

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ss 279, 283 and 556 Criminal Code and repealed murder provisions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
22.	<i>Birdsall v The State of Western Australia</i> [2019] WASCA 79 Delivered 21/05/2019	<p><u>Birdsall</u> 29 yrs at time offending. 30 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Significant prior criminal history; including offences of serious violence.</p> <p>Parents separated when young; little contact with his father; aged 8 yrs when father died; improved relationship with his step-father.</p> <p>Disadvantaged childhood; mother suffered mental health issues; transient lifestyle; placement in foster care; victim of serious criminal offences when young.</p> <p>Treated for depression.</p> <p>Alcohol and illicit drugs use from aged 13 yrs.</p> <p><u>Anthony</u> 19 yrs at time offending. 21 yrs at time sentencing.</p> <p>Convicted after trial.</p>	<p>1 x Murder.</p> <p>There were three altercations between two groups of people. During the third altercation one of the groups consisted of eight males, Birdsall, Anthony, Pickett, Mead and four other males (Birdsall's group). They ranged in age from 11 yrs to 29 yrs.</p> <p>The first two altercations consisted of verbal exchanges and threats with weapons, including a tomahawk; poles, rocks and bottles.</p> <p>The deceased did not know any of the eight males before the night in question.</p> <p>Shortly after the second attack Birdsall's group, carrying various weapons and objects, went in pursuit of the deceased's group. On arriving to where the deceased's group were, the deceased ran. He was pursued, caught and assaulted.</p> <p>The deceased was kicked to the head and other parts of his body and struck with a star picket and a wooden pole. During the course of the attack the accused was stabbed in the chest with a screwdriver, inflicting a 25 cm wound.</p> <p>After this assault the group fled, leaving the deceased dead or dying on the floor.</p> <p>The deceased died very quickly, as a result of the deep penetrating stab wound to the chest.</p>	<p><u>Birdsall</u> Life imp, min non-parole period 18 yrs.</p> <p><u>Anthony</u> Life imp, min non-parole period 16 yrs.</p> <p><u>Pickett</u> Life imp, min non-parole period 16 yrs.</p> <p><u>Mead</u> Life imp, min non-parole period 16 yrs.</p> <p>The trial judge was satisfied the deceased died as a result of a stab wound inflicted by a screwdriver and that moderate to considerable force was required to inflict the fatal injury.</p> <p>The trial judge found during the altercation Birdsall kicked the deceased to the head and other parts of his body; Mead struck the deceased with a metal</p>	<p>Dismissed.</p> <p><u>Birdsall</u> Appeal concerned length of non-parole period.</p> <p><u>Anthony</u> Appeal concerned parity principle (non-parole period) and length of non-parole period.</p> <p><u>Pickett</u> Appeal concerned parity principle.</p> <p><u>Mead</u> Appeal concerned length of non-parole period.</p> <p><u>Pickett</u> At [315] ... all the offenders were sentenced on the basis of s8 of the Code, namely that each was a party to a common unlawful purpose and, in the prosecution of such purpose, an offence was committed (namely, the murder of the Deceased) of such a nature that its commission was a probable</p>

		<p>Prior criminal history; no prior sentences of imp or detention.</p> <p>Disadvantaged and unstable home life; evicted from family home aged 11 yrs; homeless or living in temporary accommodation number of yrs.</p> <p>Suffered tragic death of his father at a young age; unresolved issues over his death; resulting anger and antisocial conduct.</p> <p>Valued employee and 'breadwinner' at time offending.</p> <p>History of illicit drug use.</p> <p><u>Pickett</u> 19 yrs at time offending. 21 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; no prior sentences of imp or detention.</p> <p>Exposed to violence from a young age.</p> <p>Strong family support.</p>		<p>picket and Anthony struck him with a wooden pole.</p> <p>The trial judge sentenced the appellants on the basis each was a party to a common unlawful purpose and, in the prosecution of such purpose, an offence was committed, of such a nature that its commission was a probable consequence of the prosecution of that unlawful purpose.</p> <p><u>Birdsall</u> No demonstrated remorse; made some admissions; high risk of future violent offending.</p> <p><u>Anthony</u> Delayed remorse and admissions.</p> <p><u>Pickett</u> Some demonstrated remorse; high risk of reoffending.</p> <p><u>Mead</u></p>	<p>consequence of the prosecution of such purpose.</p> <p><u>Mead</u> At [350] ... the murder committed by [Mead] and his co-offenders was undoubtedly a serious example of offending of that kind. The Deceased was attacked in company and with some ferocity and persistence.</p> <p>At [353]-[354]... having regard to the objective seriousness of [his] offending and taking into account the significant sentencing factors of appropriate punishment and personal and general deterrence, the min non-parole period imposed ... represented a proper exercise of the sentencing discretion. ... The length of the minimum non-parole period was not unreasonable or plainly unjust. ...</p> <p><u>Anthony</u></p>
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		<p>Limited literacy; limited employment history.</p> <p><u>Mead</u> 19 yrs at time offending. 21yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history; including detention for serious violent offence.</p> <p>Large family; exposed to violence, including domestic violence, as a child; witnessed the loss of younger brother at a very young age; which death had a serious impact on him and his family.</p>		<p>Evinced some remorse for his offending; made some admissions.</p>	<p>At [371] ... none of the offenders was sentenced on the basis that he had stabbed the Deceased with the screwdriver. ...</p> <p>At [374] ... after evaluating and weighing all relevant facts and circumstances and all relevant sentencing factors relating to [Anthony] and his co-offenders, the absence of disparity in the sentencing outcomes did not infringe the parity principle or the principle of equal justice. ...</p> <p><u>Birdsall</u> At [390] ... after evaluating and weighing all relevant facts and circumstances and all relevant sentencing factors relating to [Birdsall] and his co-offenders, the disparity between [his] sentence and the sentences of his co-offenders did not infringe the parity principle or the principle of equal justice. ...</p>
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<p>21.</p>	<p><i>Smith v The State of Western Australia</i></p> <p>[2019] WASCA 7</p> <p>Delivered 14/01/2019</p>	<p>38 yrs at time offending. 39 yrs at time sentencing.</p> <p>Convicted after PG (15% discount).</p> <p>No relevant prior criminal history.</p> <p>Difficult childhood; youngest of two children; father violent alcoholic; parents separated when aged 6 yrs; both parents deceased.</p> <p>Supportive family and friends.</p> <p>Left school aged 16 yrs; completed certificate at WA Academy of Performing Arts.</p> <p>Good work ethic; ran own business number of yrs; employed at time offending.</p> <p>Three children with victim TS.</p> <p>At time offending suffering emotional difficulties resulting from death of some close family members.</p> <p>No history of mental ill health.</p>	<p>Ct 1: Agg burglary. Cts 2 & 3: Agg att murder.</p> <p>Smith and the victim TS were married. Their relationship was volatile and he was physically violent towards her. After they separated TS took out a VRO protecting herself from Smith.</p> <p>Smith was not at home when he learnt his children were at his home, having been left there by TS. Angry, he returned home. When his attempts to contact TS were unsuccessful his anger increased.</p> <p>Telling his eldest son he was going to kill his mother and that it was his fault, Smith armed himself with knives and drove to TS's home. He took with him his son's iPad, to prevent him from warning his mother.</p> <p>At the victim's home he looked through a window and saw TS and the victim Mr B in bed. Failing to gain entry to the home through the front and back doors, he smashed a window and entered the bedroom.</p> <p>When confronted by Mr B he struck him in the face and neck with a knife.</p> <p>As TS attempted to flee her home Smith struck her in the neck, body and legs with a knife. When TS managed to struggle into the kitchen he struck her again with the knife.</p>	<p>Ct 1: 3 yrs imp (conc). Ct 2: 15 yrs imp. Ct 3: 15 yrs imp (to commence having served 4 yrs for ct 2).</p> <p>TES 19 yrs imp.</p> <p>EFP.</p> <p>The sentencing judge found the offences of att murder were at the upper end of the scale of seriousness for this kind of offence.</p> <p>The sentencing judge found the appellant carried out the attacks in a relatively calm and chillingly determined fashion; the circumstances of the offending demonstrated a desire on his part for retribution and involved a merciless attack on the victims; using knives not only to cause injury, but also terror to the victims.</p>	<p>Dismissed.</p> <p>Appeal concerned errors in law (legislative minimum sentence and failure to give reasons for not imposing life imp cts 2 & 3) and length of sentence (cts 2 & 3).</p> <p>At [65] ... her Honour did not err in law by deciding that the offence of agg att murder is subject to a 'legislative requirement for a minimum sentence of imp of 15 yrs'. ... the statutory penalty and, also, the maximum penalty for the offence of agg att murder is life imp and the minimum penalty for that offence is 15 yrs imp. ...</p> <p>At [66] ... Her Honour was not obliged, ... to give more detailed or elaborate reasons for imposing the minimum penalty and not the maximum penalty. ...</p> <p>At [73] ... There is no foundation in counsel for</p>
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			<p>Hearing Mr B calling for help Smith returned to the bedroom and against struck him a number of times with the knife. One blow nearly severed a finger, another caused a deep laceration to his face and a further blow severed the carotid artery in his neck.</p> <p>Smith then realised TS had fled the home. Still armed with the knife he followed the trail of her blood and located her. He then used the knife to sever her right breast, exposing the implant inside.</p> <p>Both victims were flown to hospital and treated for deep, life threatening lacerations.</p>	<p>The sentencing judge found the attack on the victim TS had some degree of premeditation or planning; he had armed himself with weapons; the offences were committed in breach of a VRO and at night when the victims were sleeping and more vulnerable and incapable of properly defending themselves; he inflicted numerous knife wounds over a relatively prolonged period and the wounds inflicted on TS were intended to mutilate her; despite it being obvious he had inflicted serious injuries and despite their pleas for assistance at no stage did the appellant stop or display any concern for the victims welfare; he pursued TS when she sought refuge with a neighbour and inflicted further knife wounds when the neighbour and her children were inside</p>	<p>the appellant's submissions or in the other material before the court on which to construct a reasonable argument that the discount of 15% was unreasonable or plainly unjust.</p> <p>At [76] The sentencing judge expressly took into account, ... that at the time of the offending the appellant was suffering some emotional difficulty consequent upon the death of some close family members.</p>
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				<p>their home.</p> <p>The sentencing judge found the appellant's behaviour towards his son 'particularly cruel, deplorable and heartless' causing him considerable trauma.</p> <p>Enormous effect on the victim TS and her children.</p> <p>Some demonstrated remorse; cooperative with police.</p>	
20.	<p><i>Ruthsalz v The State of Western Australia</i></p> <p>[2018] WASCA 178</p> <p>Delivered 12/10/2018</p>	<p><u>J Ruthsalz</u> 43 yrs at time offending. 45 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history.</p> <p><u>S Ruthsalz</u> 25 yrs at time offending. 26 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Prior criminal history, no prior convictions involving violence.</p>	<p>1 x Murder.</p> <p>S Ruthsalz was in a relationship with the victim and they had a young child together. There was tension in the relationship and a major source of dispute between them was her mother, J Ruthsalz.</p> <p>J Ruthsalz was friends with J Campbell and her husband D Campbell (co-offender). She told J Campbell that the victim was physically and verbally abusive to her daughter. After visiting the couple's home J Campbell got the impression the victim did not like her and this reinforced her negative view of him and that S Ruthsalz was 'at risk'.</p>	<p><u>J Ruthsalz</u> Life imp. Min non-parole period 24 yrs imp.</p> <p><u>S Ruthsalz</u> Life imp. Min non-parole period 21 yrs imp.</p> <p><u>D Newton</u> Life imp. Min non-parole period 24 yrs imp.</p> <p><u>J Campbell</u> Life imp. Min non-</p>	<p>Dismissed.</p> <p><u>J Ruthsalz</u> Appeal concerned length of sentence (non-parole period) and errors of finding (involved in a very serious category of murder; aggravating factor not relevant to criminality and intended victim would be killed).</p> <p><u>S Ruthsalz</u> Appeal concerned length of sentence (non-parole period) and errors of</p>

	<p>Childhood marred by father's drug and alcohol abuse and extreme violence perpetrated towards her mother; experienced poverty, instability and general neglect; bullied and suffered social isolation at school.</p> <p>Employed customer service jobs.</p> <p><u>D Newton</u> 47 yrs at time offending. 49 yrs at time sentencing</p> <p>Convicted after trial.</p> <p>Prior criminal history; no prior violent offending.</p> <p>Married; three children.</p> <p><u>J Campbell</u> 44 yrs at time offending. 46 yrs at time sentencing.</p> <p>Convicted after late PG.</p> <p>Victim of domestic abuse by former partner; suffered trauma and long-term effects to mental health, indications of PTSD.</p>	<p>At some point there was discussion between J Ruthsalz, her partner and J Campbell that something needed to be done and the victim needed to be killed and it made to look like a carjacking.</p> <p>Later J Campbell suggested to D Newton that the victim needed 'a touch along', 'a kick in the head', or 'a broken arm or leg' to knock some sense into him. D Newton agreed to assist.</p> <p>There were numerous conversations were J Ruthsalz would ask J Campbell if she could assist with having the victim killed. J Ruthsalz pressured her to assist by telling her the victim was now abusing his young daughter.</p> <p>A plan was formed. S Ruthsalz provided information to D Campbell and D Newton to enable them to identify the victim. Both also travelled to the victim's address to familiarise themselves with the house and its surroundings in preparation for the intended killing.</p> <p>Two days later, S Ruthsalz, with their daughter, went to her mother's, leaving the victim at home alone. She later sent the victim text messages falsely purporting to be elsewhere, in order to explain why she had not returned home and to ensure he remained at home. She also provided the keys to her home, to enable D Campbell and D Newton access and to surprise the victim.</p> <p>D Campbell and D Newton, most likely armed,</p>	<p>parole period 13 yrs imp.</p> <p>The sentencing judge found the offending was in a 'very serious category of murder'; it was planned and premeditated; the victim was killed with extreme brutality in his home, a place where he was entitled to feel safe; there was nothing by way of provocation; he was outnumbered; his attackers were armed and efforts were made to conceal the crime and deceive police.</p> <p><u>J Ruthsalz</u> The trial judge found the appellant 'the primary instigator' in the plan to kill the victim.</p> <p>The trial judge did not accept the appellant merely wanted the victim to be assaulted; she played a coordinated role; she wanted 'a more permanent solution and</p>	<p>finding (involved in a very serious category of murder and aggravating factor not relevant to criminality).</p> <p><u>D Newton</u> Appeal concerned length of sentence (non-parole period) and error of finding (involvement and culpability).</p> <p><u>J Campbell</u> Appeal concerned miscarriage in sentencing (failure to take into account PG and cooperation with authorities).</p> <p><u>J Ruthsalz</u> At [294] ... there was a proper basis in the evidence for the trial judge's finding that [her] role included being the primary (not the only) instigator of the plan to kill</p> <p>At [303] ... there was a proper basis in the evidence ... for his Honour's finding that [she] intended to kill</p>
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				<p>when she left the home the night of the offence.</p> <p><u>D Newton</u> The trial judge found the appellant's role was to carry out the killing with D Campbell; it was premeditated murder; the offence was carefully planned and executed; his involvement chilling in that he killed a man he did not know for no other reason than to assist a friend.</p> <p>The trial judge found that while it was not possible to determine whether the appellant or D Campbell inflicted the injuries to the victim and who lit the fire he was satisfied they acted together and were equally responsible for them.</p> <p><u>J Campbell</u> The trial judge found the appellant played a pivotal role in the offending and acted as</p>	<p>offending, and the importance of appropriate punishment and general deterrence as sentencing factors, precluded the imposition of a lesser minimum non-parole period.</p> <p><u>D Newton</u> At [365] ... it was open to the trial judge, ... to be satisfied beyond reasonable doubt that [he] had participated in the assault of [the victim] ... as the judge found and was entitled to find, [the victim] was surprised while alone in his house at night; blunt force was used against him; and the blood spatter in the house was consistent with [the victim] having suffered significant impact injuries and a major bloodletting event.</p> <p>At [382] ... the objective seriousness of [his] offending, and the importance of appropriate punishment and general deterrence as sentencing factors, precluded the</p>
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				<p>the go-between, recruited D Newton and, although the plan was not initially to kill, she accepted that that became the plan and, accordingly, she intended that the victim would be killed.</p> <p>Co-operative with police and 'significant' assistance provided as witness for the State.</p>	<p>imposition of a lesser min non-parole period.</p> <p><u>J Campbell</u> At [403] ... the facts and circumstances of [the victim's] murder (including the planned and premeditated nature of the killing) and [her] pivotal role in the offending were such that it was not 'clearly unjust' for the trial judge to impose a sentence of life imp, notwithstanding the significant mitigating factors, including her PG and cooperation.</p>
19.	<p><i>Mansfield v The State of Western Australia</i></p> <p>[2017] WASCA 178</p> <p>Delivered 29/09/2017</p> <p>Co-offender of:</p> <p><i>Marchesano v The State of</i></p>	<p>33 yrs at time offending.</p> <p>Convicted after trial.</p> <p>Prior criminal history, including offences of violence.</p> <p>Illicit drug user.</p>	<p>1 x Murder.</p> <p>The appellant and the co-offender Marchesano agreed to kill the deceased.</p> <p>The appellant and Marchesano took possession of a rifle. Later that same day Marchesano went with the deceased, in the deceased's car, to an isolated bush area on the pretext of collecting some stolen items.</p> <p>Marchesano was aware the appellant was already at the location, waiting with the loaded rifle. When they arrived the appellant shot the deceased once in the head, killing him.</p>	<p>Life imp. Min non-parole period 26 yrs imp.</p> <p>The sentencing judge found the offending aggravated by its planning; it was unprovoked; the deceased was lured to a location where he was vulnerable and his body hidden and dealt with in a disrespectful manner.</p> <p>The sentencing judge</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentence (non-parole period).</p> <p>At [222] ... The min term is not materially inconsistent with min terms previously imposed for reasonably comparable offending or for offending of a greater degree of seriousness than the appellant's.</p>

	Western Australia [2017] WASCA 177		<p>The appellant and Marchesano dumped the deceased's body in bushland several km from the site where the killing occurred. They then burnt their clothes and the wooden portions of the rifle, disposed of the remaining firearm parts and cleaned the deceased's car.</p> <p>About a week later the two, together with a third person, moved the deceased's body to another location, where it was burnt and buried in a clandestine bush grave. They also set fire to the deceased's car.</p>	<p>found the appellant 'in charge' of hiding or destroying evidence and burying the deceased's body.</p> <p>The sentencing judge found the appellant without remorse.</p> <p>Steps taken towards rehabilitation while in custody.</p>	<p>At [223] ... the murder committed by the appellant was a very serious example of offending of that kind. The appellant joined with Mr Marchesano in a plan to kill him. The killing was unprovoked. The appellant actually shot and killed the deceased. Later, the appellant participated in hiding or destroying evidence, and dismembering, burning and disposing of the deceased's body, for the purpose of endeavouring to avoid detection.</p> <p>At [225] ... The length of the min non-parole period was not unreasonable or plainly unjust.</p>
18.	Marchesano v The State of Western Australia [2017] WASCA 177 Delivered 29/09/2017	18 yrs at time offending. Convicted after trial. Illicit drug user.	1 x Murder. The appellant and the co-offender Mansfield agreed to kill the deceased. The appellant and Mansfield took possession of a rifle. Later that day the appellant went with the deceased, in the deceased's car, to an isolated bush area under the pretext of collecting some stolen items.	Life imp. Min non-parole period 23 yrs imp. The sentencing judge found the offending aggravated; by its planning; it was unprovoked; the deceased was lured to a location where he was	Dismissed. Appellant challenged length of sentence (non-parole period). At [210] ... the murder committed by the appellant was a very serious example of offending of that kind. Although he did not shoot

	<p>Co-offender of:</p> <p><i>Mansfield v The State of Western Australia</i> [2017] WASCA 178</p>		<p>The appellant was aware Mansfield was already at the location, waiting with a loaded rifle. When they arrived Mansfield shot the deceased in the head, killing him.</p> <p>The appellant and Mansfield dumped the deceased's body in bushland several km from the site where the killing occurred. They then burnt their clothes and the wooden portions of the rifle, disposed of the remaining firearm parts and cleaned the deceased's car.</p> <p>About a week later the two, together with a third person, moved the deceased's body to another location, where it was burnt and buried in a clandestine bush grave. They also set fire to the deceased's car.</p> <p>The appellant initially denied any involvement in the killing. However, later admitted his role in the offending, but the only reason he had done so was because Mansfield had threatened him and his family; he was a very reluctant and very frightened participant in the plans to kill the deceased.</p>	<p>vulnerable and his body hidden and dealt with in a disrespectful manner.</p> <p>The sentencing judge found the appellant agreed to participate in the killing; this agreement was not made as a result of any threats made by Mansfield.</p> <p>The sentencing judge found the appellant's offending no less serious than Mansfield's.</p> <p>Taken steps towards rehabilitation while in custody; well behaved in prison on remand.</p>	<p>the deceased, the appellant joined with Mr Mansfield in a plan to kill him. The killing was unprovoked. The appellant played a crucial role in the events which culminated in the murder. Later, the appellant participated in destroying evidence and disposing of the deceased's body. The appellant facilitated the murder by inviting the deceased to attend the appellant's house. The appellant then induced the deceased, by a false pretence, to accompany him to an isolated location in the knowledge that Mr Mansfield was waiting with a loaded rifle, the deceased was highly vulnerable and Mr Mansfield intended to shoot and kill the deceased.</p> <p>At [214] In the present case, the objective seriousness of the appellant's offending, including the circumstances in which the deceased was murdered, combined with the importance of personal</p>
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					<p>and general deterrence, reduced to a very substantial extent the mitigating effect of the appellant's youth.</p> <p>At [215] ... The length of the min non-parole period was not unreasonable or plainly unjust.</p>
17.	<p><i>Gore v The State of Western Australia</i></p> <p>[2017] WASCA 163</p> <p>Delivered 01/09/2017</p>	<p>44 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>No relevant prior criminal history.</p> <p>Single indigenous woman; lived and raised in the Kimberley by her parents; good upbringing; close to her mother; father deceased.</p> <p>Left school yr 10; completed number of courses.</p> <p>Maintained employment; various roles.</p> <p>Primary caregiver to her three nieces.</p> <p>Long history of alcohol abuse; commenced drinking aged 17</p>	<p>1 x Murder.</p> <p>The deceased was Gore's former partner. During their relationship Gore had been the victim of domestic violence over a number of years. They remained friends after the separation, but there had been incidents when the deceased had threatened her.</p> <p>Gore and others were playing cards for money. She had been drinking and was heavily intoxicated. The deceased arrived. He was also very drunk.</p> <p>Gore lent the deceased money so he could join in on the card game. When the deceased lost the money and Gore refused him more, he stole some from her.</p> <p>Gore became angry so the deceased punched her. Gore responded by punching the deceased. Someone intervened and pulled the two apart.</p> <p>After this altercation Gore obtained a knife and</p>	<p>Life imp. Min non-parole period 12 yrs imp.</p> <p>The trial judge found the appellant used a dangerous weapon with the intend to hurt the deceased, when he was not at the time assaulting her or posing any immediate threat to her.</p> <p>The trial judge found the offending aggravated in that the deceased was unarmed and the appellant had deliberately armed herself with a very dangerous weapon.</p> <p>In sentencing the trial</p>	<p>Dismissed.</p> <p>Appellant challenged length of sentence; appeal concerned error in life term and non-parole period.</p> <p>At [43] ... the primary motivation for the offending was anger at the deceased for stealing money, rather than a belief ... that stabbing the deceased in the chest was necessary for self-defence. ... While not premeditated, and not done with any intention to kill, the appellant's act of stabbing the deceased in the chest with a kitchen knife was objectively highly likely to result in his death.</p>

		<p>yrs.</p> <p>Poor health; reduced life expectancy; progressive kidney failure requiring dialysis; rheumatic heart disease; high blood pressure.</p>	<p>demanding her money back. The deceased refused so Gore lashed out at him several times with the knife. The first two times it inflicted score marks underneath his armpit and on his upper forearm. The third time the knife struck him in the chest.</p> <p>The deceased died a short time later from a penetrating wound through the heart.</p>	<p>judge found the offence, as a whole, at the lower end of the scale of seriousness of murders and unusual and exceptional circumstances reflected the lower min term than would usually be imposed for murder.</p> <p>Appellant cooperative; some formal admissions made; little risk of reoffending in similar manner when released.</p>	<p>At [45] The seriousness of the appellant's offending conduct was such as to be capable of supporting a conclusion that a sentence of life imp was not clearly unjust, even taking into account the significant mitigating circumstances.</p> <p>At [51] The offence in the present case was not in the most serious category of murder, there being no premeditation and no intent to kill the deceased. However, the appellant stabbed the deceased in the chest ... principally out of anger at her money being stolen, at a time when she had no reasonable grounds for believing there to be any necessity to act in self-defence. While the appellant's personal circumstances demanded a reduction in the non-parole which might otherwise have been fixed, they did not necessarily demand the fixing of the lowest available non-parole period of 10 yrs.</p>
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<p>16.</p>	<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 drowned.</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> <p>At [123] The objective</p>
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					<p>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>Delivered</p>	<p><u>Jones</u> 37 yrs at time sentencing.</p> <p>Convicted after trial.</p> <p>Extensive prior criminal history.</p> <p>Partner and father of two children.</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 knife, forced their way into a cubicle as the</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 seriousness of murders involving an</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 the important sentencing</p>

	30/11/2016	<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>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>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>considerations of appropriate punishment and personal and general deterrence, precluded the imposition of a lesser min non-parole period.</p>
14.	<p><i>Broadbent v The State of Western Australia</i></p> <p>[2016] WASCA 148</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>Kosick</u></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 the deceased, but Kosick</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 rooted in methylamphetamine, not</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 became aware that Mr</p>

	<p>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>Educated to yr 11; completed an</p>	<p>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>mental health.</p> <p>Sentencing judge reduced min non-parole period by 2 yrs to reflect Kosick's cooperation with the police.</p>	<p>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 mitigation, that required or</p>
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		<p>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>justified greater disparity beyond the 2-yr reduction that Mr Kosick received because he led the police to the gravesite.</p>
13.	<p><i>Corbett v The State of Western Australia</i></p> <p>[2016] WASCA 97</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 members; supportive</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 fractures to his skull and jaw.</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 himself from the</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 injuries that were</p>

		<p>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>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>deceased.</p> <p>Remorseful; high risk of violent reoffending, without significant drug rehabilitation and psychiatric and psychological assistance.</p>	<p>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><i>Cameron v The State of Western Australia</i></p> <p>[2016] WASCA 92</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>Very turbulent, disturbed and</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>The appellant went to the bedroom of victim 1,</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 serious nature and of the worst kind in their categories"</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>At [80] ... the offence of</p>

	<p>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>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>and there did not appear to be any clear motive.</p>	<p>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> <p>At [187] The objective</p>
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					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 Stoeski</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 "did not involve anything in the nature of planning or</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 collectively, at or towards</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>premeditation of anything resembling a rational kind".</p>	<p>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 application of brutal,</p>
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					<p>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 Western</i>	41 yrs at time offending.	1 x Murder.	Life imp. Min non-parole period of 17 yrs.	Allowed.

	<p><i>Australia v Churchill</i></p> <p>[2015] WASCA 257</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>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 responsibility for the death</p>
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					<p>of Mr Dunn are manifestations of that normalisation.</p> <p>At [38] The only mitigating factor of any significance is the respondent's disadvantaged and dysfunctional upbringing.</p>
8.	<p>Zwerus v The State of Western Australia</p> <p>[2015] WASCA 174</p> <p>Delivered 02/09/2015</p>	<p>33 yrs at time sentencing.</p> <p>Convicted after late PG.</p> <p>Short criminal history, including convictions of common assault, AOBH, unlawful wounding, poss a controlled weapon and breaches of bail and restraining orders.</p> <p>Close relationship with his mother; father deceased.</p> <p>Completed apprenticeship; worked as a roof tiler; worked as a process technician in the mines; excelled in sports.</p> <p>Two children from former relationship; appellant gave up work to care for children after former partner died.</p> <p>Entrenched history of illicit drug</p>	<p>1 x Murder.</p> <p>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.</p> <p>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.</p> <p>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 himself. The deceased died soon afterwards.</p>	<p>Life imp. Min non-parole period of 18 yrs.</p> <p>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.</p> <p>Sentencing judge found the psychosis was a product of voluntary and prolonged use of methyl and cannabis; psychosis affected appellant's judgment and caused him to be more aggressive; appellant</p>	<p>Dismissed – on papers.</p> <p>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 appellant's psychosis was</p>

		<p>abuse.</p> <p>Suffers from drug-induced psychosis; undertook treatment while in custody.</p>	<p>The appellant dragged the deceased's body into the sea and attempted to conceal evidence of what he had done.</p>	<p>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>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>No serious mental illness.</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>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>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 the appellant due to the appellant's health.</p> <p>Offending caused adverse psychological and other consequences for Ms Attwell.</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>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>‘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>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 the range of sentences available to the sentencing judge in the proper exercise of the discretion conferred upon him.</p>
6.	<i>The State of Western Australia v</i>	28 yrs at time offending; 30 yrs at time sentencing.	<p>Ct 1: Murder.</p> <p>Ct 2: Arson.</p>	Ct 1: Life imp. Min non parole period of 17 yrs.	<p>Dismissed.</p> <p>At [49]-[122] and [178]-</p>

	<p>Smith</p> <p>[2015] WASCA 87</p> <p>Delivered 04/05/2015</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>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 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</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>[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>
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			victim.		
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>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.</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>
4.	<p><i>Mack v The State of</i></p>	<p>23 yrs at time of offending. 27 yrs at time of sentencing.</p>	<p>1 x Murder.</p>	<p>Life imp.</p>	<p>Dismissed.</p>

	<p>Western Australia</p> <p>[2014] WASCA 207</p> <p>Delivered 10/11/2014</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>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>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</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 and his commission of the crime.</p> <p>Low risk of violent re-offending.</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>
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			<p>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>		
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 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</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 daughter 'Asian sluts' and 'whores' and had said she would scream rape.</p> <p>Sentencing judge found</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>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>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><i>Rosewood v The State of Western</i></p> <p>[2014] WASCA 21</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>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</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>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</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> <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</p>	Dismissed.

		<p>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>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>injury of such a nature as to endanger or be likely to endanger the life of the deceased.</p>	
1.	<p><i>Prestidge v The State of Western Australia</i></p> <p>[2014] WASCA 16</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 attempted robbery.</p> <p>Born in England; positive upbringing.</p> <p>Attended schooling until 15 yrs; employed in a number of unskilled occupations.</p> <p>Two children from different relationships.</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>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</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 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>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>Mother, stepfather and sister remain supportive of him.</p>	<p>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>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>	
<p align="center">2008 Homicide Amendments – effective 1 August 2008</p>					