

# **Murder, Attempted Murder** **And Attempt to Procure Another to Murder**

*ss 279, 283 and 556 Criminal Code and repealed murder provisions*

**From 1 January 2014**

Transitional Sentencing Provisions: The table is divided into two relevant periods of Sentencing Provisions:

- Post homicide amendments (post 1/08/08)
- Pre homicide amendments (pre 1/08/08)

## Glossary:

conc	concurrent
cum	cumulative
EFP	eligible for parole
imp	imprisonment
PG	plea of guilty
TES	total effective sentence
VRO	violence restraining order
Min	minimum
AOBH	assault occasioning bodily harm
TOI	trial of issues
Dep lib	deprivation of liberty

No	Case	Antecedents	Summary/Facts	Sentence	Appeal
16.	<p><i>McIntosh v The State of Western Australia</i></p> <p>[2017] WASCA 45</p> <p>Delivered 13/03/2017</p>	<p>34 yrs at time offending. 38 yrs at time sentencing.</p> <p>Convicted after re-trial.</p> <p>Prior criminal history; convictions of sex pen child under 16 yrs and breach of VRO.</p> <p>Raised by his mother; never known his father.</p> <p>Learning difficulties; disruptive at school; left in yr 9.</p> <p>Completed trade certificate and three years of a four year apprenticeship.</p> <p>Consistent work history; frequent employment changes.</p> <p>Father to five children; living with him at time of arrest.</p> <p>Long history of substance abuse; heavy alcohol and cannabis use from 16 yrs; recreational user of methyl.</p>	<p>1 x Murder.</p> <p>The deceased, Ms M, was a drug dealer and well known to the appellant and co-offender Hall. She supplied them both with drugs.</p> <p>The appellant and Hall met Ms M at a park and obtained methyl from her. During the transaction they became aware she had a large quantity of drugs and money.</p> <p>Shortly after returning to the appellant's home, both the appellant and Hall decided to meet Ms M again. They drove back to the park, where Ms M got into the front passenger seat of the appellant's van.</p> <p>At some point the appellant reached forward from his position in the back seat, placed a piece of wire around Ms M's neck and strangled her. After a struggle she lost consciousness.</p> <p>Believing Ms M was dead the appellant and Hall drove to a reservoir and dumped her close to the water's edge.</p> <p>They drove home and shared the drugs and money. The appellant burned some of Ms M's property and instructed Hall to dispose of it, which she did so.</p> <p>Several hours later Ms M's body was found in the water. She had either died of her injuries or</p>	<p>Life imp. Min non-parole period 20 yrs imp.</p> <p>Sentenced on the basis the appellant intended to inflict bodily harm and it was reasonably foreseeable this would cause death.</p> <p>The sentencing judge found the appellant's offending aggravated by the fact that after he attacked Ms M he 'so readily concluded that she was dead'; he did not seek medical assistance and took actions to cover up the offence.</p> <p>The appellant showed no remorse; continued to deny the offending.</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentence and parity.</p> <p>At [115] ... the murder committed by the appellant was ... a serious example of offending of that kind. The appellant attacked [Ms M] suddenly and unexpectedly. The attack was unprovoked. It was persistent and relentless. .... He dumped her body (at a time when she was, in fact, still alive) in the reservoir... The destruction of the items was part of an attempt to conceal his involvement in the murder.</p> <p>At [117] ... the objective seriousness of the appellant's offending, and the significant sentencing factors of appropriate punishment and general deterrence, precluded the imposition of a lesser min non-parole period.</p>

			drowned.		<p>At [123] The objective facts and circumstances of the appellant's involvement in the murder were significantly more serious than the facts and circumstances of Ms Hall's involvement. The appellant instigated the offending and strangled [Ms M]. ...</p> <p>At [124] Ms Hall confessed to the murder, assisted ... authorities and pleaded guilty.</p> <p>At [125] In addition to her lesser role in the offending, Ms Hall was remorseful.... If Ms Hall had not confessed and cooperated with the law enforcement authorities, the appellant and Ms Hall may not have been charged with the offence.</p>
15.	<p><i>Taylor v The State of Western Australia</i></p> <p>[2016] WASCA 210</p>	<p><u>Jones</u> 37 yrs at time sentencing. Convicted after trial. Extensive prior criminal history. Partner and father of two</p>	<p>1 x Murder.</p> <p>Jones and Taylor were camping in a recreational reserve. The toilet block at the site was known to be frequented by homosexual men for consensual casual sex.</p> <p>Jones armed with a metal pole and Taylor with a</p>	<p>Life imp. Min non-parole period 21 yrs imp.</p> <p>The sentencing judge found the offending was at 'the high end of the range of</p>	<p>Dismissed.</p> <p>Jones challenged min non-parole period.</p> <p>At [303] I am satisfied that the objective seriousness of Mr Jones' offending, and</p>

	<p>Delivered 30/11/2016</p>	<p>children.</p> <p>Deprived childhood, marked by violence.</p> <p>Left home at an early age and for a time lived on the streets.</p> <p>Completed yr 10 in juvenile detention.</p> <p>Long term drug and alcohol addiction.</p> <p><u>Taylor</u> (conviction appeal only) Taylor convicted of murder and sentenced to life imp. Min non-parole period 21 yrs imp.</p>	<p>knife, forced their way into a cubicle as the deceased was performing oral sex on Mr Y. Taylor assaulted the deceased, punching and kicking him until he was unconscious. Jones stood guard by the door.</p> <p>Jones struck the deceased several times in the head with the pole with great force.</p> <p>Mr Y was threatened with the knife and assaulted by both Jones and Taylor before running from the toilet block.</p> <p>The deceased regained consciousness walked from the toilet block and collapsed. He died from head injuries sustained during the attack.</p>	<p>seriousness of murders involving an intention to cause a life endangering injury' and that neither the deceased nor Mr Y had done anything to provoke the assaults.</p> <p>Jones had a lack of remorse and victim empathy and continued to deny his involvement in the offence.</p>	<p>the important sentencing considerations of appropriate punishment and personal and general deterrence, precluded the imposition of a lesser min non-parole period.</p>
14.	<p><b><i>Broadbent v The State of Western Australia</i></b></p> <p><b>[2016] WASCA 148</b></p> <p>Delivered 19/08/2016</p>	<p><u>Broadbent</u> 44 yrs at time sentencing.</p> <p>No relevant prior criminal history.</p> <p>Supportive family; 22 yr old daughter.</p> <p>Employed at time offending.</p> <p>Regular user of methyl and alcohol.</p> <p>No mental health issues.</p>	<p><u>Broadbent, Kosick and Young</u> 1 x Murder each.</p> <p>Broadbent had been in a violent and erratic relationship with the deceased.</p> <p>Broadbent and Kosick had been drinking alcohol and had consumed methylamphetamine and cannabis. Young was heavily drunk.</p> <p>Broadbent and Kosick planned to kill the deceased as a result of the deceased's abuse of Broadbent. Young did not know the deceased, Broadbent or Foster, but was a 'hit man wannabe'. He inflamed the group's unhappiness about the deceased. Kosick's former wife attempted to call</p>	<p><u>Broadbent and Young</u> Life imp. Min non-parole period 24 yrs imp.</p> <p>Sentencing judge found Broadbent without remorse.</p> <p><u>Kosick</u> Life imp. Min non-parole period 22 yrs imp.</p> <p>Sentencing judge found Kosick's crime</p>	<p>Dismissed.</p> <p>Appeals concerned parity and length of sentences.</p> <p>At [279] The critical point as regards culpability is that Ms Broadbent, Mr Kosick and Mr Young were parties to a plan to kill Mr Blenkinsopp. Each of them had an important role to play.</p> <p>At [280] ... after she was arrested Ms Broadbent</p>

		<p><u>Kosick</u> 40 yrs at time sentencing.</p> <p>Prior criminal history, including assault and making threats.</p> <p>Difficult childhood; parents separated when aged 6; grew up in a family where drug use the norm.</p> <p>Left school at yr 9; worked throughout life; receiving Centrelink pension at time offending.</p> <p>Previously married; two children.</p> <p>Suffers from PTSD.</p> <p>Heavy methyl user.</p> <p><u>Young</u> 53 yrs at time offending; 55 yrs at time sentencing.</p> <p>Serious criminal history, but no lengthy history of violence.</p> <p>Significantly disadvantaged as a child; no role model; limited family; raised in foster homes.</p>	<p>the deceased, but Kosick stopped her.</p> <p>Kosick drove Young and collected Young's rifle, ammunition, gloves and balaclava. He then drove them all in search of the deceased. Broadbent lured the deceased from the house he was at and to his death.</p> <p>Young shot the deceased three times. The deceased staggered onto the road where Kosick ran over him with such force that his head struck the windscreen, cracking the glass.</p> <p>The deceased was then taken to another location, shot in the head at close range by Young, and buried. Broadbent fired two shots into the grave.</p> <p>Young threatened to kill Kosick's former wife and her children if she did not help conceal the evidence. He stored his gun at her garage.</p> <p>The appellants' cleaned the car and replaced the cracked windscreen. They disposed of the seat covers and clothing. Kosick's former wife lent clothing to Broadbent.</p> <p>Broadbent lied twice to police before telling at least a version of the truth. Young denied the offence and became aggressive. Kosick initially deceived police, but later gave a version of events, minimising his involvement. Kosick also showed police the gravesite.</p> <p>Ryan Bradley, who was present earlier in the</p>	<p>rooted in methylamphetamine, not mental health.</p> <p>Sentencing judge reduced min non-parole period by 2 yrs to reflect Kosick's cooperation with the police.</p>	<p>became aware that Mr Bradley had made a comprehensive statement to the police. Ms Broadbent said to Kay Kosick, while they were in custody, that Mr Bradley 'is dead', and then repeated that threat in 'more graphic language' ... Both Mr Young and Ms Broadbent made threats in order to conceal what had occurred. There is no material point of distinction between them.</p> <p>At [290] A difference in gender is not, of itself, a factor that requires or justifies disparity.</p> <p>At [306] Mr Kosick was an enthusiastic participant in the plan.</p> <p>At [327] There were no material differences between Mr Kosick, on the one hand, and Ms Broadbent and Mr Young, on the other, either in relation to their role in the offending or in relation to matters of agg or</p>
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		<p>Educated to yr 11; completed an apprenticeship; gainfully employed all his adult life.</p> <p>Unstable mental state.</p> <p>Not a user of illicit drugs; binge drinker most of his life.</p> <p><u>Foster</u> Co-offender Foster was convicted of manslaughter and sentenced to 8 yrs imp. EFP.</p>	<p>night, gave a statement to police. While in custody, Broadbent threatened to kill Bradley.</p>		<p>mitigation, that required or justified greater disparity beyond the 2-yr reduction that Mr Kosick received because he led the police to the gravesite.</p>
13.	<p><b><i>Corbett v The State of Western Australia</i></b></p> <p><b>[2016] WASCA 97</b></p> <p>Delivered 15/06/2016</p>	<p>28 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Significant criminal history, including offences of violence.</p> <p>Dysfunctional up-bringing; exposed to violence and substance abuse.</p> <p>Learning difficulties; bullied at school; educated to yr 10.</p> <p>Brief periods of employment; unemployed at time offending.</p> <p>History of violent relationships.</p> <p>Entrenched history of drug and alcohol abuse.</p>	<p>1 x Murder.</p> <p>The appellant and the deceased had been in a troubled and violent relationship for some time.</p> <p>The deceased was an 18-year-old female. The appellant was significantly taller and heavier than the deceased.</p> <p>The deceased was at the appellant's home where they both consumed methamphetamine. The appellant also consumed cannabis.</p> <p>At some point the appellant became enraged and hit the deceased repeatedly, over a prolonged period of time. The blows were not inflicted with a weapon.</p> <p>The deceased suffered multiple injuries to her head and neck, arms and trunk, including fractured ribs.</p>	<p>Life imp. Min non-parole period of 18 yrs imp.</p> <p>The sentencing judge found that the appellant intended to cause serious injury.</p> <p>The sentencing judge did not consider there to be a large difference between the intention he found and an intention to cause death.</p> <p>Remorseful; high risk of violent re-offending.</p>	<p>Dismissed.</p> <p>At [105]-[109] Discussion of comparative cases.</p> <p>At [110] Although not in the most serious category, the current offence was not at the lower end of the scale of seriousness of offences of its type. Aggravating features of the offence included the sustained nature of the attack on the deceased, when the deceased was in a vulnerable position, in a manifestation of domestic violence which characterised the relationship.</p>

		Physical health issues relating to his substance use; treated for depression.	<p>The appellant cleaned the deceased. On becoming concerned with her unresponsive condition he called an ambulance.</p> <p>The deceased died the following day from head injuries.</p>		<p>At [111] Considerations of general deterrence are significant in cases of this kind.</p> <p>At [114] The mitigating circumstances arising from the appellant's personal circumstances were limited to his belated expressions of remorse, victim empathy and acceptance of responsibility, and his dysfunctional background ... He was assessed as presenting a high risk of future violent offending, including in intimate relationships.</p>
12.	<p><i>Crossland v The State of Western Australia</i></p> <p>[2016] WASCA 93</p> <p>Delivered 09/06/2016</p>	<p>24 yrs at time offending. 27 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Lengthy criminal history, including offences involving drugs, dishonesty and weapons and a prior conviction for armed robbery.</p> <p>Difficult and disadvantaged childhood; abandoned by his mother and cared for by family</p>	<p>1 x Murder.</p> <p>The appellant was staying with the deceased and on the evening of the offence there was hostility between the two of them.</p> <p>The deceased was unarmed and sitting on a couch when the appellant stabbed the deceased in the right thigh with a knife. The deceased suffered a 13cm deep wound, cutting the femoral vein and artery in his leg.</p> <p>The appellant then hit the deceased with a cricket bat twice across the head, causing multiple</p>	<p>Life imp. Min non-parole period of 20 yrs 6 mths imp.</p> <p>Sentenced on basis the murder was not premediated.</p> <p>The sentencing judge was not prepared to find that the appellant subjectively believed that his actions were necessary to defend</p>	<p>Dismissed.</p> <p>At [54] Notwithstanding that an intention to kill was not established, this was a comparatively serious case of murder. The deceased was attacked in his own home by a person to whom the deceased had extended hospitality. The appellant employed a very high level of violence using two weapons to inflict serious</p>

		<p>members; supportive grandparents; alleged physical abuse by an uncle.</p> <p>Homeless and lived on the streets from age 12.</p> <p>Limited employment history; unemployed at time offending.</p> <p>Diagnosed with PTSD.</p> <p>Long history of drug abuse and under the influence of illicit drugs at time offending.</p> <p>Father of four children, to two relationships.</p> <p>Poor health; multiple admissions to hospital as a result of assaults, fights or self-harm.</p>	<p>fractures to his skull and jaw.</p> <p>The appellant left the flat, stealing a phone, money and a camera.</p> <p>The appellant disposed of the knife and bat.</p> <p>The deceased died from a combination of his injuries.</p> <p>Some days later the appellant handed himself into police. He stated that he stabbed and hit the deceased in self-defence.</p>	<p>himself from the deceased.</p> <p>Remorseful; high risk of violent reoffending, without significant drug rehabilitation and psychiatric and psychological assistance.</p>	<p>injuries that were objectively highly likely to cause death, particularly when they were not treated. Having inflicted those injuries on the deceased, the appellant left him alone in his home without any assistance or ... any ability to obtain assistance. While he was dead or dying, the appellant stole some of his property. The appellant took active steps to conceal his crime by taking and disposing of the murder weapons.</p>
11.	<p><b><i>Cameron v The State of Western Australia</i></b></p> <p><b>[2016] WASCA 92</b></p> <p>Delivered 08/06/2016</p>	<p>19 yrs at time offending. 20 yrs at time sentencing.</p> <p>Convicted after early PG (25% discount for agg burg and steal motor vehicle offences).</p> <p>Prior criminal history, including multiple offences of stealing; agg common assault; agg burg and breach of bail.</p>	<p>Ct 1: Agg burg (dwelling). Ct 2: Murder (victim 1). Ct 3: Murder (victim 2). Ct 4: Steal motor vehicle.</p> <p>Victim 1 is a female aged 26 yrs; victim 2 is victim 1's mother aged 68 yrs.</p> <p>After seeing victim 2 enter her home the appellant armed himself with a hammer and walked into the house through an open rear door.</p>	<p>Ct 1: 15 yrs imp (conc). Cts 2 and 3: Life imp on each ct (conc). Min non-parole period of 32 yrs on each ct. Ct 4: 5 yrs 3 mths imp (conc).</p> <p>The sentencing judge found the offences were "of the most</p>	<p>Dismissed.</p> <p>Appellant challenged offence characterization (worst category) and length of min non-parole period.</p> <p>At [79] ... the murders were within the range of the 'worst category' of cases of murder.</p>



		<p>Very turbulent, disturbed and difficult childhood. Discipline issues and violent from age 11. History of fire setting and cruelty to animals.</p> <p>Diagnosed with ADHD as a child.</p> <p>Long standing drug abuse habit, resulting in mental health issues.</p> <p>Never worked.</p> <p>Three children from three relationships.</p> <p>History of domestic violence and assault.</p>	<p>The appellant went to the bedroom of victim 1, who was naked having just showered. The appellant struck her on the head twice with the hammer.</p> <p>Knowing another person was also in the house the appellant then went to the main bedroom. He struck victim 2 on the head with the hammer, covered her head with a pair of shorts and pulled her T-shirt over her shoulders to expose her bare chest. She was otherwise naked.</p> <p>The appellant returned to victim 1, put on a condom and had sexual intercourse with her until he ejaculated. It is unknown whether the victim was alive or dead, but she was unconscious.</p> <p>At some point he stabbed victim 2 in the chest with a pair of scissors. He also stabbed victim 1 six times in the chest and inflicted penetrating wounds to her throat.</p> <p>The appellant stole victim 1's car and drove it to a number of places around the metropolitan area, eventually parking it in a street, where it was located by police the next day.</p>	<p>serious nature and of the worst kind in their categories” and there did not appear to be any clear motive.</p>	<p>At [80] ... the offence of stealing a motor vehicle was especially egregious in that ... it involved ‘stealing from a house where two occupants [had] been killed without any attempt to see to their welfare’ ... and, further, the appellant stole the motor vehicle for the purpose of making good his escape and having committed murders within the ‘worst category’ of cases of that kind.</p> <p>At [123]–[177] Discussion of comparative cases.</p> <p>At [183] ... the extraordinary degree of objective seriousness of the appellant’s offending, and the need to protect public safety as a consequence of his significant risk of violent reoffending, required that the mitigating effect of his youth and traumatic childhood be reduced substantially in determining the sentencing outcome.</p>
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					At [187] The objective seriousness of the appellant's offending, and the important sentencing considerations of condign punishment [for the random, intentional and unprovoked killing of two vulnerable people, during an agg home burglary, by brutal and sustained violence], the protection of the public and personal and general deterrence, precluded the imposition of a lesser min non-parole period ... despite the appellant's youth, early PG and traumatic childhood.
10.	<p><i>The State of Western Australia v Stoiski</i></p> <p>[2016] WASCA 16</p> <p>Delivered 19/01/2016</p>	<p>36 yrs at time offending; 38 yrs at time sentencing.</p> <p>Convicted after early PG.</p> <p>No prior criminal history.</p> <p>Good employment history.</p> <p>Multiple mental illnesses.</p> <p>Entrenched drug abuse; erratic behaviour when under influence of drugs.</p>	<p>Ct 1: Murder. Ct 2: Murder.</p> <p><u>Ct 1</u> The deceased was the respondent's long-term partner and the mother of his two young children. The respondent killed the deceased by asphyxiation. After killing her, the respondent bound her head and neck with duct tape and wrote '666 SLUT' across her forehead. The murder was motivated by the respondent's unfounded and delusional belief in the deceased's infidelity.</p> <p><u>Ct 2</u> The respondent left their home and drove to the</p>	<p>Life imp on each ct (conc). Min non-parole period of 21 yrs on each ct.</p> <p>Remorse; good prospects of rehabilitation.</p> <p>Sentencing judge found that the respondent's decision to kill each of the victims was "spontaneous" and</p>	<p>Allowed.</p> <p>Re-sentenced to a non-parole period of 27 yrs on each ct.</p> <p>[51]-[141] Discussion of comparable cases.</p> <p>At [153] ...there were numerous features of the respondent's offending, and its consequences, that placed the murders, individually and</p>

			<p>second deceased's house. The second deceased was the respondent's long-term friend and associate.</p> <p>The respondent and deceased argued about the respondent's unfounded and delusional belief that he was spreading rumours about him. The respondent stabbed the deceased with a fishing knife three times at the base to the side of his neck and once in the upper arm. The respondent struck the deceased repeatedly to the head with a wishbone-type vehicle component, causing significant head trauma.</p>	<p>"did not involve anything in the nature of planning or premeditation of anything resembling a rational kind".</p>	<p>collectively, at or towards the high end of the scale of seriousness... the respondent's murder of the first victim has in effect deprived their young children... of their parents, with obvious long-term traumatic consequences... the murders have had a significant and ongoing negative impact on the families of the victims.</p> <p>At [158] The respondent was intoxicated with methylamphetamine at the time of the offending. His psychotic disorder was, most likely, induced by his ingestion of drugs. No other mental illness, unrelated to drug abuse, was involved in the offending... The offender is morally responsible for his ...condition.</p> <p>At [159] ...the primary sentencing considerations were condign punishment (for the intentional and unprovoked killing of two vulnerable people by the</p>
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					<p>application of brutal, sustained and unprovoked violence) and personal and general deterrence. Personal deterrence was less important in view of the sentencing judge's unchallenged finding as to the respondent's 'good prospects of rehabilitation', but it remained a relevant consideration.</p> <p>At [160] ...the terms of 21 yrs did not adequately reflect the fact that the respondent committed two discrete murders, each of which had the serious features that I have described, in different locations, by different means and with an interval of time between the murders, and the value which Parliament...has placed on human life... The min non-parole periods fixed by his Honour ... were substantially outside the sentencing range open on a proper exercise of his Honour's discretion.</p>
9.	<i>The State of</i>	41 yrs at time offending.	1 x Murder.	Life imp. Min non-	Allowed.

<p><b>Western Australia v Churchill</b></p> <p><b>[2015] WASCA 257</b></p> <p>Delivered 23/12/2015</p>	<p>Convicted after trial.</p> <p>Extensive prior criminal history, including convictions of manslaughter, poss weapon, GBH, 3 x wounding and 2 x threats.</p> <p>Parents separated at age 10; father died at age 12 and mother died at age 15.</p> <p>Gave birth to first child at age 16.</p> <p>Subject to physical and sexual abuse during her life.</p> <p>Long history of alcoholism.</p>	<p>The deceased was 28 yrs old and was in a domestic relationship with the respondent. He was weak and vulnerable compared to the respondent.</p> <p>The respondent and the deceased were intoxicated. The respondent argued with the deceased and made three threats to kill him. She threw bottles at him and chased him wielding a bottle. She attempted to hit him over the head with a bottle. She swung a wheel brace at him. She hit him in the face with a beer can.</p> <p>The following day, the appellant inflicted a sustained, prolonged and severe assault on the deceased with two knives and an electric frypan. He suffered 14 stab injuries and 26 incised injuries to multiple parts of his body. The injury to the deceased's chest penetrated the chest cavity and extended into the front aspect of the left lung, which was partially collapsed. Injuries to the deceased's hands were consistent with him attempting to defend himself from the respondent's repeated attacks.</p> <p>The cause of death was multiple penetrating stab and incised cut injuries, including a stab wound to the chest.</p> <p>After the attack, the respondent mopped up the blood from the house and washed the blood from the deceased's body. The respondent lied about what had happened to the deceased.</p>	<p>parole period of 17 yrs.</p>	<p>Re-sentenced to a non-parole period of 21 yrs.</p> <p>At [37] The circumstances of the respondent's offence place it at the high end of the scale of seriousness of the offence of murder. She engaged in a sustained, prolonged, frenzied attack on Mr Dunn, whom she intended to kill. She used multiple weapons and went to considerable lengths to attempt to cover up the murder. His death was the culmination of a broader course of violence inflicted on him by the respondent. No doubt her long standing alcoholism contributed to the commission of this crime, as it has done throughout her long history of violent offending. Of greater significance is her inability to control her volcanic eruptions of anger, and the regularity and normalisation of her use of violence. Her record and her lack of remorse, insight and acceptance of</p>
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					responsibility for the death of Mr Dunn are manifestations of that normalisation.  At [38] The only mitigating factor of any significance is the respondent's disadvantaged and dysfunctional upbringing.
8.	<i>Zwerus v The State of Western Australia</i>  [2015] WASCA 174  Delivered 02/09/2015	33 yrs at time sentencing.  Convicted after late PG.  Short criminal history, including convictions of common assault, AOBH, unlawful wounding, poss a controlled weapon and breaches of bail and restraining orders.  Close relationship with his mother; father deceased.  Completed apprenticeship; worked as a roof tiler; worked as a process technician in the mines; excelled in sports.  Two children from former relationship; appellant gave up work to care for children after former partner died.	1 x Murder.  The appellant had been on a methyl and cannabis binge for at least two weeks leading up to offence. He was observed as delusional, paranoid and behaving in an increasingly bizarre manner. On the day before the offence, he appeared to be hallucinating.  The appellant was in a state of drug-induced psychosis and formed the belief that he had to kill a man at the beach. The appellant went to the beach, armed with a knife, with the intention to carry out that belief.  The appellant came across the deceased and, because of the behaviour of the appellant's dog, believed that the deceased was the man he had to kill. The two men were strangers. The appellant attacked him with a knife using considerable force. He inflicted multiple stab wounds to the deceased's head, neck, back and left shoulder, and fractured his jaw. Wounds on the deceased's hands suggested that he attempted to defend	Life imp. Min non-parole period of 18 yrs.  Sentencing judge found appellant suffered from drug-induced psychosis at time offending; appellant's decision to kill was a product of the psychosis; appellant had some appreciation of what he was doing and the seriousness and wrongfulness of his actions.  Sentencing judge found the psychosis was a product of voluntary and prolonged use of	Dismissed – on papers.  At [25] The deceased was entirely innocent, unsuspecting and without the means to defend himself. The attack was, as his Honour said, savage and brutal. It was randomly committed against a person who was enjoying an early morning walk along his local beach. It is a truly shocking offence... There were periods in the time leading up to the commission of the offence where the appellant realised he was behaving in a bizarre and psychotic fashion due to his ingestion of illicit drugs. Nevertheless, he continued to use them. The

		<p>Entrenched history of illicit drug abuse.</p> <p>Suffers from drug-induced psychosis; undertook treatment while in custody.</p>	<p>himself. The deceased died soon afterwards.</p> <p>The appellant dragged the deceased's body into the sea and attempted to conceal evidence of what he had done.</p>	<p>methyl and cannabis; psychosis affected appellant's judgment and caused him to be more aggressive; appellant had some awareness of the effect the drugs had upon him.</p> <p>Sentencing judge found the appellant was genuinely remorseful; good prospects of rehabilitation; low risk of re-offending if able to successfully deal with substance abuse issues.</p>	<p>appellant's psychosis was self-induced. It is well-established in this State that, in these circumstances, psychosis had no mitigatory effect...</p>
7.	<p><i>Attwell v The State of Western Australia</i></p> <p>[2015] WASCA 84</p> <p>Delivered 30/04/2015</p>	<p>72 yrs at time offending. 74 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Minor irrelevant criminal history.</p> <p>Successful businessman; highly regarded by local community.</p> <p>Suffers from type 2 diabetes and vascular disease.</p>	<p>1 x Attempt to Procure Another to Murder.</p> <p>Ms Attwell is the estranged wife of one of the appellant's sons. Property settlement proceedings had commenced in the Family Court.</p> <p>The appellant had a conversation with Mr R who had come to the appellant to explore the possibility of employment. Without any prompting, the appellant offered Mr R \$30,000 to get rid of Ms Attwell. Mr R said that he knew someone who would be willing to do the job and said he would telephone him to find out.</p>	<p>8 yrs 6 mths imp.</p> <p>EFP.</p> <p>Did not accept any responsibility for offending; no remorse; no victim empathy.</p> <p>Premeditated, planned and persistent.</p> <p>Imprisonment would be more difficult for</p>	<p>Dismissed.</p> <p>At [45] a person who attempts to procure the murder of another is liable to... life imp.</p> <p>At [54] Although the offence was inchoate and Ms Attwell was never at risk of being harmed, the appellant wanted her killed and did all he could to achieve this end.</p>

		<p>No serious mental illness.</p>	<p>Mr R reported the conversation to police. Mr R telephoned the appellant and told him that he had a mate named 'Josh' (UCO) who would be pretty keen. The appellant indicated that 'Josh' should telephone him. The appellant agreed to pay Mr R a spotter's fee.</p> <p>'Josh' telephoned the appellant and they arranged to meet. At the meeting, the appellant provided the address, vehicle details and a physical description of Ms Attwell. The appellant spoke to 'Josh' about how he wanted Ms Attwell killed and how he wanted her body disposed of. He offered one of his excavators to dig a hole and put her down 30 feet. The appellant paid 'Josh' a deposit of \$7,000.</p> <p>They met again the following day where the appellant paid a further deposit of \$3,000. The appellant also provided details of a second address for Ms Attwell. He confirmed that the remaining \$20,000 would be paid when Ms Attwell was killed. The meeting concluded on the basis that 'Josh' would call the appellant prior to the killing so that the appellant would go somewhere to be seen so as to provide him with an alibi.</p> <p>The appellant denied that he had asked 'Josh' to kill Ms Attwell.</p>	<p>the appellant due to the appellant's health.</p> <p>Offending caused adverse psychological and other consequences for Ms Attwell.</p>	<p>At [56] The present case does not fall within the worst category of offences of this type...</p> <p>At [58] Discussion of comparative cases.</p> <p>At [66] It is significant that, at the time the appellant committed the offence, he was still very much involved with the day-to-day running of his business and making complex and important decisions. His age was not a barrier in these respects... I do not regard this case as being one where advanced age reduced the weight to be given to considerations of personal and general deterrence, particularly as the appellant refused to accept responsibility for his offending and showed no remorse.</p> <p>At [67] ... I regard the sentence that was imposed upon the appellant as being within the upper levels of</p>
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					the range of sentences available to the sentencing judge in the proper exercise of the discretion conferred upon him.
6.	<p><i>The State of Western Australia v Smith</i></p> <p>[2015] WASCA 87</p> <p>Delivered 04/05/2015</p>	<p>28 yrs at time offending; 30 yrs at time sentencing.</p> <p>Convicted of ct 1 after trial; convicted of ct 2 after PG.</p> <p>Prior criminal history, including AOBH and dishonesty offences.</p> <p>Dysfunctional childhood; witnessed domestic violence; parents separated when he was five; left home by age 14.</p> <p>Single; father of 7 yr old daughter; no contact with daughter.</p> <p>Supportive mother.</p> <p>History of substance abuse.</p>	<p>Ct 1: Murder. Ct 2: Arson.</p> <p>The respondent was homeless. The victim invited the respondent to stay with him. The second night, the respondent and victim drank alcohol at the victim's unit and had an argument.</p> <p>The respondent launched an unprovoked, extremely violent and sustained attack on the victim. Using a coffee table leg, the respondent repeatedly hit the victim on the head, face and arms, causing lacerations and haemorrhages to the head and a fractured nose and lower jaw. The respondent used a knife to repeatedly stab the victim. He stabbed him in the back, which pierced his lung and caused internal bleeding. He cut the Achilles tendon on his left leg. Intending to kill the victim, the respondent inflicted nine wounds to the victim's neck. Several of these wounds severed his jugular vein, which was the likely cause of death.</p> <p>The respondent had no memory of killing the victim. His next memory after the argument is standing over the victim, who was covered in blood and not breathing. The respondent covered the body with a blanket, showered and went to bed. The following morning, the respondent set</p>	<p>Ct 1: Life imp. Min non parole period of 17 yrs.</p> <p>Ct 2: Arson: 4 yrs 6 mths imp (conc).</p> <p>Depression; antisocial personality; poor coping and problem-solving skills; anger management problems associated with episodes of rage in the context of alcohol abuse.</p> <p>Significant remorse; low risk of reoffending.</p>	<p>Dismissed.</p> <p>At [49]-[122] and [178]-[180] Discussion of comparative cases.</p> <p>At [184] In our opinion, the minimum term of 17 yrs was lenient. If we had been sentencing the respondent at first instance we would have imposed a higher non-parole period. However... we are not persuaded that the minimum term of 17 yrs was below the range open to his Honour on a proper exercise of the sentencing discretion.</p>

			<p>fire to the unit, to conceal what he had done, and left. The unit was a ground floor unit in a double storey apartment building. The fire gutted the unit.</p> <p>The respondent initially denied the offence. He later made partial admissions but maintained he had no memory of inflicting violence upon the victim.</p>		
5.	<p><i>Angliss v The State of Western Australia</i></p> <p>[2015] WASCA 8</p> <p>Delivered 16/01/2015</p>	<p>18 yrs at time offending. 20 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Homeless; volatile and violent relationship with heavily pregnant older girlfriend at time offending.</p> <p>Middle of 7 children; parents separated; mother left at age 10 or 11; transient living arrangements during teenage years; expelled from high school after yr 9; history of aggressive behaviour.</p> <p>History of depression.</p> <p>Drug and alcohol problem.</p>	<p>1 x Murder.</p> <p>The appellant and victim were living on the streets of Fremantle. The victim suffered from a disease that resulted in him walking with a limp.</p> <p>The appellant believed the victim had a sexual relationship with the appellant's girlfriend. The appellant started a physical altercation with the victim two days before the offence.</p> <p>In the late afternoon of 4 September 2012, the appellant, his friend and the victim were drinking alcohol together for some time. The murder appears to have occurred in a laneway. Exactly what happened is unknown. Victim had been severely beaten and the appellant repeatedly stabbed him with a pair of scissors. The appellant's friend may have played a part in causing some of the victim's injuries, but the appellant initiated the assault and inflicted the fatal injuries. The number, nature and location of the stab wounds were consistent only with an intention to kill. The appellant fled the scene and disposed of the scissors down a drain.</p>	<p>Life imp.</p> <p>Min non parole period of 18 yrs.</p> <p>Not premeditated; unprovoked, frenzied and sustained attack on a vulnerable victim.</p> <p>High risk of violent reoffending.</p> <p>Limited weight given to initial cooperation with police.</p> <p>Dysfunctional childhood and youth heavily outweighed by seriousness of offending. Youth indicated prospect of rehabilitation; non parole period reduced.</p>	<p>Dismissed.</p> <p>At [25] Suffice to say that it is clear that the minimum term in this case is broadly consistent with other sentences that have been imposed.</p>

			The appellant made certain admissions and showed police where the scissors had been disposed. He subsequently retracted the admissions and blamed his friend entirely for the killing.		
4.	<p><i>Mack v The State of Western Australia</i></p> <p>[2014] WASCA 207</p> <p>Delivered 10/11/2014</p>	<p>23 yrs at time of offending. 27 yrs at time of sentencing.</p> <p>Convicted after trial (Judge alone).</p> <p>Criminal record including offences of giving false personal details to police, using a false number plate, fraud, stealing and breach of bail.</p> <p>Suffered from autism spectrum disorder and severe depression.</p>	<p>1 x Murder.</p> <p>The appellant is the deceased's son.</p> <p>The deceased lived a very private life and had only spasmodic contact with extended family members and a few friends. She had two sons. The deceased inherited a substantial amount of money and assets from her husband's estate.</p> <p>In the months leading to her death the deceased was well, happy and positive in her outlook.</p> <p>No one had seen or had direct contact with the deceased for some time. The deceased was reported as a missing person by extended family and subsequently police investigated.</p> <p>It was found that the appellant killed his mother by unknown means to gain control of her money and property. The appellant disposed of her body at night in a grave he dug. He added lime to hasten decomposition. His method of disposing of his mother's body was calculated to conceal her death and the cause of death. The appellant informed police of the general location of his mother's body. Police carried out an exhaustive search and investigations however no body was recovered. Her remains have never been found.</p>	<p>Life imp.</p> <p>Min non parole period of 20 yrs.</p> <p>No remorse; continually denied responsibility for the offending.</p> <p>Trial judge found the appellant's motive for unlawfully killing his mother was to gain control of her money and other assets.</p> <p>Trial judge described offence as 'a most serious crime'.</p> <p>Found, on the basis of expert evidence, that the appellant was significantly impaired by his autism, but there was no casual connection between the appellant's autism</p>	<p>Dismissed.</p> <p>At [200] It is well-established that where an offender's mental illness or psychological difficulties have not been self-induced, his or her condition is a relevant factor in the sentencing process.</p>

			<p>The appellant deliberately and persistently told lies to divert attention from his crime, including to the police, his brother and other relatives.</p> <p>Following her death the appellant stole substantial amounts of money and other property from her estate by writing cheques, transferring funds, forging leases and continuing to live at the deceased's house.</p> <p>Over an 18 month period more than \$225,000 in cheques were drawn on the bank accounts of the deceased and those funds were traced to bank accounts held in the name of the appellant. The money the appellant stole financed his business venture in computer repairs.</p>	<p>and his commission of the crime.</p> <p>Low risk of violent re-offending.</p>	
3.	<p><i>Stinson v The State of Western Australia</i></p> <p>[2014] WASCA 72</p> <p>Delivered 10/04/2014</p>	<p>57 yrs at time of offending.</p> <p>Convicted after early PG.</p> <p>No prior convictions.</p> <p>Difficult upbringing; placed in State care at 18 mths; grew up in Children's home.</p> <p>History of misuse of alcohol.</p>	<p>1 x Murder.</p> <p>The appellant, a married man, had been in an extramarital relationship with the deceased for about 3 – 4 yrs.</p> <p>The deceased stayed at the appellant's house for a week while his wife and daughter were overseas. During that time the appellant and deceased argued and had physical altercations.</p> <p>At some point the appellant asked the deceased to pack her belongings, saying he would take her home. On the way to her home, the appellant drove the deceased into the Belmont Park Racecourse where he was employed as a security officer. The appellant drove to the centre of the</p>	<p>Life imp.</p> <p>Min non parole period of 17 yrs.</p> <p>Co-operated with authorities.</p> <p>Remorseful; accepted responsibility for his conduct.</p> <p>Sentencing judge rejected appellant's claim he had killed the deceased because she had called his wife and</p>	<p>Dismissed – on papers.</p> <p>At [18] The minimum period of 17 years' imposed in this case is broadly consistent with sentences imposed for what is the most serious offence in the Code. The circumstances of the appellant's offending are towards the upper end of the scale of seriousness.</p>

			<p>racecourse where they both got out of the car and argued. The appellant retrieved a club hammer from his vehicle and used it to inflict multiple strikes to the deceased's head. The appellant then put the deceased into the tray of his utility and drove to a horse wash bay where he hosed blood from the deceased. With the deceased concealed in the tray of the ute, the appellant drove to a street in Maddington where he dumped her naked body on a street verge. He left the scene and made further efforts to clean his vehicle by hosing it down. The appellant then dove to a semi-bush area where he disposed of his soiled clothing and that of the deceased. He also disposed of the murder weapon at an unknown location.</p> <p>Medical evidence established a pattern of numerous and severe blows to the deceased's head which brought about her death, at the very latest, soon after the blows ceased.</p>	<p>daughter 'Asian sluts' and 'whores' and had said she would scream rape.</p> <p>Sentencing judge found the appellant intended to kill the deceased, at least after the initial blow that caused her to fall to the ground. He also found that no significant premeditation or planning was involved.</p> <p>Sentencing judge concluded did not suffer from any major or significant psychiatric or mental illness.</p>	
2.	<p><b><i>Rosewood v The State of Western</i></b></p> <p><b>[2014] WASCA 21</b></p> <p>Delivered 29/01/2014</p>	<p>37 yrs at time offending. 38 yrs at time sentencing.</p> <p>Convicted after PG.</p> <p>Criminal record including threats to injure, endanger or harm, AOBH and unlawful wounding against former partners.</p>	<p>1 x Murder.</p> <p>The appellant and deceased had been in a family and domestic relationship for about 12 months. They had a child aged 3 mths. Both had children from previous relationships.</p> <p>The offence was committed in the presence of the deceased's extended family, including young children.</p>	<p>Life imprisonment.</p> <p>Min non-parole period of 18 yrs.</p> <p>Made admissions including stabbing the deceased at least once; denied intending to kill the deceased.</p>	Dismissed.

		<p>Father Caucasian; mother from Walpiri and Gridindji tribe; not a traditional Aboriginal man and has no cultural or spiritual connection to the land.</p> <p>Witnessed chronic and acute domestic violence in his childhood; siblings stayed in foster homes until school age; both parents' heavy drinkers.</p> <p>Alcohol problem.</p> <p>Heavily intoxicated at time of offending.</p>	<p>The deceased and appellant had been staying with relatives. On the day of the offence the appellant and deceased had been drinking all day. They argued in the evening which later escalated. The appellant reached into the kitchen sink and grabbed a chopping knife. He stabbed the deceased in the chest. The deceased turned away and the appellant stabbed twice to the shoulder before she fell to the ground.</p> <p>The appellant walked out of the house to the front yard where he dropped the knife. Other occupants of the house called emergency services. The deceased was pronounced dead on her arrival at hospital. The cause of death was penetrating wound to the chest which penetrated the heart and the pulmonary trunk.</p> <p>The appellant remained at the scene where he was arrested.</p>	<p>High risk of violent re-offending in respect of intimate partners; moderate risk in respect of others.</p> <p>State relied on an intention to cause bodily injury of such a nature as to endanger or be likely to endanger the life of the deceased.</p>	
1.	<p><b><i>Prestidge v The State of Western Australia</i></b></p> <p><b>[2014] WASCA 16</b></p> <p>Delivered 24/01/2014</p>	<p>41 yrs at time offending. 51 yrs at time sentencing.</p> <p>Convicted after trial (acquitted of wilful murder; convicted of murder).</p> <p>Significant criminal record including assault police, threatening behaviour and att robbery.</p> <p>Born in England; positive upbringing.</p>	<p>1 x Murder.</p> <p>The deceased was married to the appellant's sister.</p> <p>In 2002 the appellant arrived in Perth from the UK on a holiday. Soon after arriving the appellant became aware of the deceased's domestic violence against his sister and became distressed.</p> <p>On the day of the incident the deceased and appellant spent some time together at a pub and returned to the victim's house.</p>	<p>Life imp.</p> <p>Min non-parole period of 17 yrs.</p> <p>Circumstantial evidence against appellant was very strong.</p> <p>Little evidence of true remorse.</p> <p>Sentencing judge</p>	<p>Dismissed.</p> <p>At [74] The appellant did not have the mitigation that a plea of guilty would have brought, but he received credit in the sentencing process for his cooperation in the course of the trial...</p>

		<p>Attended schooling until 15 yrs; employed in a number of unskilled occupations.</p> <p>Two children from different relationships.</p> <p>Mother, stepfather and sister remain supportive of him.</p>	<p>Sometime later the deceased and appellant were in the kitchen. The appellant struck the deceased with intent to cause serious bodily injury at least twice to the head with a heavy weapon using severe and substantial force. The deceased fell to the ground, rapidly lost consciousness and died shortly after. His death was caused by a head injury. The weapon was not found.</p> <p>The appellant hid the deceased's body underneath some bedding, locked the house and left. He disposed of incriminating evidence and left the country. He did not inform anyone of the victim's death. The appellant's body was found by Police two days later.</p> <p>The appellant did not return to Australia until 2011 when he was extradited from Thailand.</p> <p>Defence case was based primarily on self-defence.</p>	<p>decided not to sentence the appellant on the basis he had earlier formed an intention to attack the deceased; she did not accept the appellant's version of events at the house.</p> <p>Trial judge found the appellant's post-offence conduct aggravated his offending in several aspects.</p> <p>Grief experienced by deceased's family was exacerbated by the appellant's flight from the jurisdiction.</p>	
<b>2008 Homicide Amendments – effective 1 August 2008</b>					