***Sharp v The State of Western Australia*** **[2023] WASCA 142** Delivered 04/10/2023	32 yrs at time sentencing. 30–31 at time offending. Convicted after PG (20% discount). Extensive criminal history; drug, violence, traffic, and property offences. Born in WA; only child; parents separated; did not get along with his step-father. Left school after completing yr 9; frequently truant and involved in fights. Worked in various trade roles; owned his own business before it deteriorated; unemployed since 2018. Used cannabis and alcohol from 16 yrs; significant family history of addiction; methyl use since 2018; limited motivation to address substance use. One significant relationship; two children; relationship deteriorated due to drug use.	Ct 1: Att supp methyl 27.85 g at 80% purity. Ct 2: Att supp cannabis 23.41 g. Ct 3: Fail to obey data access order. The appellant threw two tennis balls into the Yongah Hill Detention Centre. Each of the tennis balls had been wrapped in tape and had lighters attached to them. The first tennis ball contained 13.82 g of methyl and 12.07 g of cannabis. The second tennis ball contained 14.03 g of methyl and 11.34 of cannabis. The appellant’s DNA was located inside the plastic clip seal bags in which the drugs were packaged. A SW at the appellant’s house resulted in another tennis ball being found. Police also located a mobile phone which the appellant refused to provide the access code to. The appellant was served a data access order. The appellant failed to provide police with the information necessary to access the mobile phone.	Ct 1: 4 yrs imp. Ct 2: 18 mths imp (conc). Ct 3: 6 mths imp (cum). TES: 4 yrs 6 mths imp. The sentencing judge described the offending as very serious. The appellant attempted to introduce illicit drugs into a detention centre. The sentencing judge found that the appellant’s criminal history meant that specific deterrence was an important sentencing factor. The sentencing judge accepted that the appellant’s addiction made him more vulnerable to being taken advantage of; however, the appellant offended for personal gain — the supply of drugs.	Appeal dismissed (leave refused). Appeal concerned first limb of totality principle. At [35] ‘that this was an attempt to introduce drugs into a detention centre was a significant aggravating factor…There is an obvious risk that illicit drugs will … create the risk of violence and further offending within a confined environment.’ At [36] ‘the appellant’s role was not limited to merely throwing the drugs over the detention centre fence. The presence of his DNA on the packaging inside the tennis balls indicated that he was involved in the packaging exercise.’ At [37] ‘the failure to comply with the data access order was itself a serious offence. The sentencing judge was correct to view this as separate offending deserving of additional punishment. This court has noted in the past that unless those whole fail to comply with data access orders receive some additional punishment there will be no effective incentive to comply.’ At [40] ‘… it is not reasonably arguable that the overall total effective sentence of 4 years and 6 months’ immediate imprisonment is plainly unreasonable or unjust.’
6.	***Wade v The State of Western Australia*** **[2022] WASCA 68** Delivered 21/06/2022	31 yrs. at time sentencing. Convicted after PG (20% discount ct 1 & 25% discount ct 2). Significant prior criminal history; prior drug offending. Dysfunctional childhood; very young when father committed	Ct 1: Poss methyl wiss 9.71 g. Ct 2: Poss unlawfully obtained property ($112,750 cash). A SW was executed at Wade’s home. During the search $2,000 cash and 2.99 g of methyl was located in the lounge room. A further 0.43 g of methyl was found in another room.	Ct 1: 2 yrs 3 mths imp (cum). Ct 2: 15 mths imp (cum). TES 3 yrs 6 mths imp. EFP. The sentencing judge found that a term of imp was the only appropriate disposition; not sentenced on the basis that the money was the proceeds of his own sale of methyl.	Dismissed – on papers - leave refused. Appeal concerned length of sentence ct 1 and totality principle. At [16]-[17] There is no merit in the appellant’s contention that the sentence of … imp in respect of ct 1 was manifestly excessive. The individual sentence represents only 9% of the available max term of imp. … Further, the sentence imposed on the appellant is broadly consistent with customary sentencing standards for drug offences of the present kind. …

		suicide; mother subsequently lived unsettled nomadic lifestyle; lived between mother's care and foster care from aged 6 mths. Living my himself aged 13 yrs. Left school yr 8. Completed trade apprenticeship and certificate in business management. Good employment history. Stable 3 yrs relationship. Sporadic methyl use from young age; at times using 1.7 g per day.	Also located, buried under pavers in the backyard inside a large container, was 6.29 g of methyl and $110,750 in cash stored in cryovac packages. An encrypted cypher mobile phone was also found, along with smoking implements, a cryovac machine and associated packaging. Wade admitted the items, other than the mobile phone, were his. He was going to use some of the 9.71 g of methyl, share some with other people and sell some. He was 'warehousing' the money found in the backyard, which was destined for other people.		At [19] … While the offences were detected at the same time, the poss of the methyl concerned a separate criminal activity to the poss of the cash. The appellant was in poss of the methyl for the purpose of using and distributing the drug. He was sentenced on the basis that the money buried in his backyard was not his and was not the product of his drug dealing. Rather, the appellant was storing money reasonably suspected of being the result of drug distribution by other persons. The amount being stored was over $110,000. Given the qualitatively different nature and order of the criminality involved in the two offences, at least some accumulation of the sentences was appropriate.
5.	***ENW v The State of Western Australia*** **[2021] WASCA 213** Delivered 15/12/2021	35 yrs at time offending. 38 yrs at time sentencing. Prior criminal history; numerous drug offences; no previous sentences of imp. Convicted after PG (10% discount) (25% discount for assistance provided). Childhood adversely affected by trauma. Exposed to a number of tragic events as an adult. Completed high school; some TAFE studies. Employed in hospitality until birth of first child in her early 20s; son now aged 17 yrs. Second child to current partner born 2021; care of her baby while in custody; imp significant impact on her children and elderly parents.	1 x Poss methyl wiss 22.44 g at 74% purity. Police executed a SW at ENW and her partner's home. When police arrived ENW's partner told her there was a bag of methyl in the bedroom, but he was uncertain as to its exact location. ENW att to find the bag to assist him to hide it more securely. During the search police located the bag, containing 20.8 g of methyl. A second clipseal bag containing 0.64 g of methyl was also found. Two digital scales and clipseal bags with a white residue were also found. Forensic analysis of the clipseal bag containing the 20.8 g returned a DNA match to ENW's partner. ENW's DNA was not found on the bag. ENW falsely informed police the drugs were hers.	12 mths imp. EFP. The sentencing judge found the appellant was 'momentarily' in joint possession with her partner of the big bag of methyl; she aware her partner was engaged in dealing drugs and, while she was not involved in aiding him in his drug dealings, she permitted him to use her mobile telephone from time to time in connection with his drug dealing business and she benefited from his drug dealing by receiving from time to time small quantities of methyl for her own use. The sentencing judge found it was not appropriate to suspend the term of imp. Remorseful; accepting of responsibility for her offending; engaged in and positive response to counselling.	Allowed. Appeal concerned type of sentence. Resentenced: 15 mths imp, conditionally susp 12 mths. At [68] … a term of imp to be served immediately was not the only appropriate sentencing option in relation to the appellant and the offence she committed; and … the appellant's case is, as a matter of fact, exceptional. At [69]-[72] … the appellant's joint possession with her partner of the big bag of methyl was fleeting. She did not at any time have physical possession of the drugs. Her unfulfilled intention, for less than one minute, was to take control of the drugs and hide them from the police. … before the police arrived at the appellant's home to execute the SW, the appellant was unaware of the existence of the big bag of methyl. … the appellant's offending was very unusual having regard to what she did and what she did not do in relation to the big bag of methyl, including the very short period of her offending conduct and the very short period that she was aware of the existence of the drugs. … Further, it appears that [she] was not aware of the full extent of her partner's drug dealing. …

		History of drug use; not used methyl since becoming pregnant September 2020.			
4.	***Croxford v The State of Western Australia*** **[2021] WASCA 159** Delivered 06/09/2021	43 yrs at time offending. 44 yrs at time sentencing. Convicted after early PG (25% discount). Criminal history; prior drug offending. History of childhood trauma and abuse; under psychiatric care and treatment at various times from aged 12 yrs; multiple periods of hospitalisation. Resides alone, shares care of her teenage son; able to live independently with considerable assistance from her parents; parents remain supportive; provided with some assistance by NDIS. Some time in the workforce; recent yrs in receipt of a disability pension. Diagnosed with ADHD and Borderline Personality Disorder; 1998 acquired brain injury resulting from overdose; number of medical conditions including depression and asthma; experiences debilitating pain and stiffness as a result of rheumatoid arthritis. Lengthy history of illicit drug use commencing at early age; including heroin and methyl.	1 x Poss methyl wiss 4.04 g. Croxford was a passenger in a motor vehicle stopped by police. The vehicle and its occupants, including Croxford, were searched. A water bottle with a hidden compartment, scales and a large quantity of clipseal bags were found in the vehicle. These items belonged to the driver. Also located was $25,800 in cash in the possession of another occupant of the vehicle. Croxford and the other occupants of the vehicle were conveyed to a police station. There, Croxford gave police three clipseal bags she had concealed down the front of her pants. The bags contained 4.04 g of methyl. Croxford told police she used methyl as a medication for her arthritis and was stocking up on the drug because it was very hard to get. Later examination of Croxford's mobile tablet showed messages that revealed, in the period leading up to the offence, she was engaged in low-level drug dealing.	9 mths imp. EFP. The sentencing judge found the offending so serious that only a term of imp was warranted; the offending could not be viewed as an uncharacteristic aberration. The sentencing judge accepted imp would be more difficult for the appellant due to her physical and mental impairments. Some remorse and acceptance of responsibility for the offending; undertaken rehabilitation.	Allowed. Appeal concerned error of fact (sentenced on erroneous basis low-level dealer for profit). Resentenced (25% discount): 8 mths imp. EFP. At [50] … While by no means as serious as many other cases of its type, the appellant's offending conduct was serious. It is clear from the Facebook messages which were downloaded from the appellant's mobile tablet that she was involved in the sale or supply of small quantities of methyl to others over a period of time. In other words, the offending was not an isolated occurrence. … At [51] … Her low-level drug dealing was not motivated by the desire to make a profit. Of the 4.04 g she possessed, 3.1 g was being temporarily held by her … The balance would have been partly used by the appellant and partly sold at cost price to friends. … Her mental disabilities reduced her moral culpability. … The appellant's mental and physical disabilities, including brain damage, have consequences which make imp more difficult to her.
3.	***Turner v The State of Western Australia*** **[2021] WASCA 132**	27 yrs at time offending. 28 yrs at time sentencing. Convicted after very late PG (5% discount) – TOI to resolve dispute as to appellant's intent to sell or supply.	Ct 1: Poss MDMA wiss 8.57g at 85% purity. Ct 2: Poss cannabis wiss 362.45 g. Ct 3: Poss methyl wiss 4.96g at 80% purity. Turner was stopped by police driving a	Ct 1: 18 mths imp (cum). Ct 2: 2 yrs 8 mths imp (conc). Ct 3: 3 yrs 6 mths imp (cum). TES 5 yrs imp. EFP.	Allowed (length of sentence ct 2). Appeal concerned length of individual sentences and totality principle. Resentenced (5% discount):

	Delivered 28/07/2021	Criminal history; no prior drug offences. Parents separated when aged 18 yrs. Completed yr 10 high school. Became father aged 17 yrs; separated from son's mother shortly after his birth. Consistent work history; gardener and handyman. Regular user of illicit drugs; taking and sharing drugs with friends a normal way of life.	vehicle. His 10-yr-old son was a passenger in the vehicle. A search of the vehicle located four vacuum sealed bags containing 41.88g; 280g; 26.4g and 14.07g of cannabis. In a further vacuum sealed bag 8.57g of MDMA was located. In a clip seal bag 4.96g of methyl was found.	The sentencing judge found at the TOI that the appellant was a mid-level user/dealer; while some of the drugs were for his personal use, he intended to sell or supply the majority of the drugs. The sentencing judge found immediate imp was the only appropriate sentence. Not remorseful; some credit given for limited cooperation.	Ct 1: 12 mths imp (cum). Ct 2: 10 mths imp (conc). Ct 3: 2 yrs 10 mths imp (cum). TES 3 yrs 10 mths imp. EFP. At [23]-[24] … The element of commerciality involved in the offending was limited. … However, the offending was not fleeting, unplanned or out of character. The appellant engaged in a course of distributing three different types of prohibited drug. While he dealt with drug users known to him, he did so regularly and to some extent for commercial gain. It was an aggravating feature of the offending that the appellant's 10-yr-old son was present in the vehicle [he] used to transport the prohibited drugs. At [27] … the sentence … imposed … for the cannabis offence is so far in excess of that which is properly capable of being regarded as commensurate with the seriousness of the cannabis offence so as to drive us to the conclusion that the sentence is manifestly excessive, notwithstanding that it is to be served conc with other sentences.
2.	***Pearman v The State of Western Australia*** **[2021] WASCA 106** Delivered 22/06/2021	34 yrs at time sentencing. Late PG (10% discount). Modest criminal history. Born UK; emigrated to Australia with parents aged 17 yrs. Challenging childhood; domestic violence; poor maternal attachment; bullying and physical and emotional and sexual victimisation; emotionally vulnerable. Estranged from family. Completed equivalent of yr 10 high school. Employed various low-level positions; ability to work affected by drug use. Two sons; aged 13yrs and 10 yrs; no or limited contact with her children.	Ct 1: Poss methyl wiss 13.38 g. Ct 2: Poss unlawfully obtained property ($2,280 cash). In the early hrs of the morning police stopped and searched a motor vehicle, of which Pearman was the only occupant. Methyl was located in two clip-seal bags in Pearman's purse. Also located was $2,280 in cash. In the vehicle police also found empty clip-seal bags, electronic scales, measuring straws, a 'tick list' and a mobile phone with messages evidencing the sale of illicit drugs. Pearman had been selling drugs for a number of months in order to fund her own drug habit.	Ct 1: 2 yrs 4 mths imp (conc). Ct 2: 6 mths imp (conc). TES 2 yrs 4 mths imp. EFP. The sentencing judge found the offending was not isolated, but rather was part of an ongoing course of selling methyl for profit. Accepting of responsibility; remorseful; wished to mend her ways.	Dismissed – on papers. Appeal concerned length of sentence. At [12] Given the general sentencing principles as to the appropriate type of sentences for serious drug offence … the conclusion that a term of immediate imp was the only appropriate sentence was inevitable in the present case. Nor can it reasonably be argued that the length of the sentence imposed in this case was not broadly consistent with customary sentencing standards for offending of this kind. At [19] … The sentence imposed … is a moderate sentence, … In all of the circumstances of this case, it is not reasonably arguable that a sentence of less than 2 yrs 4 mths' immediate imp would be commensurate with the seriousness of the drug offence of which the appellant was convicted.

		Illicit drug use. Chronic mental health challenges.			
1.	***O'Malley v The State of Western Australia*** **[2021] WASCA 8** Delivered 14/01/2021	35 yrs time offending. 36 yrs at time sentencing. Convicted after PG (20% discount). Lengthy criminal history; prior convictions for drug offending. Completed yr 10 high school; Certificate 3 in Warehousing and Distribution. Employed as a mechanic and spray-painter; more recently his own automotive and bodywork business. Child from prior relationship; current partner young daughter and expecting a baby early 2021. History of illicit drug use; cannabis use early teens; methyl in his twenties; using methyl daily in his thirties. Suffers coeliac disease; treated with diet; otherwise in good physical health.	1 x Poss methyl wiss 26.49 g at 78% purity. O'Malley drove from Geraldton to Perth and purchased a quantity of methyl for $4,800. The methyl was jointly purchased by him and two others. On the return journey O'Malley was stopped by police. A search located 2.6 g of methyl contained within two small bags in his pants and 23.8 g of the drug in the boot of his car. A search of O'Malley's home located smoking implements, digital scales, unused clipseal bags and one clipseal bag with methyl in it. O'Malley claimed the methyl discovered was for his personal use.	3 yrs 6 mths imp. EFP. The sentencing judge found the appellant's offending was 'really to sustain his drug habit'; by the appellant's own admission he intended to distribute two lots of methyl (approx 8.3 g) to each of his co-purchases; he was to make a profit measured more in terms of the actual drug itself than in dollar notes by getting a one-third share of the drug at a heavily discounted price. Steps taken towards rehabilitation; alcohol and drug counselling; self-reporting to a psychologist.	Dismissed – on papers. Appeal concerned length of sentence. At [31] … The offence involved planning and organisation. It cannot be overlooked that the appellant intended to supply to each of his co-purchases approx 8.3 g of methyl. There remained a real risk that the drugs supplied to the co-purchasers would be further supplied into the community. Even if the methyl was to be used by the co-purchasers themselves, the drug's deleterious effect posed a significant risk to the health of the co-purchases and potentially a risk to the public, given the negative effect methyl has on the behaviour of many who consume it. At [32] Moreover, it cannot be said that the appellant did not obtain some commercial benefit for what he did. The appellant … profited in the sense that he got his one-third portion of the methyl at a heavily discounted price, even allowing for the expense of travelling to and from Perth.