Due to a typesetting error, some of the footnotes in the book have been printed incorrectly. We have listed the relevant footnote corrections in these chapter updates.

Footnote number 183 should read: The amendments to the section were made by Domestic Violence, Crime and Victims (Amendment) Act 2012, which extended section 5 to include victims who 'suffer serious physical harm'. In force 2/7/12, Domestic Violence, Crime and Victims (Amendment) Act 2012 (Commencement) Order 2012 2012/1432

232.10 ***Danger, Exposing child to***

R v D 2018 EWCA Crim 458 D pleaded (25% credit) to cruelty to a person under 16. D had been addicted to various opioids. He had tried hard to defeat the addiction and would often turn to alcohol instead. D had a 12-year-old son, V. One morning, D returned home with bottles of wine which he began to drink. He told his wife to go to the shop and buy some lighter fluid for him. When she refused he said he would take V, their son, with him. There was an argument and V didn't want to go but D insisted and so they left the house together at about 10.30 am. After buying the fluid, D took V to a wooded area and told him to inhale some of it. D said to V that there was a 50/50 chance that he would die and that the fluid might freeze his lungs. When V protested, D accused him of "pussying out". V inhaled the liquid five times and felt dizzy. D called his wife to say that they were fine. By this stage, his wife had called the police. In interview, D admitted everything except having forced V to inhale the fluid. A pre-sentence report said that D described the day of the offence as the worst day of his life. He felt he had lost everything in a moment of madness when heavily intoxicated. The author of the report assessed D as having a low likelihood of re-conviction. D was aged 41 at the time of the offence and had 10 previous convictions including two offences against the person. The Judge said that V must have been terrified. He also noted that D had not sought medical attention for V, which was a serious aggravating factor. Held. The 2-year starting point was too high. **9 months** not 18 months.

232.14 ***Neglect***

R v K 2018 EWCA Crim 922 D pleaded to cruelty to a child. She was aged 18. D took a baby, V, aged 1 year 10 months, to a birthday party having previously told another mother that V had recently fallen down the stairs. The other mothers at the party were shocked at V's appearance and took some photographs. One of the mothers was a nurse and said that she did not believe that all the injuries were from falling down some stairs. V had a patch of hair missing and D said that V had managed to get hold of a pair of scissors. The mothers noticed that V wanted to play on his own at the party and was unusually aggressive. Once D and V had left, the mothers decided to contact the NSPCC, who in turn contacted the police. D and her partner, P (who was not V's father), were initially hostile when the police attended their house but eventually allowed V to be taken to hospital. 19 separate sites of injury were found including bruises, scratches and missing hair. The doctors concluded that whilst some of the injuries might be accidental, at least four were consistent with slaps and at least one made with considerable force. D maintained that V had fallen down the stairs, but she refused to comment when shown the photographs. A text message conversation on her phone with P did mention a fall but D had been at work at the time. P denied providing V with care or having control of V. D had no previous convictions. The pre-sentence report pointed out that D was pregnant and recommended a Suspended Sentence Order. P pleaded to ABH (10 months). The Judge said D was very young and inexperienced with babies. The Judge said that D herself had not harmed the child and that it was P who had (D had now broken up with him). He was critical of D's deliberate and sustained neglect of the child and for trying to cover up D's injuries, and so refused to suspend the sentence. Held. We apply *Assaults on Children and Cruelty to a Child Guideline 2008* para 6 about the use of suspended sentences. It was a

paradigm case for a suspended sentence. D had been in detention for 2 months by the time of the appeal, so **6 months suspended** not 9 months' YOI.

Note: This report is drafted applying the unusual reporting restrictions in this case.

232.21 ***Violence to a child aged over 5 years***

Att-Gen's Ref 2017 Re CGF 2017 EWCA Crim 1987 D was convicted of cruelty to a person, V, his stepson. D lived with V's mother. D was then aged between 27 and 34 and V was then aged between 5 and 11. Between 1990 and 1997, D frequently beat V with his hands and belt which left bruises all over his body. In 1990, Social Services became involved with the family and a consultant paediatrician concluded that the injuries were non-accidental. D accepted that he had hit V and no further action was taken. It was only in 2015 that V complained to the police of cruelty and D was arrested. D had no relevant previous convictions. He had lived with V's mother for 28 years and she and D had a 10-year-old son. In the pre-sentence report he explained that, after the involvement of Social Services, D had to leave the family home for 12 months. The report shows that he admitted to being 'heavy-handed' but continued to deny his use of a belt. D was still with V's mother and was the family's sole source of income. V's relationship with his mother and sibling has fractured, as the mother and her other son had stayed loyal to D. The Judge originally imposed a 2-year suspended prison sentence with 250 hours of unpaid work. However, this sentence was unlawful because the offending occurred in April 2005. The eventual sentence passed was a 12-month Community Punishment Order with 240 hours of unpaid work. Held. The offending involved persistent abuse over [seven] years. There was a serious impact on V. The case was between Categories 2 and 3, giving a 2-year starting point. A custodial sentence was not only merited but required. Therefore, **2 years** not a Community Punishment Order.

232.24a ***Causing etc. serious injury to a child etc. Case***

R v AT 2018 EWCA Crim 1890 D was convicted of causing serious harm to a child. D lived with her partner, M, and their very young baby, V. When the baby was nearly six weeks old, neighbours heard the sound of an argument coming from D's house. They heard one of D's older children saying, "Stop mummy, stop". M was also heard saying words to the effect of "Don't drop the baby". The neighbours and M called the police at around the same time and M told the operator that D had thrown their baby onto the floor. The police found M with V at the neighbour's house and took V to hospital where it was discovered he had suffered bilateral skull fractures which had caused bleeding in the brain. V had also suffered two separate blows to the head involving severe force and rib fractures as a result of having been gripped hard. The child made a good [physical] recovery and a doctor was optimistic about the prognosis, but the Judge said that the long-term effects had not yet been fully determined. D claimed she had dropped the baby by accident. D was aged 29 at the time of the offence and had, in 2015, been cautioned for an offence of battery when she had slapped M. There were numerous positive references. A pre-sentence report described D's relationship with M as 'unhealthy' and noted that there had been police involvement on a number of occasions. D's older children were known to Social Services because of a background of domestic abuse. The report concluded that D posed a high risk of harm to children. In sentencing, the Judge concluded that D had directly caused serious harm to V. The offence was aggravated by the fact that the incident occurred in the presence of the father of the child and D's two young children. Held. The Judge made no suggestion that D had intended really serious harm. The *Assaults Guideline 2011* and the *Assaults on Children and Cruelty to a Child Guideline 2008* can be considered, but not the draft guideline the Judge used. The significant factors are: a) the victim was particularly vulnerable, b) there was an abuse of trust, c) there was especially serious physical injury, and d) there were others present at the time. By considering the appropriate guidelines and the overall circumstances of the offence, we are satisfied that 6 years' imprisonment was manifestly excessive and that the finding of dangerousness was wrong. **5 years** not 10 years' extended sentence (6 years' custody 4 years' extended licence).