

Mr Cowen, you appear for sentence in relation to a single count of trafficking in a controlled substance, namely methyl amphetamine, between 13 September 2020 and 26 November 2020 contrary to s 12(1) of the *Misuse of Drugs Act* 2001.

In September and November 2020, you resided at an address in Ransley Court in West Moonah. Ransley Court is a double storey house which has a downstairs rumpus room. In September 2020 you lived there with your partner and two children. In November 2020, you lived there alone. On 24 September 2020 at approximately 7.00 am, members of Tasmania Police attached to the Southern Drug Investigation Services executed a search warrant at that Ransley Court address. You were located downstairs in the rumpus room of the house. During the course of the search, Police located and seized a number of drug related items. These included your iPhone, which you provided to police. From the rumpus room of the address, police found a DC Shoes USA camouflage bag, which contained an ice pipe, three zip lock bags containing methylamphetamine – one bag contained 1.7 grams of methyl amphetamine and two contained half a gram each; \$200 in \$50 notes, and two rolled up \$5 dollar notes, seven used ice pipes, three sets of digital scales, a glass smoking device, four tick sheets and a bag containing 1.8 grams of methyl amphetamine. There were a couple of other items I do not need to refer to.

From your bedroom, the police found \$1,900 in \$50 notes, \$600.40 by way of ANZ bank cheque and a gel blaster gun, which has been the subject of other charges that have already been finalised.

The total amount of methylamphetamine possessed by you at this address was 4.5 grams. You were in possession of \$2,110 in cash and the bank cheque to which I have referred. The four tick sheets located during this search, collectively contained 13 names, though with some repetition, and showed debts of \$53,390 in total. Following the search, you were arrested and transported to the Hobart Police Station where you were interviewed. Under caution you stated that you did not have employment, that you received Centrelink and were paid about a \$1,000 a fortnight, provided you attended appointments. You said you lived at the Ransley Court address with your partner and two children and that rent was \$450 per week. You told police that you bought and sold cars. You said you used a bit of meth every now and then, that you would use a couple of grams every couple of days. You said you smoked it in a pipe. You later stated that you would not actually smoke that much but that is what you put in the pipe. You said you used to be a junkie. You said that the meth does not cost you anything. You said you "forget about what I do", "it doesn't cost me anything so I just use it to cover the cost of it and run my boys". You said you would give your mates methylamphetamine, you said you pay your mechanic, your gardener and a person who installed cameras at that address in methylamphetamine. You said that "it's cheaper to keep my mates running by meth than it is by cash".

When you were showed the snap lock bags located during the search, you said you thought there was half a ball in one. You said the meth would have all come in one bag but that you split it. You said you used the scales on the table to do it. You said you paid \$3,500 for it, that was the amount you paid for an entire ball. You said you had sold the balance of that ball, which was not, in fact, located.

You said you had been selling for three to four weeks and probably sold to ten people in that time. You said that it was the same people who just come back. You said you were not sure of exactly how much you had sold, a proposition the State does not accept. For sentencing purposes, in my view, it does not matter.

When asked about how much methylamphetamine you had purchased during the period, you said you had been selling \$20,000 worth, "like, that's probably a lie", you said, "probably more or less. I really don't know". You said you normally buy a ball every couple of days. You pay cash for it. You do not tick it.

You told police that you had sold over the last four weeks, "a couple of ounces, I don't know, two ounces. If I went and bought four ounces it wouldn't last a day. I've probably bought like, I don't go and buy ounces, I buy balls or a quarter like every day or two." You said you had cutters at your house. You said you give this to junkies, or you mix it for junkies. You said you sell bigger weights than a point if you get, what you described as "shit gear". If you get that, you said you get rid of that straight away.

The largest quantity you had sold, you told police, was for \$3,500. You said you could not remember when you had sold this and that the transaction had probably happened at the bottom of your driveway. You said you rarely go to the bottom of the driveway unless you really know the buyer, otherwise you said you send someone else to complete the sale. You said when you sold the ball, someone gave you cash and you then went and got the drugs and then gave the drugs to the buyer. You said people message you and you will message them when you are selling. You repeated that you sell from the bottom of the driveway, no one goes into your house.

You said when you get the methylamphetamine, you determine what you need to sell "to make it make it back" so you weigh it. You buy a ball or two initially, but it depends what the price is. You said that the money found at the house by police, some \$20,000, came from gambling because you were "real lucky on the pokies".

You said to police they would see the drug deals when they checked the cameras that you had installed at that address. You told police that one of the tick sheets was not yours and you would not tick that much generally. You said that the tick sheet on the shoe box was probably yours and the named people owe you for drugs. When asked when you sold it to them, you said "Oh, that's an old shoe box. That's ages ago." You also told police your price list – point one of a gram is \$150. You said you sell five or more points for \$100 each. A gram you sell for \$1,000. A quarter (seven grams) is worth \$7,000. Half a ball (1.75 grams) you sell for \$1,750. A ball is 3.5 grams and costs \$3,500. You said that if people want to buy big quantities, you will go and purchase that quantity and then sell it to them. You said you had never sold a "quarter". When questioned about messages on your phone offering quarters to people, you stated that you would "probably have been talking shit" and you have never sold one.

You said that your partner does not have any involvement in selling. You said you had been helping other people your entire life to sell drugs so you thought you may as well make your own money. You said you had Wicker and that you used that application "so youse can't see what's on it".

Following the interview you were formally charged, processed and police bailed. Your iPhone was seized during the search and I have acknowledged that you handed that to police and it

was examined for data. The data was analysed by police and a number of text messages were located. Text messages between 13 September 2020 and 24 September 2020 established that you were sending and receiving messages on a frequent basis relating to the sale of methylamphetamine by you.

In summary, the State asserts that the messages disclosed that you sold, offered to sell, or were approached to sell methylamphetamine to 21 separate individuals. You sold an identifiable amount of eight grams of methylamphetamine throughout the period for \$8,700. You offered to sell an identifiable amount of 3.15 grams of methylamphetamine throughout the period. You purchased, or came into possession of a minimum of 155.3 grams of methylamphetamine from your supplier throughout the period and that this was for the purposes of sale, and you were looking to expand your business and for people to sell drugs. In a number of those text messages you were asking people to repay drug debts owed to you. The estimated value of the actual methylamphetamine, which was 4.5 grams, located during the search is \$4,500. The estimated value of the 155.3 grams of methylamphetamine that you purchased from your supplier, or of which you were in possession between 13 September and 24 September, if sold, was \$155,300.

On 26 November 2020 at about 10.20 am, members of Tasmania Police attached to the Southern Drug Investigation Services, executed a Warrant at that same address. You were present and during the search the following items were located:

- a Samsung phone box, which contained \$220 in cash
- a metal spoon, with traces of white powder
- a tick sheet
- two sets of digital scales
- a broken ice pipe
- a projectile
- a homemade bong
- three tick sheets
- a snap lock bag, which contained five smaller snaplock bags, four of which contained between .05 and .1 of a gram of clear crystals, which were negative for common drugs, and one bag which contained a trace of methylamphetamine
- \$200 in cash;
- a glass ice pipe; and
- a snap lock bag which contained .1 gram of clear crystal substance, which was also negative for drugs.

You directed police to a roof space where a shortened firearm and ammunition were located. That matter has been the subject of another charge in respect of which you have already been sentenced. Its relevance, as far as the State is concerned, that it exhibits the extent to which you considered it necessary to protect yourself whilst you engaged in the drug activity to which you have pleaded guilty.

You also possessed a trace of methylamphetamine at the time of the November search, and you were in possession of \$440 in cash. The four tick sheets located during this search collectively contained 10 names, again with some repetition, and showed debts of \$3,740 in total.

Following the search you were arrested and transported to Glenorchy station where you participated in a video record of interview where you stated under caution that you were ticking

fake stuff you got off the internet as ice, gear or whatever; that you do not sell full points, you sell .08s for a \$100 and points for \$150. In reference to September, you said "I was killing it back then though but I'm not going to tell you about that." You said you were currently using "half a ball a day through pipe, needle, whatever" and that you sell to cover the cost of your own use. You said that the scales found at your house were used to weigh up the drugs. The tick sheets located at the house were what people owe you, but not necessarily just for drugs. When asked if you were currently working, you said "No, I sell drugs". You said you purchase half a ball a week and from that you would sell six or seven points, and in the last week you would have sold 20 packets of .8 grams. The biggest sale would have been four to five packets to the one person.

In the last week, you said you would have "sold a ball, half a ball of real meth" to three or four people. You said you made a \$1,000. You told police, "that at the end of the day, yes, I've been selling ice" and the last time that you sold, was the day before. When asked for how long you had been selling ice, you said "that would be, no I'm serious, about a week". You said you stopped dealing after the September police interview, to which I have already referred, and that you restarted about a week before this warrant was executed. You denied the sheet located was a tick sheet. You did admit it was yours, but you said it was not a tick sheet for drugs. You said you "only ticked to one person, Shannon, cos he's dumb enough to buy that. He owes nothing on tick." You said "in September you were selling drugs, now I'm just moving drugs to support my habit. In September, it was a full time job."

You said in September your drug dealing was a 10 on the scale of dealing, where 10 is the highest. When asked what you were selling in September, you said "bulk meth, an ounce and a half day in packets at \$150 each, every day however long until I got caught."

A trafficable quantity of methylamphetamine is 25 grams. The State assert that you were in the business of trafficking methylamphetamine during the period referred to in the Indictment and that the business was an ongoing one with a commercial nature. That is, trafficking on a Giretti basis and you have accepted that by your plea.

The State accepts that your personal use increased in November, but they assert that you remained trafficking methylamphetamine at a level that exceeded the cost of your personal use. The State assert that the \$2,550, the total value of the cash located during both searches, and the bank cheque for \$600.40, was the proceeds of crime, namely the sale of drugs between 13 September 2020 and 26 November 2020.

Mr Cowen, the law regards the offence of trafficking in drugs as a serious crime. Whilst use of a drug, which is also a crime, may be the result of addiction, which might explain it to some extent, trafficking involves the exercise of a free choice to engage in the distribution of drugs in the community. Whilst I am prepared to accept that you trafficked to those you knew to be users, your actions nevertheless facilitated the continued use by others of potentially very damaging drugs.

I accept counsel's submission that the trafficking that occurred in this case involved a low level of sophistication and relatively small quantities, with only a modest return to you.

It is fortunate that your trafficking activity did not result in your partner or any child being exposed to other criminal activity connected with the obtaining of drugs, or demands that you procure more. There was a particular risk that such exposure could occur given the way you transmitted drugs to your customers from your home.

Your counsel tells me that you have reflected upon your conduct and I am told that you have not used methylamphetamine or other drugs whilst you have been in custody, which I note is now a relatively considerable time. It is to be hoped, as has been submitted to me, that your focus on maintaining your relationship and occupying yourself in more useful endeavours provides a foundation for your abandoning activities such as this and defending generally, and I think I am correct in saying that this will bring to an end all of the outstanding matters against you.

You are not to be sentenced today as a youthful offender, but you are still a relatively young man with your life before you, so you do have an opportunity to do something about where your life goes from here. I consider, and I have said this to you before when I was sentencing you in relation to another matter, that you should be encouraged to do that, but it is for you to take that opportunity.

I note that you were cooperative with police, and I take account of your plea of guilty which has a significant utilitarian benefit which should be reflected in the sentence that I impose. I also must have regard to the totality principle in fixing sentence, noting as I just have, that you have spent a considerable period of time in custody. A sentence which crushes any determination to make personal changes would not, in my view, be a sentence in your best interests or the best interests of the community. In saying that, I do not ignore the need to impose a sentence which deters others from offending in this way. The use of this particular drug has created significant social harm and those who choose to traffic in it must be made aware that such activity will attract harsh punishment. The positive matters, alluded to by your counsel to which I have referred, go to the need to deter you from engaging in such behaviour in the future. The Court has, as I say, an obligation to send a message to others who might be minded to act in a similar way.

You have not been convicted previously of trafficking, though there are some minor drug offences in your past which, in my view, should be afforded very limited weight in framing penalty.

I have decided that a sentence which involves a partial suspension of its operation will satisfy the need for general deterrence and also serve to encourage your reform. The prospect of having to serve the suspended portion of the sentence should reinforce your resolve to do so.

In all the circumstances, and having regard to the matters to which I have referred, the quantities involved, the lack of sophistication attaching to this operation, the fact that you trafficked to known users, and taking account of the long period of incarceration you have served, but not ignoring the particular drug which is involved in this offending, I have determined that a sentence of 16 months' imprisonment, cumulative with any sentence currently being served, is an appropriate sentence. As I said, I intend to suspend part of that sentence. In your circumstances, I have decided to suspend eight months of that sentence on condition that you commit no offence punishable by a term of imprisonment for a period of three years from you're your release, which means you have eight months to serve in connection with this particular criminal activity, and eight months hanging over you after that.

The State made a number of applications in relation to orders in respect of property that was seized. I will not read out all of those because I have said enough I think, but those applications

were not opposed and I make orders in terms of the State's application in relation to these matters.