

WILLIAM & LONSDALE – Lives in the Law

Ep 15: His Honour Magistrate Tony Parsons

Voiceover [00:00:05] This is William and Lonsdale, a podcast about the legal ecosystem in Victoria and the fascinating people and stories that make it tick. Today, your host, Michael Green, has an illuminating conversation with His Honour, Tony Parsons, whose career includes being principal of the criminal firm Slade and Parsons, eight years as managing director of Victoria Legal Aid and eight years serving as the supervising magistrate of the Victorian Drug Court from 2012 to the end of 2020. When Tony left school, he actually began a science degree with a view to study medicine. But activism and the politics of the 70s often diverted his attention to issues such as protesting conscription to the Vietnam War and advocating for drug policy reform soon made Tony think a law degree could be more useful in effecting real change. So after a five year hiatus, Tony returned to study as a mature age student and relished the opportunity.

Tony Parsons [00:00:58] It was fabulous. I really enjoyed it. I just matured so much. I'd accomplished so much and grown up so much. You know, from the age of 23 to 29, they've hugely developmental years. And all of a sudden I went back into this gorgeous academic institution. I think I had eight or nine or ten formal lecture hours a week. So I went from being busy during Monday to Friday and driving taxis all weekend, to having the luxury of just studying. I was fascinated by the law, and the lecturers at Melbourne were wonderful and interesting and generous. I had a ball.

Michael Green [00:01:59] Our guest today on Lives in the Law, is His Honour Tony Parsons good morning, Tony.

Tony Parsons [00:02:04] Hello, Michael. Great to be here.

Michael Green [00:02:05] Thank you very much for coming in. Tony, there's an old saying that the apple doesn't fall far from the tree. Tell us a bit about the tree that you fell from. Your mum and dad, your siblings, your education and upbringing.

Tony Parsons [00:02:15] Well, mum and dad both had Irish roots. They both strongly practicing Catholics. And they got together just at the end of the Second World War, just after it finished. Dad was in New Guinea for three years and mum and he met at the barracks. Married in fifty one. Then I came along in 53. I've got a sister a year apart on either side of me. So they they got to work on the family and didn't waste any time. We grew up in first Ashburton and then East Malvern, so I went through the Catholic Education System, Primary School on top of the hill there, in High Street, Ashburton, St Michael's. And then after grade three, I went to De La Salle Catholic Boys School in Malvern. So it was a very Catholic family, traditional nuclear family, a good place to grow up in Ashburton and East Melbourne was a good place too, a little bit closer to my secondary school. And so that's where I came from before I started to think about tertiary education

Michael Green [00:03:23] From where I sit. It sounds like a very typical Melbourne upbringing of the 1950s.

Tony Parsons [00:03:27] Yeah, it definitely was. It was an interesting educational experience. The educational values at the school in the 60s was different than they are today. Big emphasis on cricket and football and cadets. I think the 60s in the late 50s were really the end of the days of spare the rod spoil the child because education isn't based on that kind of tyranny anymore. So they were challenging times. You know, we got through

and I managed to get a mark at the end of my secondary education that got my foot in the door at Monash. Just! Certainly never academically oriented. But I got through. It was a good thing that I did because it defined where I went from there.

Michael Green [00:04:07] So you land at Monash in the early 70s to do science, and your longer term goal is to transfer across and do medicine. Monash of course, from when it opened in I think the early 60s through to at least the late 70s, early 80s was the number one hotbed of student politics, for the whole of Australia. Yeah. What was it like being at Monash at that time?

Tony Parsons [00:04:28] Well, the start of it was just amazing. I started there in 1972. Vietnam was still on. Conscription was still on. It felt like we were in the trenches. There were demonstrations. There were occupations of various buildings at various times in protest to a whole range of things. But but the focus was on conscription in Vietnam. It was a tough time in some respects. I was certainly an activist in those years and was in the latter years of my secondary education. I had a very strong view about the impropriety of conscription. So joined very much in those political movements. I was really passionate about that. And then the end of 72, the whole world changed. Whitlam was elected, Billy McMahon lost the election and everything changed overnight. Conscription was abolished. Vietnam for this country finished. Tertiary fees were abolished. Education at tertiary level was free. It's hard to imagine now people paying hundreds of thousands of dollars to get a decent education. The family law system changed. Legal aid was introduced. There was just a revolution. So when I came back to university in 1973, feeling really relieved, the act of the surge was still there. And me and my friends looked around and said, well, what's left? And there wasn't much left. But what there was in fact, there were a lot of things left. But what we spotted was the drug laws. I was very quick to pick that up as an issue. The principle of a black market controlled industry for an activity which was (A) victimless and (B) well... not harmless, certainly less harmful in terms of all kinds of drug use than alcohol or tobacco. And I thought the laws were just completely out of place. And so I started to take an interest in that and started off a student group called the Monash Marijuana Action Group. At that time, across Australia, a number of groups were taking interest in the drug laws. So that's what got my political attention in the early seventies after Whitlam got in, 72, 73 and onwards.

Michael Green [00:06:41] And how did that affect your studies?

Tony Parsons [00:06:43] Well, it got to the point, see, I went to do science because I wanted to transfer to medicine. But as I mentioned, I was never academically at that high end. I was never in that echelon of distinctions, distinctions, distinctions. And I never looked like I was going to get a science degree that would allow me to cross over to medicine, so I lost interest in the latter couple of years, so in 75, 76, got all of my science subjects bar one. And I still have to go back to Monash University to get that one last subject to get my VSC.

Michael Green [00:07:15] Are you going to do it?

Tony Parsons [00:07:16] No, I don't think well, I think I found a niche. But the great thing about being involved in drug policy work was that as I got further and further into it, it became apparent that the easiest way to affect sensible change would be to get across and become part of the machinery of government in Spring Street. So that's what created my interest in law when I'd lost interest in science. I had to kiss medicine goodbye. It was

never going to happen. But then I thought, well, gee, if I could get a law degree, that would give me some leverage to get into parliament and to really make a difference at that level.

Michael Green [00:07:50] But you didn't go straight into law, did you? You had a maybe a five or six year hiatus where you were running a research institute.

Tony Parsons [00:07:58] Yes. Well, once I finished at Monash in '75, I joined an organization that had just started up in Melbourne called the Cannabis Research Foundation of Australia. And really, it was a lovely name, but it didn't do research. It was purely a conservative lobby group that would lobby the community and the government decision makers, based on the evidence about why it was essential that we review and change our various drug policies. Now, the director of that organization, unfortunately, was busted for selling cannabis out the back door of the office and he decided it was time to go. So he moved up to Sydney and asked me if I'd take over the directorship of that organization, which was a voluntary organization, and I wasn't paid for it. But from 75 to 80, I was the director of the Cannabis Research Foundation and that was very conservative but effective lobby. That was full time, and on the weekends, I drove taxis to pay my rent. Then as we developed more support and got greater acceptance, the organization expanded. I was involved in the establishment of then of the Australian Marijuana Party, which was a far more... Not radical but more aligned with student politics, kind of aggressive campaigning. So they would organize, they put candidates up, JJ McGrote stood for the Senate in 1977. They organized protests, demonstrations, leafleting, social disobedience, that kind of stuff. Now, that was just another approach to tackling the same problem. I was very much committed to the more conservative evidence based reasons why we should change policy. But I was also very much involved quietly with this much more radical approach.

Michael Green [00:09:41] And you're attracted to law because you thought that would be an effective way to bring about change, was to do law and become a politician.

Tony Parsons [00:09:49] Yes, exactly, exactly. The lobbying stuff was hard work. You know, we were relying on subscriptions from people who were relying on the sales of the t shirts and the newspapers and the paraphernalia and donations. And, you know, we had an office in the city that we were sorry, a Greville Street in Prahran that we were having to run. We had a printing press out the back that we were also running and that printing press was printing our material for the politics. But it was also printing materials for the unions who were paying for that printing work. So we we had to be creative about creating revenue streams. And I thought, blow this. I'm doing, you know, of a 60 hour week. I'm doing 50 hours working on funding and 10 hours of politicking. I thought, wouldn't it be great to be in Spring Street? They pay you to actually make a difference.

Michael Green [00:10:38] You had five or six years off from being a student. When you went back to law, you went to Melbourne Uni, Monash. What was it like being a mature age student after five or six years away from the books?

Tony Parsons [00:10:47] It was fabulous. I really enjoyed it. I just matured so much. I'd accomplished so much and grown up so much. You know, from the age of 23 to 29, they're hugely developmental years. And all of a sudden I went back into this gorgeous academic institution and I think I had eight or nine or ten formal lecture hours a week. So I went from being busy during Monday to Friday and driving taxis all weekend to having the luxury of just studying. And I was fascinated by the law. And the lecturers at Melbourne were wonderful and interesting and generous. I had a ball, because I'd almost got my

science degree, they let me do the LLB in three years rather than four, and I ripped through it and I didn't borrow, I didn't drive taxis while I was studying. I just focused on my study. So I was getting further and further into debt. But we all sorted that out at the end. And I loved Melbourne. It was a great institution and I thoroughly enjoyed my time there.

Michael Green [00:11:45] When you finish your degree, you've got to do articles. There aren't many options available to you not having a legal background. Where did you finish up doing your articles and how did that come about?

Tony Parsons [00:11:55] Well, I had an interest in doing industrial law and administrative law, when I finished university and I thought they were the pathways into Spring Street and I was fascinated by them, but I couldn't get into any of the firms that practice that law... Terribly competitive, even back in the early 80s. But there was a criminal law firm in St Kilda that knew of me through the political years. And they contacted me and hounded me. You know, they said, no, you've got to come and work for us. You must, you must, you must. Though I successfully got knocked back trying to get into the firms that would have given me the work I wanted to do, I ended up going back to them saying, yeah, I'd love to work for you. Was the only job I could get! And they signed me up and they were a wonderful firm, Slade and Webb, in Fitzroy Street, St Kilda, right in the middle of the action in the early 80s. So they taught me my craft in criminal law. They were very conscientious, very effective lawyers. And they ran that practice doing almost all of their own appearance work. So I very quickly had to grow my advocacy skills. That was the way that you practiced criminal law and learned the law was by going to court and actually working in the law, rather than just sending off the interesting cases to the barristers. Two years after I started with them, they both had the itch to go to the bar, both of the partners. So they came to me and said, will you buy a practice? You can have it for a song. We just don't want to shut it down. Would you buy it? And they literally did sell it to me for a song. An ongoing practice that had a great reputation in the criminal law sector, especially for drug work, and that derailed my plans because as excited as I was to take the practice over, all of a sudden I was a small business person, rather than streaming ahead towards what I was hoping was going to be Spring Street. And my attention turned not to the politics, but to where I was going to get the money to pay the secretaries over the Christmas break and how I was going to pay the rent and all of the salaries and all of those things. So that really did distract me.

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Michael Green [00:14:23] So, Tony, you've bought the practice of Slade and Webb. There's been a name change to Slade's and Parsons, and you've moved into the city because there was a lot less work for you in St Kilda. Prostitution had been legalized and therefore street crime had diminished significantly.

Tony Parsons [00:14:38] Absolutely. Yeah.

Michael Green [00:14:39] Better to be in town doing white collar crime, less relied on legal aid and work of that kind.

Tony Parsons [00:14:45] That's right. Yeah. And in the Kennett era, which was then, Legal Aid were under real financial pressure and it was pretty hard to keep a practice going on their rates, I had to broaden the base of the firm and get into town.

Michael Green [00:14:59] But then in the door walked what you would think is the golden goose.

Tony Parsons [00:15:02] Yeah,.

Michael Green [00:15:03] A big case against the Kennett government with the Grand Prix. You've got high level well-known silks clamoring to do the case with you. Did this save the practice?

Tony Parsons [00:15:12] I was a fantastic boost. It really was. The Save Albert Park organization ramped up their protests at the Grand Prix site. Hundreds and hundreds of people, just over 700, to be precise, were charged during that two year period of protests while the Grand Prix track was being constructed. Now, I had a family member involved in those protests and she came to me and said, we are all being charged and we don't have a lawyer. I said I would happily look at the case and happily act on a no win, no fee basis. We would pick a select group of defendants and try everybody's case based on a select group of five or 10 or 20 defendants. And the police agreed. Yes, there's 200 charged. We'll just run a case on a select group and if you win, will withdraw charges against the others. And if we win, then you'll concede and plead guilty. So we ran our cases and I found a magnificent group of barristers who were very keen to represent these people on a no win, no fee basis as well. So Jack Hammond, Robert Richter, Ron Merkel and others just stepped forward and took the briefs and ran fabulous defenses. And it turned out there were so many holes in the Grand Prix Act that the prosecutions, one after another fell each time they fell, costs were awarded against the police in the favor of the defendants, which meant that no one actually worked for no fee. We all were well remunerated. And in fact, of the 700 we represented, every single one of them was acquitted. There were only a small number of people who were ever convicted of offenses under the Grand Prix Act, and they're the people who didn't come to us. So it was a really great thing to be happening in the early 90s. And it also got me some important notoriety, both with the Law Institute and more broadly with the general public and with Spring Street. I was getting some press and in page three of The Age for criticizing the approach of the government in these prosecutions and criticizing the government's approach to arresting demonstrators. And so I was advocating for save Albert Park and also doing some good work in the courts. And that got me some notoriety. I got a bit of attention, which was very helpful.

Michael Green [00:17:30] In 1999, the ALP win the election with Steve Bracks as the premier. Rob Hulls was Attorney-General. He's looking for a new head, someone to head up Victoria Legal Aid hasn't been much funding. You apply for the job and you're successful. You're appointed.

Tony Parsons [00:17:46] Yes.

Michael Green [00:17:47] How did that come about?

Tony Parsons [00:17:48] Well, it was quite remarkable. My friends in the Law Institute kept prodding me to put my hand up for the job. I knew I had a political profile. I knew I was passionate about Legal Aid, it is an incredibly important institution, an incredibly important element to have in terms of developing, of maintaining confidence in our

democratic system that everyone have access to the law. So they kept prodding me and I said no. I litigated against VLA three times in the previous three years because of their restrictive approach to granting legal aid. And I'd been successful in the Supreme Court and I was more their opponent than their advocate. Eventually I weakened and said to my wife, What do you think? And she said, Well, you know, you're not going to ever make a billion dollars practicing criminal law. You've been doing it for a long time. Why don't you try something different? So I put my hand up and in the meantime contacted a corporate governance person at KPMG, and asked them to teach me about internal audit, corporate governance, finances, human resources. And this incredibly generous partner, KPMG, took me on board and gave me half day to full day tuition using all of the expertize at KPMG on governance and all of those things I needed to know about to run a significant public sector organization, because I could barely manage my six person legal practice. They did that and refused to take payment and said to me, we've got no interest in being paid for this work. But if you ever see a tender, and KPMG's name is on it, all we ask you to do is acknowledge that we've got a social conscience and we're happy to help people build lives and build a better community. That was fabulous. And I managed to talk my way through the interview process. And when I was interviewed by the attorney general, Mr Hulls, he said, you know, I don't know if you can manage. And I said, well, I don't know either, but I'm ready to give it a try. So he gave me the job. He clearly liked the fact that I was progressive in my outlook and probably too progressive for him at times. In any event, I got the gig and for the first six months I did nothing. I had a most wonderful executive team that I inherited from the previous managing director. The organization had been slashed in terms of its state and Commonwealth funding. So it was very lean and quite traumatized, I thought, when I arrived, because lots and lots of people had lost their jobs. But I had a great executive team, so I just watched them for six months before I ventured out of my cocoon and started to make some changes.

Michael Green [00:20:18] And what changes did you make?

Tony Parsons [00:20:20] We did some fabulous stuff. Victorian Legal Aid has a big practice, 200, 300 lawyers nowadays, and they had 200 when I was there. So they run a big practice internally, but there's a lot of work they can't do and they can't do everything. A great deal of the work, maybe 60 per cent of it goes to the private profession pursuant to legal aid grants. Parcels of money for the profession to act for people. The system for getting a grant of aid was a nightmare. You'd have to write submissions to Legal Aid and scrupulously go over every submission. And they were gone over by people who weren't lawyers and they'd knock you back and you'd have to write a new submission. You ended up spending the grant of aid just trying to secure the grant of aid - it was a nightmare. One of the early things we did, and it was the inspiration of my grants director at the time was to take the decision for a grant of aid away from Victoria Legal Aid and put it into the hands of the private practitioner who was doing the work and audit their books, all of their files, to make sure they were applying VLA's guidelines. That was high risk stuff. The critics of the suggestion were saying it's like giving the key to the grog cupboard to the alcoholics. They want the money in the legal aid fund and you're letting them make the decision about whether they fund their clients or not. So we took it to the profession. The profession said, yes, please. We set up an auditing process which involved a fraction of the number of staff that we were employing to process the grants in the old way. And it worked. We found we were getting the private profession to do grants that were more accurately aligned with our grants guidelines than our in-house staff. And the practitioners loved it because there was no argument, no back and forward about the guidelines, no arguing with other people at VLA, who didn't have a law degree. They just made the decision. And as long as their court files that we audited regularly reflected the application of the guidelines, they were

fine. So there was a massive change and it massively reduced the cost for us of administering a grant of legal aid and it massively reduced the cost to them. And people were agog, but it worked. The other thing that happened was that the real estate prices were going through the roof and the interest on moneys held in lawyers trust accounts goes to a statutory bank account called the Public Purpose Fund. Right. So if I give my conveyance lawyer a million dollars to buy a property, I don't get the interest off that it sits in a Westpac bank account or any bank account. The interest on that goes to the public purpose fund for distribution at the direction of the the government into good purposes, public purpose fund. The real estate market was booming. The Public Purpose Fund was full of money, and the Attorney-General redirected those funds to the public purpose of providing legal aid to people who couldn't afford legal representation. So rather than the attorney taking legal aid funding increases through the usual budget cycle, we were having millions of dollars pumped into our coffers through the public purpose fund, and that enabled us to do some extraordinary things. We had offices in Sunshine, Broadmeadows and Preston that were falling down. We got secured new offices and fixed that up. There was no legal aid in those days provided by a legal aid office in Ballarat, Shepparton, Horsham or Warrnambool. We built new legal aid services there. And, you know, Ballarat is the third biggest city in the state of Victoria. Second to Geelong, it was critically important. They are now part of the fabric of access to justice in those communities. There are a whole range of other things. We built a family dispute resolution center to complement our family law practice, which was acknowledged as one of the best in the country. That's still going, it was called round table dispute management analysis. So we were flush with money and we had a great time doing what legislation the legal aid says we had to do, which was provide legal aid services to people who couldn't afford it.

Michael Green [00:24:22] That being the case, doing such good work and it sounds like having fun doing it all, very satisfying doing it at the end of your five year contract, you don't seek to renew it...

Tony Parsons [00:24:30] Eight years. I did. I renewed it once.

Michael Green [00:24:33] So after eight years, you had enough of legal aid and you're looking for a new challenge. Why was eight years enough and what was the new challenge?

Tony Parsons [00:24:41] Well, you know, it was a it was a 60 hour a week job. We had 500 staff at the end with a budget of 120 million dollars, and we had sixteen locations across the state. We had funder's money coming from the Commonwealth and the state. So we had two masters in a financial sense. It was a very big job. And after the end of year number seven, I was just feeling a bit tired. So I saw the writing on the wall and contacted the attorney and said, look, it was time to go.

Michael Green [00:25:09] And did you have something in mind that you would like to do that you'd like to go to?

Tony Parsons [00:25:13] Well, the attorney very kindly said to me, and I've been working with him for eight years, and sometimes it was a bumpy road. You know, you do knock heads with people, particularly when you're leading an independent statutory authority. But, you know, he'd work with me for eight years and we'd done great work. And he said, what do you want to do? I said, well, gee, I've always aspired to be a magistrate. And he didn't bat an eyelid. He just said, when do you want to start? And he wanted he actually

wanted me to start the next week. I said, no, no, I need four weeks. I need a breather. So I had a four week break where I didn't have a job was delicious time in my life.

Michael Green [00:25:50] So in becoming a magistrate, how did you learn about judging? What course did you take? Was there a legal KPMG who taught you about the VLA or about management, to teach you about judging?

Tony Parsons [00:26:03] Well, no, there wasn't. But, you know, when I got my first job in the law in 1984, it was only a few weeks, even during my articles that my principal pushed me into court to start appearing in court. So by the time I went to Victoria Legal Aid 15 years later, I was a reasonably accomplished advocate. And I certainly spent hundreds and hundreds and hundreds of hours in the magistrate's court dealing with all kinds of magistrates. And I knew about the criminal law. And so that was my training. It was on the job

Michael Green [00:26:36] From 2012 until the end of 2020. You were the supervising magistrate of the Victorian Drug Court, and that's obviously been an area of the law that's been close to your heart in student days. Can you give us some background about the drug court? How did it come into existence and what's the purpose of the court

Tony Parsons [00:26:53] Sure. Back in 1989 during the Ronald Reagan era, at the end of Reagan's time in America. The country was in the grip of a coast to coast crack cocaine epidemic. And the only response that the Reagan administration had was to build jails that were capable of housing millions of American citizens. And there were a small number of judges in Miami who were very frustrated. They were sentencing people for these drug related crimes, locking them up. They were getting out of custody, getting back into drugs, into crime, same faces coming back before the same judges have been working together for 20 years. And these judges were frustrated. They weren't reducing the burden of crimes on the community. They were certainly not rehabilitating the offenders, and they felt like professionally, they were just being the gatekeepers for the prison system. So they started to go and have a conversation with the drug treatment agencies, the housing agencies, the employment agencies, and they brought those people into their court and some people in the courts started to get control of their drug use. And some of those got crappy jobs selling... washing dishes behind hamburger joints for a few hours a week. But that gave them an income, which meant instead of sleeping in a dumpster, they could sleep in a room. And it probably wasn't a very salubrious boarding house, but at least they could pull their families together. And some of those people sprouted wings and flew away from the criminal justice system and never came back. And that was the first drug war back in 1989. And they were courageous judicial officers because unlike me, who's appointed for life, those people had to go and be elected by their communities every five years. And the political winds were definitely against any kind of therapeutic approach. But they stood up. They said no, because their communities did and they were right. So now in America, there's almost three and a half thousand drug courts out there in 20 other countries. They're in every state and territory in Australia except the Northern Territory. But everywhere else they're flourishing. And it's it's simple. We've got two goals. One is to foster the rehabilitation of the person with the substance abuse disorder who's committing crimes as a result of that problem. And the second is to reduce the burden of crime on the community. And it works. The benefit of having drug courts around for over 30 years, that they've been evaluated to death. And we don't really know why they work, but we know what you have to do to make sure they work. There are ten best practice elements. They're called the drug court key components. Put it into Google, up they'll come. It's a simple 30 page document and you can take it anywhere around the world. And if you apply

the best practice elements diligently, you'll get about the same results as every other drug court around the world. So they're a game changer for people who are in and out of custody because of their drug related offending.

Michael Green [00:29:39] When the drug court started here, prior to you becoming the supervising magistrate, was it well received? Did we as a community embrace it? Did we as a community know anything about it or was there work to be done there between the court and the community to educate us?

Tony Parsons [00:29:56] There was a lot of work to be done, Michael. The court kicked off in 2002 and almost immediately started to have positive results. And it was only at Dandenong, the drug court. The plan was to put it at Broady and Preston as well. But that never happened. So for ten years, it operated quietly at Dandenong. In 2012, I'd been a magistrate for less than four years. The magistrate had done such a wonderful job running that court for ten years, Margaret Harding, said it was time for her to have a change. Ten years in the drug courts are very, very big commitment. So she went to do other work and the chief magistrate at the time started the recruitment process to get a magistrate back into the drug court. And I didn't put my hand up for it because I was junior in the magistracy, I thought it was a plum job, I thought lots of my colleagues with greater seniority would want to do it, but I found out six months later that the chief was having trouble finding a replacement and also found out the wheels were falling off the program because one of the best practice elements is consistency of a judicial officer. And he'd have to turn 10 different magistrates through this program over the six month hiatus while he was trying to find someone to take the role. And it went from 70 people on the program down to less than 40. And the chief had decided he was going to pull it apart. He couldn't find anyone to sit in it. And I heard this over lunch one day by sheer accident. And I rang the chief magistrate on Thursday and said, is this true? You're going to close it down? He said, yeah, can't find anybody to sit. And I said, I'll do it. And I was in there the next Monday.

Michael Green [00:31:38] Tony, clearly the drug court is unique, it's not a court where you can plead not guilty to a charge and fight the case. It's not a court where general deterrence is a main factor in the sentencing of people. How does the drug court work? How is it different?

Tony Parsons [00:31:54] Well, it starts off being different by virtue of the Magistrates Court Act, which says that so far as the principles of sentencing are concerned, general deterrence, specific deterrence, retribution, etc.. the drug courts objective is to protect the community from the commission of crime by rehabilitating the drug offender. So that switches the order of the principles of sentencing and protects the work of the court from appeals. Because general deterrence isn't the primary consideration, it's rehabilitation. The other special part of the court is that it involves a person serving a prison sentence in the community. Now, that's very unusual nowadays. Suspended sentences were abolished in 2014, but it is a Damocles sword that hangs over a person who's on the drug court program to do well. Otherwise they'll be returned to custody to serve that sentence.

Michael Green [00:32:53] Tony, can I just clarify a prison sentence in the community? What does that mean in practical terms?

Tony Parsons [00:33:00] If people's offending and prior convictions aren't serious enough to warrant a jail sentence applying the normal sentencing rules, they don't qualify for the drug court. So the drug court is a program that focuses on the high risk, high needs,

serious offender who's committing crimes at a rate, that no other sentence but jail is appropriate. So we sentence them to the appropriate term of imprisonment, up to two years jail and they serve that sentence in the community, are actually released into the community. And for every day they're on the drug treatment order, they've served one day of their prison sentence. So at the end of the order, which can last up to two years and often does, they've served their full sentence. So they actually literally do serve that in the community as long as they comply with the requirements of the program and they don't commit offenses or serious offenses whilst they're on the order.

Michael Green [00:33:59] You say comply with the requirements of the program. What are those requirements?

Tony Parsons [00:34:03] It's incredibly intense. So at the first phase of the program, the stabilization phase, phase one, our participants have to do a supervised urine screen three times a week firstly, so that we know what they're using. And secondly, so we know if what we're doing is effective. They are assigned a case manager. They have to see that case manager once a week for at least an hour for supervision. They're assigned a clinical adviser who's responsible for the development of treatment plans and the monitoring of people through treatment. They have to see that person once a week in the early weeks and months of the order. They're assigned a drug and alcohol council they see once a week during the currency of the order on phase one. They have to come into court and see me once a week. And I have an overall supervisory role, once I bring people into the drug court program and I work with participants to try and encourage them to keep going in the right direction. And I apply classic behavior modification techniques to achieve that. So it's super intense. But not only do they have all of that work to do with the drug court team, they will have work to do with their housing officers. So we've got housing officers in the court. We've got a stock of public housing, which is essential to our success with people. If people haven't got safe, stable housing, they're not going to succeed. If you and I didn't have safe, stable housing, we wouldn't be sitting here having this conversation today. It's critically essential. They will have their pharmacotherapy doctors in the community. They're psychologists, they're psychiatrists. They will have their adult education program teachers if they need that, if they need men's behavior change programs, they'll have that, dentistry, anything that they need, we will supply them. It's what Patrick McGorry calls the scaffold of success. If we're going to treat people for their substance abuse disorders, their physical health and mental health disorders, we need to put the material and therapeutic supports around them. If we don't get that right, then people will fail. So it's super intensive. We often have people involved in two or three drug court appointments a day and they're so busy that Centrelink will pay them Newstart without requiring them to look for employment on phase one of the order. And we know that keeping people busy, just keeping them busy, even if we've stuck them in a corner and got them to count nuts and bolts is therapeutic. So the very busyness and the intentions of the program is part of the magic.

Michael Green [00:36:36] And you said that is phase one, there are other phases as well?

Tony Parsons [00:36:39] Yeah, the order is structured into three phases. So phase one is the stabilization phase, and that's the most intensive phase, three times testing a week case manager once a week, clinical adviser once a week, seeing me once a week, et cetera. Phase two comes along. If someone's been on the program on phase one for three months and is turning up to everything and is demonstrating control of their drug use, not abstinence, but control, you know, two or three urines are clean out of five or six, they can go to phase two. Now, on phase two, we back off a little bit. I don't see them weekly. It's

fortnightly. They don't have supervision with their case manager weekly. It's fortnightly. We give a little bit more responsibility and time and space to the participant because they've got control of their drug use. Now, if they're on phase two for at least three months, they're still turning up to everything and they're demonstrating serious control. You know, five out of six urine tests are negative. Then they can go to phase three. On phase three, we back off again. I don't see them fortnightly. It's every four weeks. They don't have supervision fortnightly, it's every four weeks, etc. We give them a lot of space. And the objective of phase three is that they are preparing for reintegration into the community. So we insist that they're involved in employment or training or some other activity to set them up for the completion of their drug treatment order if they've been on phase three for six months and the last 90 days are totally abstinent of any drugs, including alcohol, they can graduate early. So it's possible to get through this order in twelve months if you're nail phase one in the minimum time, phase two and phase three and a minimum time, that very rarely happens. People have relapses. Recovering from drug dependence is not a linear recovery. There's always three steps backward and one or two steps forward, sometimes five steps forward and one step backward. If they have a relapse, we will bring them down a phase, we'll increase the support and supervision. If they're not turning up to commitments, we'll bring them down a phase and will stabilize them and then they can start their march up the phases again. So it's a very flexible program that tailors intensity of treatment and support, depending on the progress of the participant. And it's very important we do that, because if we kept up the intensive support and supervision for the whole two years of the order and then suddenly pulled the rug from underneath them, they would crash. We need to teach people resilience and we need to transfer responsibility for recovery to the participant. And we do that by that stage approach of stepping back and giving them more space and time about responding if they if they crash and need extra support and supervision.

Michael Green [00:39:19] Tony, to me, that sounds enormously intensive of resources and people to support the offenders. What is the cost to the community and how does it compare with the cost of those people being in jail?

Tony Parsons [00:39:32] Well, it's best illustrated by the financial analysis that KPMG did in their 2015 evaluation of the drug court of Dandenong, and they demonstrated that the cost of the program per annum is one point six million dollars to the taxpayer. However, people on the drug court program would, but for the drug court be in custody during that sentence. So we know to the to the precise hour that we save the corrections system, 14000 prison bed days per annum. Now, in 2015, the cost of a prison bed day was 270 dollars, which adds up to three point eight million dollars. So Dandenong itself cost the taxpayer one point six dollars million. But just in terms of direct revenue to our prison system saves the taxpayer three point eight million dollars. That's a return on investment of over 100 per cent. You know, if you put money in a bank nowadays, the best return you can get is two per cent if you're lucky. This is a massive profit making program for the taxpayer. And so the Department of Treasury and Finance love the drug court for that. And that's just the prison bed savings. If you look at the cost savings to the corrections system, the health system, the social welfare system, the judiciary, the child protection system that is saved when people recover from their drug dependence, the cost savings to the community are exponential.

Michael Green [00:41:06] If I can just get off the drug court for a moment, because that raises with me the question with the exponential savings to us as a community that the drug court brings. Has anybody, including yourself, thought about other areas we could apply this model too? Other areas in the criminal justice system where we could apply this

model? Because it seems to me to be a win win, it's a win for us in the community, but it's clearly a win for the people who do the program as well.

Tony Parsons [00:41:32] Yeah, yeah.

Michael Green [00:41:34] Are there other areas we could apply it or offending through the use of drugs unique in some way?

Tony Parsons [00:41:39] Well, it is, but there are other applications of the drug court system to other areas of the law. So we have a drug court in the child welfare division of the Children's Court and it operates out of Broadmeadows and it's been evaluated and is achieving some very strong success. And so that's working with adult parents who are losing their children because the parents have a drug dependence and applying the same principles of the drug court there are teaching those parents how to move away from their drug use in order to reunite with their children. So the driver there is not the carrot and stick of going to prison or staying out of prison. It's actually getting your kid back. In the United States of America they've got a range of different courts based on the drug court principles. They've got Native American courts. So Native American citizens who are in trouble with the law have specific courts, much like our Koorie court, dedicated to their recovery, but using drug court principles. They've got veterans courts. So as you will be aware, the United States send hundreds of thousands of their troops overseas all the time to fight these wars offshore. They come back with post-traumatic stress disorder, which leads to all kinds of drug use and offending behavior. So we've got specific veterans courts set up using drug court jurisprudence to address those people's problems. So it is a model capable of being applied to other different problems,

Michael Green [00:43:12] Something obviously for our policy makers to think about.

Voiceover [00:43:17] William and Lonsdale is brought to you by Greens List, one of the leading multidisciplinary barristers lists in Australia. Greens List believe in promoting conversation around the ideas and issues that shape not only our legal system but our wider community.

Michael Green [00:43:37] You started with one drug court in Dandenong.

Tony Parsons [00:43:40] Yeah.

Michael Green [00:43:40] Where are we now in terms of the spread of the drug?

Tony Parsons [00:43:44] Well, it's absolutely on the march, which is great. So the criticism of postcode justice is now of less force than it was when I started in 2012 when the Andrews government was elected in November 2014, they came to power with a promise to produce an ice action plan within 100 days of being elected, the Premier established the Premier's Ice Action Taskforce. By sheer good luck, I suspect I was invited onto that task force. So early February 2015, I found myself sitting at a table with the Premier, the Health Minister, the chief of police, special minister of State. I was sitting next to the Attorney-General. Boy, it was high level and the oxygen was thin and it was amazing. But when we went around the table and talked about what solutions we might want to discuss by hand, went up in the air, I handed over across the KPMG evaluation, which was about a month short of being published. So it was complete, but we just hadn't published it. That was the window that opened the government's eyes to the effectiveness of this jurisprudence. And through that process in 2016, they invited us to set up a new

drug court in the city at the Melbourne Magistrates Court, two and a half times the size of Dandenong that's been done is up and running. And we've recently been invited to set up more drug courts. We're going regional to Shepparton and Ballarat. And indeed, the attorney general has funded a pilot of the drug court in the County Court of Victoria. So a higher jurisdiction and there's business cases in the pipeline for more courts. It's a jurisprudence that needs to be in every major region in the state. We need them in La Trobe Valley and Geelong, other areas. And because they save the taxpayer money and because they contribute to depopulating our prison system rather than increasing the prison system population, I think that will all come in due course.

Michael Green [00:45:52] As well as the KPMG report or evaluation showing that it saves us money, what else did it show in terms of recidivism and things of that nature that show the courts successful and beneficial in other ways as well?

Tony Parsons [00:46:06] Yes, indeed. So the two aims of the quarter to reduce the burden of crime in the community and to rehabilitate the offender. So taking the reduction of crime on the community, KPMG demonstrated that for all of the drug court cohort, two years after the end of their connection with the drug court, that group show a 30 per cent reduction of recidivism compared to the control group. That's quite remarkable, given that we're dealing with high end, high risk offenders who would otherwise go to jail for their offending in terms of rehabilitation, the program, the evaluation by KPMG demonstrated that 54 per cent of people who had any kind of contact with the drug court showed measurable improvements in medical health, psychological health and risk to drug and alcohol abuse. So substantial benefits that are measured across those objectives, but also more stable housing, better family relationships, greater employment prospects. So the benefit to the life of the participant that has some connection to the court, even if they don't graduate, is measurably beneficial to the program itself, has an overall 40 per cent success rate. So before people even start to lift a finger to do the work we require them to do, they've got an almost fifty fifty per cent chance of succeeding. That 40 per cent made up of two cohorts, 17 per cent of people who come onto the program graduate. They're the ones that get through at least six months of phase three with the last 90 days completely abstinent. And they're a huge success. They're employed, they've got their families back, they've got stable lives, and they fly off and become wonderful contributors to the community. But there's a second group that we also count in the success basket, and they're the people that we get to the end of the two years. And we know if we can get people to the end of the two years of the program without seriously reoffending, that they are also successful because we measure their drug use so thoroughly. It's at least twice a week, whatever phase you're on at the drug court, we know that their drug use is either gone or dramatically changed. So even if they're still occasionally using we now it'll be occasional cannabis or a glass of wine rather than injecting methamphetamine. And in terms of their contact with the police. We also count those people as a success because that's so easy to measure. So if they do come to the attention of the police and some of them do, we know it's for offenses that are 67 per cent less serious than the offenses that brought them onto the program. And anecdotally, it'll be an unlicensed driving rather than trafficking drugs. So they're also counted in the success basket. Now, that means a 60 per cent of the people that we put on the program don't make it, they're three different types of people. There are people who commit serious offenses on the program, we don't hesitate. We cancel their orders and they go to jail to serve the sentence that hangs over their head, plus whatever they did in their reoffending. The second group that don't make it are the ones that abscond. And I'll issue a warrant for the arrest. They just think it's all too hard and they head off, and sooner or later they're arrested. They come back to me, now, if they haven't robbed a bank while they're on the run, I'll give them a second go if they want it,

but I'll have that conversation with them, you turned your back on this program, if you do that again, the message I'm getting is you're really not interested and I will cancel your order. And there's a small group that that don't hear that message and they will abscond a second time and I'll cancel them. The third group that don't make it to the most interesting, they're the people we call compliant, but nonresponsive. They do everything we want them to do. They do supervise urine screens three times a week, see their clinical people, go to their doctors, come and see me once a week, what a nightmare that would be to have your life for two years. They do everything we want. They don't commit offenses. The only thing after 18 months or 20 months that hasn't changed is their rate of drug use. And we can see that because we get the test so often. I'll cancel them because I know from long experience that the last six or four months, we're not going to get anywhere with them. It's just not their fault. They've done everything we want them to do. We have all kinds of tools in the toolbox to help people with their drug dependence. But the but the profession can't cure everybody. We just don't have all the tools yet. We're getting better at it. But but we don't have 100 per cent coverage. It's not like a great vaccine, you know, that cures everybody. So I'll let them go. But they've done the hard yards and I won't lock them up. I'll just cancel their order.

Michael Green [00:50:56] It's absolutely interesting and fascinating to hear about it, Tony, I wonder whether we are heading down the track toward decriminalization of drug use. Tony, listening to you, describing your life as the supervising magistrate of the drug court, it seems that it must be an enormous workload, seeing offenders once a week and obviously multiple offenders once a week, plus the new cases that are coming in on a daily basis. I'm wondering how you cope with it all. What's a day in the drug court look like? From the Magistrates point of view?

Tony Parsons [00:51:31] Well, it is hard work. When I review my participants in court, I precede that hearing by having a case conference with my team. So the whole team is present. I've already read in documents provided to me the previous day, all of the year and screen results, how they're traveling with their drug and alcohol counselor, what the issues are that they're being discussed with their corrections officer, all of the things they're doing during the week. So I've got all that under the belt because I get summaries the night before. We then have a conversation in this case conference which precedes the review of the participants with all the team members. We look at their behaviors, we make decisions about what we're going to do with our participants in respect of their progress. So if we see positive things happening, we will reward those. So a clean urine screen gets a reward. If we see negative behaviors, a missed appointment, for example, we sanction that bad behavior. So part of my supervisory role is to use behavior modification techniques, sanctions and rewards for the behavior that we see from our participants in order to motivate them to go down the right path towards recovery and to send a clear message is when they do the right thing, that's the behavior we want. And to send clear messages when they do the wrong thing, we don't want to see that kind of behavior in court. So we make decisions around those incentives and sanctions as an evidence based decision. There's a mountain of evidence about how to use incentives and sanctions effectively to change behavior. And we have those conversations so that I'm right up to speed with all the issues and we're clear about what we want to do with people. So that case conference takes a couple of hours and then I'll start seeing the participants and I'll get as many of them as I can into court at the one time so that each of them can hear what I'm saying and see what I'm doing with their colleagues who are part of this big drug court community. And I'll have a short conversation with each of the participants. Five to ten minutes, I'll pick up on the key issues, acknowledge the good work that have done in the same way, I have to also point out where we want some improvement. I'll discuss those

incentives and sanctions that we've imposed. If the participants have arguments about that, if they if they disagree, we've got a Vic Pol representative on the team and a legal aid lawyer on the team, and they'll advocate one way or the other for the participants and will settle those incentives and sanctions. So hopefully I have motivational conversations to send people down the right direction. Now, if people have done the wrong thing and made decisions and done things that they clearly could have avoided, like telling us lies or missing their appointments or not coming to testing, I'll impose jail time for those indiscretions. It's very clear someone misses a test, they know they're going to get two days jail from me. If they miss a counseling appointment or supervision appointment, they know they're going to get one jail day from me. If they go into a sanction bank, and if those sanctioned days add up to seven, then I send them in to serve that time. Now, that's not by any means the end of their order. That's just keeping our participants accountable, accountable for things that we know they could have avoided. And the converse applies when people do the right thing, we reward them. So on phase one of this program, for instance, abstinence is a distant goal. It's beyond most people on phase one. It's in the distance so far, it's on the other side of the hill they can't see it. If someone on phase one comes in with a clean urine screen, we reward that very highly. We clap and we cheer and I'll take some jail time...

Michael Green [00:55:15] Literally clap and cheer?

Tony Parsons [00:55:16] Absolutely, absolutely applaud and thunderously so, because the teams all present in the in the review. And so that when we win, I have a conversation with these people. The whole team are hearing it, you know, and so everybody else in court. So we send a very clear message that that's terrific. I'll reduce the jail time that sits over their head. We make a fuss of that to send that message. But there are other rewards. We've got a goldfish bowl full of lucky dip prizes in the court. And when people do something special, I'll invite them to pull out a lucky dip. Now, most of the prizes are a low value. It might be a new tube of toothpaste and a new toothbrush, or it might be a gym towel or go to the front of the testing queue for the urine testing, which they do three times a week on phase one. But there's one or two. Twenty five dollar gift vouchers in there or a couple of passes to the footy in there, and they're a bit more value, the evidence is really clear, it's not the value of the prize, it's the recognition and opportunity that people get when they do something a bit special. And, you know, the problem with methamphetamine is that it kills people's pleasure centers. It smashes the dopamine receptors, which are the receptors that that generate a feeling of pleasure. And I haven't seen people smile on this order for weeks or months since they've been on the order, sometimes because they're suffering from this as a result of long term methamphetamine use. And I've seen people who've been invited to go to the goldfish bowl for the first time on the order crack a smile. And it's like the sun coming up. You know, it's so exciting because it's such a playful thing to do as well. 100 per cent of the people that come on to this program are suffering from early childhood trauma. So everything we do needs to be trauma informed. That's 100 per cent. Each one of them has been the subject of abuse, of violence or neglect over their childhood. So everything, we need to do has to be trauma informed. You know, we're very careful not to not to belittle people and respectful conversations, prompt respect.

Michael Green [00:57:20] Tony, thank you very much for coming in today and telling us about the drug code, I personally think it is very important for us as a community to hear about what you do and what the drug court is doing for our community and for the participants in the program. And in a perfect world, we'd have other areas of the criminal justice system where the drug court system is used it is quite wonderful.

Tony Parsons [00:57:43] Thank you. Thank you very much.

Voiceover [00:57:53] Show notes from today's episode can be found at [Greenslist.com.au/podcast](https://greenslist.com.au/podcast). There you'll find links to things talked about in this episode, a transcript of the show and some wonderful photos of our guests. If you're enjoying Lives in the Law, please tell your networks and subscribe, rate and review the show. It really helps others find out about us. Your host is a former lawyer and Greens List clerk, Michael Green. Our show is produced by me, Catherine Green, mixed and mastered by Windmill Audio and recorded by Alex Macfarlane, who also wrote and performed all the music for the series. With covid restrictions limiting numbers inside the County Court of Victoria. We are currently recording our shows at Owen Dixon Chambers on the corner of William and Lonsdale Streets in our beautiful city of Melbourne. We acknowledge The Wurundjeri People of the Kulin Nation as the traditional custodians of this land and pay our respect to their elders past and present. There is no doubt that conversations about justice have been taking place on this land for thousands of years, and we are privileged to continue the discussion here today.