



Drug Court of New South Wales

14 January 2019

Professor Dan Howard SC
Commissioner,
Special Commission of Inquiry into the Drug Ice
GPO Box 5341
SYDNEY NSW 2001

Dear Commissioner,

My congratulations upon taking on such a challenge, and I wish you well in your difficult endeavours. It is pleasing to see a new opportunity for some direction on this issue. The binder “*National Leadership Forum on Ice*” in my bookcase is dated 2006 – so this is clearly an issue which has not been successfully addressed. I apologise in advance that some of what follows is rather obvious, but I have included it anyway.

Whilst the Special Commission must of course focus on Ice, in my view the key issue is in fact addiction, and the treatment thereof. Over my 14 years at the Drug Court of NSW I have seen the use of heroin and benzodiazepines decline, and other drugs (such as the synthetics) come and go. The illicit drugs which are enduring, and which become entrenched, are those which are preferred on a long-term basis by addicts. As I write this, the Drug Court is facing new issues regarding fentanyl use, largely within one ethnic group, and also as to whether we need to start targeted testing for Carfentanil. So the substance/s may be a shifting target, with the commonality across the years being addictive behaviours causing damage to the addict, his family, and the community generally.

So, whilst of course it is sensible to focus on Ice at this time, perhaps the answers lie within addiction prevention and treatment, not in, for example, using sniffer dogs to detect users and low-level suppliers.

A: The nature, prevalence and impact of ‘ice’ in NSW.

There is no doubt that ‘ice’ has had a very significant impact on our community, families, victims and users. At the Drug Court we deal with, assist and manage addicts who are offending to fund their habit, and who have offended in such a way that gaol is inevitable.

Participants on the Drug Court program often continue to use illicit drugs as they undertake a comprehensive treatment and case plan. They admit such drug use. **Ice use now comprises about 75% of illicit drug use on program.** Poly-drug use is common in our clientele, and ice is often used in conjunction with other drugs, such as heroin or cannabis. Ice has brought a change in clientele. There is, for example, an emerging group of participants who have

come to drug use and crime later in life. Typically, it is a male in his 30's with a trade who has initially done well in life and then perhaps lost all assets, family and employment before turning to crime to fund an Ice addiction. So it is a dynamic environment, and just as the pattern of drug use has changed, so has the clientele or target group. I would therefore suggest that the solutions recommended by the Special Inquiry need to anticipate these changes and fluctuations, and have flexibility built in.

Whilst the drug of addiction and the target groups change, crime being committed to support a drug addiction is a long-term problem, and has a very significant impact on the general community. The Drug Court accepts those who commit non-violent crime, so the participants have committed break and enters, significant frauds, shoplifting (on a commercial scale at times), car theft etc. The Drug Court also manages several aspects of the Compulsory Drug Treatment Correctional Centre (CDTCC), whereby more serious offenders are allowed an opportunity to serve their sentence at the CDTCC. The impact of their offending is even greater upon the community, with many having committed robberies (even armed robberies, but not involving a firearm).

C: Options to strengthen NSW's response to ice

Can I suggest the obvious, and that is the need for a continuum of responses? A comprehensive package of strategies and actions, which starts with safe opportunities for school age children to get appropriate information and advice, additional counselling services beyond city areas, and residential rehabilitation beds are needed. The issues of preventive education and the various modes of treatment for both addicts and others at risk of addiction are of course within the expertise of others, and no doubt you will hear from them.

Whilst some might question the efficacy of spending money on treating criminals through the Drug Court, they are in fact a very sensible target. The relationship between drugs and crime is very strong – 70% of prisoners identify drugs and or alcohol as being the reason why they offended, and most female prisoners have a history of injecting drug use. Drug addicted offenders cost a great deal of money to imprison, and yet we know that imprisonment is an ineffective response. They cause a great deal of distress and angst to their victims, and to their own parents and children. However, with treatment and assistance, they are often very ordinary, and can become useful and contributing members of our society. They are also very easily identified and already corralled, so the targeting of treatment on addicted offenders is in fact pinpoint.

At the serious end of the spectrum of responses to Ice, an expansion of the geographical coverage of the Drug Court is a rather obvious need. Given its proven success over 20 years since the Drug Summit of 1998, this program has only expanded twice, with the Hunter receiving coverage in 2011, and the inner city of Sydney in 2013. Expansion is very simple in technical terms, as funding, whilst difficult to achieve, is the only actual barrier. Funding is required for the services provided by all partner agencies, particularly NSW Health, and just a simple change to the regulations.

The provision of programs for all of the Sydney metropolitan area, the Illawarra, Dubbo and Lismore are clear priorities. During any consultations with those communities, I would expect them to be quite vocal in wanting some concrete solutions to the crime and addiction issues in their area.

At the moment many residents in Sydney can be excluded from a Drug Court opportunity, and will therefore go to gaol on a full-time basis, because they live on the wrong side of the street (and therefore live in a Local Government Area which is not within the catchment of the Drug Court). Others are denied an opportunity simply through a lack of places on the program, and being referred to the program on an unfortunately busy week. The attached copy of the Court's review for 2017 sets out the detrimental effects of unmet demand.

The Drug Court is very successful program. BOCSAR has undertaken two comprehensive evaluations, and it is proven to be less expensive than gaol, and is proven to reduce re-offending. It makes fundamental sense to pursue evidence-based proven solutions, rather than trying new ideas.

The Drug Court program is well-entrenched within the criminal justice system and the treatment community. A common scenario is for a participant to begin their program at residential rehabilitation, which is partly funded by the Drug Court program. We then work closely with the rehabs, and in fact having the backing of the Drug Court is very effective at the rehab end – so it is a symbiotic relationship. After a period in rehab, the participant may then be able to move back to be with family and return to work, now trustworthy enough to be allowed into the house, or to be with children.

Issues which might be included within the scope of the Inquiry

1) In my view the first priority should be towards **assisting children and young people** – providing them with sensible information and programs regarding the risks of addictive substances. Those programs must work within the reality of youthful risk-taking and experimentation.

2) **Rehabilitation beds and opportunities.** The services available are woefully inadequate, despite the very best efforts of those working within the sector. Long waiting times (weeks or months) for a bed at WHOs makes no sense when the individual needs assistance immediately. Facilities for women with babies or domestic violence concerns are almost non-existent. It is a disgrace that not one more rehab bed for women on pharmacotherapy has been created in NSW since Guthrie House opened 25 years ago.

3) **An expansion of the Drug Court program.** Anecdotal information I have received suggests some regional communities are alarmed at the impact Ice has had upon their towns. Beyond crimes committed to fund Ice addiction, the ripple effect of addiction leads to troubles in schools, increased domestic and other violence, unpaid bills, including essential utilities such as electricity, and increased child neglect and abuse reports.

Justice NSW and NSW Health could be asked to identify the city, regional and rural locations of greatest need. There should be a sensible plan for the orderly expansion of the Drug Court program, which would take into account the current and future ability of providing the services required. So such issues as the ability to recruit and retain counsellors must be factored in, together with the availability of pharmacotherapy and psychiatric services – so as to avoid raising expectations that cannot be met.

I hope the brief material above might be of assistance. I appreciate there will be immense demands upon the Inquiry's time, however if a visit to the Drug Court could be fitted into the

schedule, you and your team would be very welcome. I am often told that the Drug Court program suddenly made sense when there was an opportunity to see it in action.

Much more information is on our website www.drugcourt.justice.nsw.gov.au.

Yours sincerely

J R Dive
Senior Judge