

# Aggravated dangerous driving occasioning death & vehicular manslaughter

**From 1 January 2014**

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

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

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are separated by a row which shows when the transitional provisions were enacted, and another showing when they were repealed.

## Glossary:

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

No.	Case	Antecedents	Summary/ facts	Sentence	Appeal
2.	<p><i>The State of Western Australia v Tittums</i></p> <p>[2018] WASCA 23</p> <p>Delivered 27/02/2018</p>	<p>35 yrs at time offending. 36 yrs at time sentencing.</p> <p>Convicted after PG (12.5% discount).</p> <p>Minor criminal history; no prior traffic convictions.</p> <p>Left school yr 10.</p> <p>Good work history; employed time offending.</p> <p>Loving family man; married; two young children.</p> <p>History of alcohol and drug abuse; since offending undertaken counselling for substance abuse.</p>	<p>Cts 2; 4 &amp; 6: Agg DDOD. Ct 7: Failure to report an incident. Ct 8: Failure to render assistance.</p> <p>The three victims were travelling together in a motor vehicle. Tittums was driving his vehicle some distance behind the victims' vehicle.</p> <p>The applicable speed limit was 90 km per hr. Tittums' was driving at a minimum average speed of between 157-165 km per hr.</p> <p>Tittums' vehicle collided with the rear of the victims' vehicle causing their vehicle to leave the road and strike trees. The vehicle ignited and was engulfed in flames.</p> <p>Tittums' vehicle came to rest 82m down the road. He abandoned his vehicle and made no attempt to assist the victims or to report the incident to the police or emergency services.</p> <p>Tittums walked home, showered, changed his clothes and went to bed.</p> <p>The victims died at the scene from smoke inhalation or, possibly, smoke inhalation and incineration.</p> <p>Police attended Tittums' home in the early hours of the same day and he lied to police about his knowledge of the incident. His</p>	<p>Ct 2: 6 yrs 6 mths imp (to commence 9 mths after commencement of ct 4); MDL disqu 2 yrs (conc ct 8). Ct 4: 6 yrs 6 mths imp (to commence 9 mths after commencement of ct 6); MDL disqu 2 yrs (conc ct 8). Ct 6: 6 yrs 6 mths imp (to commence 1 yr after commencement of ct 8); MDL disqu 2 yrs (conc ct 8). Ct 7: 1 yr's imp (con ct 8); MDL disqu 1 yr (cum ct 8) Ct 8: 2 yrs imp; MDL disqu 2 yrs .</p> <p>TES 9 yrs imp. MDL disqualification 3 yrs.</p> <p>EFP.</p> <p>The sentencing judge rejected the submission offending was within the worst category of offences of its kind; but accepted it was towards the upper end of seriousness for offending of its kind.</p> <p>Genuinely remorseful;</p>	<p>Allowed.</p> <p>Appeal concerned length of sentences cts 7 and 8; MDL disqualifications and totality principle.</p> <p>Sentences cts 7 and 8 set aside; all orders for conc and cum set aside.</p> <p>Re-sentenced:</p> <p>Ct 2: 6 yrs imp (head sentence). Ct 7: 2 yrs imp (cum with head sentence). Ct 8: 4 yrs imp (conc).</p> <p>Individual sentences for cts 4 and 6 not disturbed.</p> <p>All other individual sentences conc with each other and conc with accumulates sentences for cts 2 and 8.</p> <p>MDL disqualification each ct set aside; all orders for conc and cum in relation to MDL disqualifications set aside.</p> <p>Re-sentenced:</p> <p>Ct 2: MDL disqu 4 yrs (conc). Ct 4: MDL disqu 4 yrs (conc).</p>

			<p>blood alcohol level at the time of the collision was calculated to have been 0.13% and blood analysis detected the use of methyl.</p>	<p>‘deeply distressed about the impact’ of his offending; has taken responsibility for the consequences of his criminal conduct.</p>	<p>Ct 6: MDL disqu 4 yrs (conc).  Ct 7: MDL disqu 2 yrs (cum ct 2).  Ct 8: MDL disqu 4 yrs (conc).</p> <p>TES 10 yrs imp.  MDL disqualification 6 yrs.</p> <p>EFP after 8 yrs.</p> <p>At [82] The respondent’s offending in relation to cts 7 and 8 was very serious. Its egregious character is readily apparent from his Honour’s unchallenged findings as to the facts and circ of those cts. His Honour identified, as aggravating factors, the ... extraordinary callousness in walking away while the victims died and their bodies were incinerated; the ... conduct, upon arriving at his home, in showering and going to bed without making any attempt to report the incident; and the ... lies to the police that he had not used his vehicle and had not been injured. ... The parlous situation in which the victims were placed as a result of the ... agg dangerous driving, would have been obvious to the respondent. He chose to ignore their plight and his legal duties.</p>
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1.	<p><b><i>Billings v The State of Western Australia</i></b></p> <p><b>[2017] WASCA 80</b></p> <p>Delivered 21/04/2017</p>	<p>37 yrs at time sentencing.</p> <p>Convicted after early PG (20% discount).</p> <p>Prior criminal history, including convictions of 3 x breaching VROI, 3 x criminal damage, 3 x threats to injure and several driving offences.</p>	<p><u>Indictment</u></p> <p>Ct 1: Agg DDOD.</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: DDOBH.</p> <p>Ch 2: DDOBH.</p> <p>Ch 3: Driver failing to report incident occasioning death or GBH.</p> <p>Ch 4: Failed to render assistance to victim of incident occasioning BH, not GBH or</p>	<p><u>Indictment</u></p> <p>Ct 1: 10 yrs imp.</p> <p><u>Section 32 Notice</u></p> <p>Ch 1: 6 mths imp (conc).</p> <p>Ch 2: 6 mths imp (conc).</p> <p>Ch 3: 12 mths imp (conc).</p> <p>Ch 4: 12 mths imp (conc).</p> <p>Ch 5: \$1500 fine.</p> <p>Ch 6: \$2000 fine.</p>	<p>Allowed in part.</p> <p>Appeal concerned finding of agg DDOD as worst case of its kind.</p> <p>Re-sentenced to:</p> <p><u>Indictment</u></p> <p>Ct 1: 8 yrs imp.</p>

		<p>Divorced; three children.</p> <p>Educated to yr 10; sandblaster by trade.</p>	<p>death Ch 5: No MDL (fine suspension) Ch 6: Breach of VRO.</p> <p>The three victims were all passengers in Billing's car.</p> <p>Approx. 30 mins before the fatal crash, Billing drove in a grossly dangerous fashion. He drove at speeds of up to 220km per hour and through four red lights. At one intersection he nearly collided with another car. He drove over one victim's foot at a service station. He did a burnout out at his former partner's house in breach of a VRO.</p> <p>Billing ignored pleas from two victims asking him to stop and let them out.</p> <p>Billing drove at 145km per hr in a residential street where the speed limit was 50km per hr. The street was a two-lane carriageway. Another car had to swerve to avoid colliding with Billing's car. Billing collided with a raised median island, causing him to lose control of the car. The car struck the vegetation on the median island and the rear passenger side struck a large pole. The impact caused fatal injuries to the left rear passenger. The front passenger suffered a deep cut to the scalp, grazing and bruising. The right rear passenger suffered a cut to his top lip and scratches to both arms.</p> <p>Billing got out of the car and urged the</p>	<p>5 yrs 9 mths MDL disqualification.</p> <p>TES 10 yrs imp.</p> <p>EFP.</p> <p>Sentencing judge erroneously found that the agg DDOD fell within the worst category.</p> <p>Sentencing judge found that the DDOBH offences were severe, but noted that the victims suffered relatively minor injuries.</p> <p>Sentencing judge found that Billing's dangerous driving was willful and did not involve an error of judgment or other momentary driving error. He found that while the outcome was not inevitable, the risk of a catastrophic outcome became grossly unacceptable by the time the collision occurred.</p> <p>Sentencing judge characterised Billing's behaviour in abandoning the victim shortly after the</p>	<p><u>Section 32 Notice</u> Ch 1, 2 and 3: to be served cum upon each other and Ct 1. Ch 3: to remain conc with new sentence on Ct 1.</p> <p>All other sentences to remain.</p> <p>TES 10 yrs imp (thus the TES was left unchanged).</p> <p>At [34] ... while the overall circumstances of the offence and the offender warranted a lengthy sentence of immediate imp, it did not warrant the maximum prescribed penalty.</p> <p>At [37] ... his Honour erred in his assessment of the gravity of the offence of DDOD. A different and lower sentence should have been imposed with respect to the indictable offence.</p> <p>At [39] Although the offence of agg DDOD was not in the worst category of cases, it was nevertheless a bad offence of its kind.</p> <p>At [44] The only significant matter in mitigation in the present case was the appellant's PG, which was entered at the</p>
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			<p>victims to leave with him. One victim said that another was critically injured, and Billing responded “I don’t give a fuck”. Billing fled from the scene.</p> <p>Billing repeatedly denied being the driver and being involved. He failed to report the crash. He attempted to implicate one of the victims.</p> <p>Billing had a BAC of 0.048%.</p> <p>Billings was not authorised to drive, having previously been disqualified from holding an MDL for 8 mths.</p>	<p>crash as callous and deliberate.</p> <p>Sentencing judge noted that Billing had been drinking alcohol before driving and that at the time of the crash this was in his system.</p>	<p>first reasonable opportunity. Having regard to the strength of the case against the appellant I would give a discount of 20%...</p> <p>At [49] ... the TES imposed by his Honour of 10 yrs' imp was appropriate...</p>
<b><i>Transitional Provisions Repealed (14/01/2009)</i></b>					
<b><i>Amendments to RTA s59 – reversal of onus of proof (01/01/2005)</i></b>					
<b><i>Transitional Provisions Enacted (31/08/2003)</i></b>					