

## Traffic Amphetamines / Methamphetamines

### Commercial Quantity

s.302.2 (Cth) Criminal Code

Commenced 6.12.2005

302.2 Traffic commercial quantities of controlled drug

Commercial Quantity: 750gm

Maximum Penalty: Life

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Priors	Facts
1.	<b>Ng</b> (33)  <b>Siu</b> (25)  <a href="#">[2009] VSCA 218</a>	Traffic comm qty  Traffic comm qty	799.5g dimethylamphet	PG  PG	6y NPP 4y  5y NPP 3y	AD  AA 4y NPP 2y 6m		(Dimethylamphetamine an analogue of methylamphetamine or ice) S transported drugs from Sydney to Melbourne at request of N – N had arranged collection and delivery of drugs and involved in discussions on marketing and distribution of drugs in Melbourne – both involved in ‘top level’ of supply and distribution chain – N more dominant offender Both had prior good character and good prospects of rehabilitation On appeal: sentence for S reduced in view of parity

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Priors	Facts
2.	<b>Le</b> (26) <a href="#">[2010] NSWCCA 285</a>	Consp traffic comm qty meth and heroin  Consp import traff qty heroin  Consp to deal in proceeds: s.400.3(1) (Cth)	3.5kg (bulk) heroin  2.3kg (bulk) methamphet  \$4,700,000	PG (50% combined)	13y 6m NPP 9y  7y  7y (All concurrent)	AA 12y 6m NPP 8y 3m  7y  7y (All concurrent)	nil	Over 13 months involved in drug importing and distribution syndicate – drugs arrived in Sydney and taken to Melbourne – involved in nine incidents – actively involved in supply and transportation – arranged for couriers to take heroin and methamphetamine to Melbourne – total of 3.5kg of heroin and 2.3kg of methamphetamine dealt with by syndicate - arranged for drugs to be imported from Vietnam – involved in general oversight of money remittance business to transfer money for drug dealing – drug purity low – lieutenant to principal offender Drug user – genuine contrition – rehabilitation – unsuccessfully attempted to stop involvement On appeal: parity with co-offender
3.	<b>Halac</b> (42) <a href="#">[2015] NSWCCA 121</a>	Traffic comm qty  Sched: Aid and abet traffic comm qty	40.45kg methamphet / 4-methylamphet  10.94kg methamphet / 4-methylamphet	PG (25%)	18y NPP 11y 6m	AD	Record in Europe including drugs	Belgian national involved with Dutch syndicate – imported drugs by syndicate stored in van at residential units – offender removed portion of drugs from van and delivered to co-offender – assisted co-offender prepare camper to transport smaller amount of drugs to Perth – trusted and significant involvement
4.	<b>Hui</b> (early 30s) <a href="#">[2015] VSCA 314</a>	Traffic comm qty  Import mkt qty	1.62kg methamphet  Above 250g methamphet	PG	6y  5y  Total: 7y 6m NPP 6y	AA 6y  5y  Total: 7y 6m NPP 5y 6m	Admitted prior for possession of small amount of cocaine in Hong Kong	Arranged importation of drugs by express mail package from Hong Kong – gross weight of package 7.625kg – co-offender took possession of package and delivered to offender – drugs in crystalline form – offender processed drugs and arrested in possession of 1.62kg pure methamphetamine – significant role in offending – higher than co-offender Reasonably good prospects of rehabilitation
5.	<b>Olivares</b> (48) <a href="#">[2016] NSWCCA 270</a>  <a href="#">[2021] NSWCCA 126</a>	Traffic comm qty  Deal in proceeds of crime: s.400.9(1A) (Cth) <i>Code</i>	6.3356kg methamphet  \$60,000	PG (15% combined on second appeal)	15y  FT 12m  Total: 15y 6m NPP 9y 6m	AD  AA (trafficking offence) 11y 6m NPP 6y 11m	nil	Resident of Mexico – drugs and money found concealed in hotel room – paid \$10,000 to come to Australia, pick up drugs and deliver to third person – trusted participant Suffering financial strain at home – wife with young children On second appeal: <i>Xiao</i> error – considered fresh evidence of hardship to family in Spain, remorse and good prospects of rehabilitation

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Priors	Facts
6.	<b>Kleindyk</b> (42) <a href="#">[2016] WASCA 123</a>	Att traffic comm qty  Traffic comm qty  Traffic mkt qty  Traffic  Deal in proceeds of crime: s.400.9(1) (Cth)  Sched: Possess	9.734kg methamphet  2.7428kg MDMA  270.3g methamphet  208.4g cocaine  \$764,320  1.1g methamphet	PG	14y  9y  6y  5y  1y 3m  <u>Total:</u> 18y NPP 11y 3m	AD	Record for drug offences	Commercial quantity of methamphetamine transported in padlocked box by freight from NSW to WA – controlled delivery after intercepted by police - offender flew to Perth to pick up drugs from storage unit – cash, drugs and drug paraphernalia found in home and storage unit associated with offender in Queensland - significantly involved in major drug distribution enterprise - not main or sole organiser but 'trusted underling' Married with young children – hardship to family due to youngest son's autism On appeal: rejected argument that sentencing judge failed to take into account exceptional hardship
7.	<b>Lieu</b> <a href="#">[2016] VSCA 277</a>	Traffic comm qty   Consp to import comm qty	10.758kg methamphet  3.55kg PMMA  1.1497kg heroin	PG	20y   16y  <u>Total:</u> 25y NPP 18y  (pre discount for guilty plea: Life NPP 25y)	AD	theft	(PMMA: 4-methoxymethylamphetamine - analogue of MDMA) Operated two substantial and illegal drug operations out of Melbourne – both operations extensive and offender at highest level In relation to first offence arranged with Hong Kong associate to source drugs in Sydney and arranged intermediaries to travel to Sydney to pick up drugs – 5 separate transactions identified totalling 10.758kg methamphetamines and 3.55kg PMMA – transmitted \$1,207,500 overseas as payment Over seven months conspired with others to source and import heroin from Vietnam on ongoing basis – at least four couriers brought in total of 1.1497kg – greater amounts ordered as part of conspiracy Refugee from Vietnam – genuine remorse

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Priors	Facts
8.	<a href="#">HL</a> <a href="#">[2017] NSWCCA 66</a>	Consp to traffic comm qty  Knowingly take part in supply lge comm qty (NSW)	37.75kg methylamphet  3.0021kg (68.9% purity) methylamphet	PG (40% combined)	12y NPP 6y  6y NPP 3y 6m  <u>Total:</u> 15y NPP 9y	AA 12y NPP 6y  6y NPP 3y 6m  <u>Total:</u> 14y NPP 8y	Nil	Involved in an international drug trafficking organisation – left drugs with co-offender in car park (state offences) - drugs concealed in shipping container from Hong Kong - container transported to warehouse rented by flatmate at direction and instruction of offender (Cth offence) – arranged for arrival and distribution of the drugs; arranged for leasing of warehouse Motivated by greed caused by gambling and business losses On appeal – parity with co-accused who had more senior role
9.	<a href="#">Schanker</a> (32) <a href="#">[2018] VSCA 94</a>	Traffic comm qty  Att possess comm qty unlawfully imported	over 2kg methylamphet  5.896kg methylamphet	PG (18%)  VG	9y  15y  <u>Total:</u> 18y NPP 14y	AD	fraud and dishonesty – breached conditional liberty	Drugs imported in two packages containing bicycle parts – in controlled delivery packages delivered to storage unit – offender took possession of packages with owner of unit – several weeks later involved in possessing drugs with intent to sell – offences interrelated – a principal Refugee from Sierra Leone – suffered extreme violence and trauma – substantial mental health issues
10.	<a href="#">Chu</a> (31) <a href="#">[2018] VSCA 65</a>  Co-offender: LIM	Att traffic comm qty  Import comm qty	3973.9g (net) methamphet  2.075kg methamphet	PG	11y  9y (pre discount for guilty plea: 11y)  <u>Total:</u> 14y NPP 10y	AD	Nil – on bail at time of offending for subsequent drug conviction	Made arrangements to take possession of drugs imported from Hong Kong – drugs intercepted by police - subsequently made arrangements to be supplied with drugs by unknown male – arrested at time of delivery – part of organising chain – financial reward – organisational role Drug user – genuine remorse – good character – wife and young child

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Priors	Facts
11.	<b>Lim</b> (38) <a href="#">[2018] VSCA 64</a>  Co-offender: CHU	Traffic comm qty	3973.9g (net) methamphet	PG	9y NPP 6y  (pre discount for guilty plea: 12y NPP 8y)	AD	nil	Co-offender made arrangements to be supplied with drugs by unknown male – drugs carried by Lim - arrested at time of delivery - element of exploitation and vulnerability to involvement in offence – limited role Prior good character – genuine remorse – hardship due to isolation – reasonably good prospects of rehabilitation
12.	<b>Duong</b> (34) <a href="#">[2021] VSCA 136</a> Niall JA	Traffic comm qty  Traffic mkt qty  Refuse to provide phone password	3,856.2g (gross) methamphet  495.6g (gross) heroin	PG	8y 6m  4y  12m  <u>Total:</u> 10y 9m NPP 6y 9m  (pre discount for guilty plea: 13y 6m NPP 9y)	Application for leave to appeal refused	Drug offences	Over six weeks trafficked in both drugs – controlled operations, sourced drugs, communicated with potential purchasers and arranged sales – gave directions to co-offender – total of 24 sales – quantity of drugs based on sales and drugs found in possession – sold to dealers and private purchasers – below mid-range Difficult childhood – remorse – onerous custodial conditions – threat of deportation On appeal: no error in treating methamphetamine and heroin as distinct offences and partially accumulating sentences

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.

	Case (age if known)	Offence	Amount (pure)	Plea	Sentence	Appeal	Priors	Facts
13.	<b>Ngo</b> (32) <a href="#">[2021] VSCA 21</a>	Consp to traffic comm qty  Consp to traffic comm qty  Proceeds of crime: s.400.3(1) (Cth) <u>Code</u>  Deal with money suspected to be proceeds of crime: s.400.9(1) (Cth) <u>Code</u>	6kg+ (gross) methamphet  2kg+ (gross) heroin  750g+ (gross) methamphet  700g+ (gross) heroin  \$1,178,610  \$1,999,743	PG	15y 10m  15y 6m  5y  2y  <u>Total:</u> 18y 8m NPP 12y 10m  (pre discount for guilty plea: 23y NPP 18y)	Leave to appeal refused	Record includes drug offences, burglary and intentionally cause serious injury	Head of drug syndicate operating in western suburbs of Melbourne – first conspiracy 2.5 months – second conspiracy 1 month – sourced and purchased drugs – transactions for sale of drugs – collection and storage of drugs and cash – setting prices – maintaining records – second conspiracy linked to loaded firearms and 3.2kg pure methamphetamines and 1.37kg pure heroin found in search - prime financial beneficiary s.400.3 offence: proceeds from conspiracy offences - \$1,178,610 proceeds with \$588,612 actually amount deposited s.400.9: proceeds from unknown criminal activity in previous four years - \$1,999,743.25 – 109 separate transactions – top end of spectrum Dysfunctional and difficult upbringing resulting in early drug addiction – prospects of rehabilitation poor – primary motivation was financial On appeal: no error in reducing benefit of plea for contested factual hearing – sentence not excessive
14.	<b>P.Tran</b> (55) <a href="#">[2022] VSCA 44</a>	Traffic comm qty	798.2g methamphet	PG	10y 6m NPP 7y  (pre discount for guilty plea: 13y NPP 9y)	Leave to appeal refused	Dishonesty offences	Female – asked by member of drug trafficking syndicate to supply drugs – facilitated and oversaw supply through son – pressured son to be involved – degree of sophistication and organisation – future supply of 5kg proposed – moral culpability high Remorse – difficult background – mental and physical health issues – gambling debts

Last Updated: Jan 2023

This table has been prepared by the Public Defenders as a guide. Individual cases should be read if they are to be relied upon.