



## ***Drug Courts in Australia***

By [Jonathan Steffanoni](#)

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You can't fine an ice user out of their addiction

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[Photo: The "ice" epidemic is creating a major challenge for the criminal justice systems in every state across Australia.](#)

***'Drug courts' which provide treatment and rehabilitation as alternatives to custody and financial penalties are our best bet for breaking the cycle of severe ice addiction, writes Jonathan Steffanoni.***

Surfing legend and role model Tom Carroll recently discussed his battle with ice addiction on 60 Minutes, describing it as a powerful life force that was trying to kill him while at the same time driving an insidious need to take more.

Tom Carroll's story is sadly not isolated, with ice abuse and addiction across Australia growing ever more prevalent and damaging.

The "ice" epidemic is creating a major challenge for the criminal justice systems in every state across Australia. Tackling this problem effectively will require a range of improvements and reforms right across the system. Current sentencing approaches dealing with ice-related offending seek to achieve a combination of purposes, including rehabilitation and deterrence from further offending. But these outcomes are not being achieved - there is little evidence that recidivism rates have improved, while drug dependence and the harms associated with it continue to increase.

Clearly something needs to change. There are indications that the answer might lie in "therapeutic jurisprudence". Therapeutic jurisprudence prioritises therapeutic outcomes for participants in the criminal justice system over legal rules and processes that may themselves create further harm.

The promise of an approach guided by the principles of therapeutic jurisprudence is demonstrated by the success of specialist drug courts established over recent years in almost every Australian jurisdiction. Drug courts rely on a "carrot and stick approach" where offenders are encouraged to undertake drug treatment and rehabilitation rather than face time in custody. Magistrates sitting in the drug court take a very active role in supervising offenders on treatment orders. But if the offender returns a dirty urine screen, or fails to comply with the order in some other way, they risk being returned to gaol. Some have described the role of magistrates supervising offenders in the drug court as akin to that of a tough but fair coach.

While the effectiveness of drug courts in reducing the damage caused by illicit drugs has been demonstrated repeatedly through independent evaluations, they are currently only able to reach small numbers. In Victoria, the Drug Court in Dandenong can only deal with offenders whose offences are linked to the area and who are facing jail - people, by and large, for whom drug addiction has already become an almost intractable problem. Similar constraints exist in other states.

It is therefore critical that the state governments invest in expanding the drug courts. The geographic reach of the court needs to be extended to reach a broader population. This could be done relatively cheaply by enabling other magistrates' courts to function as drug courts. Furthermore, the effectiveness of drug treatment orders could be improved by enabling them to target offenders earlier in the cycle of offending.

Another promising therapeutic approach has been promoted by the head of the Drug Court in Victoria, Magistrate Tony Parsons. Magistrate Parsons has recently advocated the use of dexamphetamine as a substitute to assist ice addicts in withdrawal, paralleling the use of substitution therapies such as methadone or buprenorphine currently used to treat opiate dependency. The integration of a substitute program with expanded and earlier intervention by drug courts would enable the system to better manage the damage which ice is causing.

Adopting a therapeutic approach to sentencing drug offenders would also see one of the most commonly imposed sentencing options abandoned. Fines represent a very significant proportion of the sentences imposed for lower-level drug-related offending. The imposition of a financial penalty on a drug offender is, in theory, supposed to deter the offender from committing further offences. But the reality is that thinking rationally about penalties is probably the last thing a person in the grip of a severe drug addiction is likely to do before committing an offence. If we continue to impose fines on people who are drug dependent, we will continue to fail in our efforts to deter or rehabilitate them. We should acknowledge this reality and stop pretending that fines have any useful purpose in sentencing people with severe drug addiction.

The ice epidemic presents an enormous challenge for our criminal justice system. But we can start to make inroads by adopting a more therapeutic approach. This will require us to stop responding in ways

that we know don't work and are actually harmful. It will require us to begin trying some things that might work, and building on those that do. While some of these changes, like expanding the reach of the drug court, will cost money, failing to invest now in tackling this problem will be more expensive in the long term.

As Magistrate Tony Parsons has said, "It's a scary picture out there because the increase in use of ice is dramatic and the behavioural effects, the violence, are severe." We owe it to those vulnerable to the damage that ice causes to make the changes needed to reduce the harmful impacts of this epidemic on our community.

*Jonathan Steffanoni is a senior legal and regulatory consultant at QMV Super Solutions. View his full profile [here](#).*