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Evaluating the Children's Koori Court of Victoria: Some Key Findings

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Background (1)

- Indigenous people are 13 times more likely than non-Indigenous people to be in detention.
- Nationally, Indigenous youth aged 10-17 years are 28 times more likely to be in detention. In Victoria, they are 16 times more likely to be in detention than non-Indigenous youth.
- An important strategy for addressing overrepresentation of Indigenous Australians in the juvenile and criminal justice systems has been to foster Indigenous participation in sentencing procedures—a focus of many of the recommendations of the Royal Commission into Aboriginal Deaths in Custody (1991).
- Such participation serves:
 - To address “the negative human experience which is the reality behind the statistics on Aboriginal overrepresentation” (RCIADIC 1991);
 - To enhance the court’s perceived legitimacy and hence offenders’ responsiveness to it;
 - To empower and strengthen Indigenous community (e.g., through enhancing authority of Elders and Indigenous social control mechanisms. Note that shaming is an important aspect of maintaining order in Aboriginal communities.)
 - To transform Indigenous communities’ relationships with White society
 - To reduce recidivism and, in turn, overrepresentation.

Background (2)

- Began with the Nunga Court in South Australia in 1999. Today have a range of initiatives including Magistrates and Children's Murri Courts in Queensland, sentencing circles in NSW and Magistrates Koori Courts in Victoria, the latter established under the *Magistrates Court (Koori Court) Act* of 2002. Also now have County Koori Courts in Victoria under the County Court Amendment (Koori Court) Act 2008.
- Few efforts to foster Indigenous participation in sentencing have been evaluated. Queensland's Murri Courts have been internally reviewed but the review did not focus on impact of court on recidivism. Mark Harris' (2005) evaluation of Victoria's Magistrate's Koori Courts reported a recidivism rate of 12.5% in Shepparton and 15.5% in Broadmeadows cf. a general rate of 29.4%. The study's methodology has been criticized.
- Jacqueline Fitzgerald (2008) reported that the circle sentencing method of sentencing adult Aboriginal offenders in NSW had no discernible impact relative to the sentencing of a traditional court on reducing the frequency of offending, increasing the time to the next proven offence or reducing the seriousness of any further offending.

The Children's Koori Court of Victoria

- In June 2000 the Victorian Government and representatives of the Indigenous community became parties to the Victorian Aboriginal Justice Agreement (VAJA). The peak body responsible for overseeing the implementation of the VAJA is the Aboriginal Justice Forum (AJF). In late 2003, the AJF determined that a joint project between DoJ, DHS and the Koori Caucus be developed to consider the establishment of a Children's Koori Court (Criminal Division) in Victoria.
- The development of the Court was overseen by a State-wide Reference Group that developed the Children's Koori Court Model and the *Children and Young Persons (Koori Court) Act 2004*.
- The legislation was passed in late 2004. The Act received Royal Assent on 7 December 2004. The Court began operating in October 2005 on a two-year pilot basis that was subsequently extended.

The Children's Koori Court of Victoria: Criteria for Exercise of Jurisdiction

- Defendant must be descended from, identify as and be accepted as ATSI by an ATSI community.
- Offences must be within the jurisdiction of the Criminal Division of the Children's Court of Victoria. Thus, the CKC can hear summarily all offences except murder, attempted murder and manslaughter, culpable driving causing death and arson causing death. Sexual offences are excluded from the CKC (and the Magistrates Koori Court).
- Age jurisdiction is 10 - <18 at time of alleged offences committed and <19 when proceedings commence before the CKC.
- Defendant must intend to plead guilty or have been found guilty in a mainstream Children's Court.

The Children's Koori Court of Victoria: Sentencing Powers

Same as those that may be imposed on defendants who appear before a mainstream Children's Court.

Supervised order (probation and youth supervision orders) and those involving detention are administered by Department of Human Services' Youth Justice section.

The Children's Koori Court of Victoria: Type of Court

- Not adversarial. A sentencing court.
- Premised on the notion that the sentencing hearing process (+ services to which defendants may be linked as part of court disposition) can influence future behaviour of defendants.
- Is a “specialist” court with *some* problem-solving and therapeutic overtones (Freiberg 2001) or a “specialty” court given the new and innovative court practices that it incorporates.
- Marchetti and Daly (2004, 2007) argue such courts are in a category of their own given “the role of the Indigenous community is a key influence in correcting and modifying established criminal processes in ways that are less apparent to relevant ‘communities’ in other specialized courts,” e.g., conferencing. Further, they are ultimately concerned with transforming racialised (Indigenous-White) relationships and communities.
- Atmosphere of court is relatively informal.

The Children's Koori Court of Victoria: Some Characteristics

- Male or female magistrate sits with two Aboriginal Elders or Respected Persons (ERPs), most often one male and one female. Magistrate is the sentencing authority.
- Hearing is held around an oval bar table in a special courtroom that has been smoked, has Aboriginal, Torres Strait Island and Australian flags as well as Aboriginal art work on the walls.
- Hearing participants also include uniformed police prosecutor, defence lawyer (usually from VALS), CKC Worker, Koori Youth Justice Worker, defendant (who sits opposite the magistrate), family member(s) and sometimes an additional professional, e.g., Disability Services Worker, if germane to the case.
- Hearings range from 25 to 120 minutes in duration.
- Sits on a Thursday morning fortnightly. Is a “low volume” court.

Major Goals of the Children's Koori Court

1. To reduce the over-representation of Koori youth in Victoria's juvenile justice system

and

2. increase Indigenous ownership of the administration of the law.

Objectives of the Children's Koori Court

None stated operationally.

Goal 1: Reduce over-representation

Objective 1a: Reduce the failure-to-appear rate by Koori youth

Objective 1b: Reduce the court order breach rate

Objective 1c: Reduce the rate & seriousness of re-offending

Objective 1d: To build a culturally-responsive juvenile justice system for Koori youth

Goal 2: Increase Indigenous ownership of administration of the law

Objective 2a: Increase positive participation by Koori youth, their families and their community in the Court

Objective 2b: Increase accountability of the Koori community for Koori youth

Objective 2c: Promote/increase Koori community awareness of community codes of conduct/standards of behaviour

Research Questions

Outcome Evaluation Question

- 1. To what extent have the CKC's objectives been realized?

Process Evaluation Questions

- 2. Does the CKC serve those it is intended to serve-- its target population?
- 3. Has the CKC been implemented in accord with its design?
- 4. How do court actors ***and defendants and their families*** experience the CKC?

Formative Evaluation Question

- 5. What improvements should be made to the CKC?

Methodology (1) Outcome Evaluation

Objective 1a: Reduce the failure-to-appear rate by Koori youth

Objective 1b: Reduce the court order breach rate

Objective 1c: Reduce the rate & seriousness of re-offending

To answer outcome evaluation questions 1a-1c, the study employed a single-group post-test only non-experimental outcome evaluation design (or data collection plan) as the construction of either a control group (experimental design) or a comparison group (quasi-experimental design) was not possible. Thus, no internal or external validity threats were controlled for in this study.

Collection of quantitative data and the tracking of all young Indigenous defendants' "criminal careers" (if any) subsequent to the finalization of their initial case by the Children's Koori Court (CKC). All defendants appearing before the CKC during the first two years of its operation (October 2005 to November 2007) were tracked until May 2008 using Victoria Police data bases. Thus, while "early" cases were tracked for up to 30 months, the last ones were tracked for 6 months only.

Indicators of Objectives 1d – 2 a

Objective 1d: To build a culturally-responsive juvenile justice system for Koori youth

Indicators include participation of Elders and/or Respected Persons (ERPs) in the hearing process through providing advice to the magistrate and the magistrate conferring with the ERPs about appropriate sentences or conditions to be attached to the sentence.

Objective 2a: Increase positive participation by Koori youth, their families and their community in the Court

Indicated by the active participation of ERPs in the hearing process and the informality and comprehensibility of the proceedings to Indigenous participants.

Indicators of Objectives 2b – 2 c

Objective 2b: Increase accountability of the Koori community for Koori youth

Indicators include ERPs conveying the message that the defendant's crimes are condoned by neither the Indigenous nor non-Indigenous communities and support for the defendant, family members and community members to address the CKC.

Objective 2c: Promote/increase Koori community awareness of community codes of conduct/standards of behaviour

Indicators include family members reinforcing ERPs' expectations of defendants while on sentence and participation by the Koori community in the court process, the latter also reflecting an increased sense of ownership of the administration of the law by that community.

Methodology (2) Outcome Evaluation

Date collection to address objectives 1d -2c involved:

Observation of 19 hearings over 11 sittings (22 weeks) of the CKC

and

interviews with 18 court actors and external stakeholders

1 Children's Koori Court Worker

2 defence lawyers

3 Elders or Respected Persons

2 Indigenous community service agency representatives

4 magistrates

2 police prosecutors

2 Youth Justice Workers

2 other external stakeholders who held senior positions in state government and were close to the development and implementation of the CKC

Methodology (3) Process Evaluation and Formative Evaluation

Data on characteristics of target population derived from CKC Worker's files and the Children's Court data base.

Data on the implementation / operation of the CKC derived from observations of CKC hearings and interviews with court actors and external stakeholders.

Data on court actors' experience of the CKC derived from interviews. (But note that defendants and their families could not be recruited under protocol specified by ethics committees.)

Data on court improvements in the CKC derived from observations of CKC hearings and interviews with court actors and external stakeholders.

Defendants' Characteristics

Table 2.1: Number and Gender of Defendants by Dates of First Scheduled CKC Appearance (N = 72) and Duration of Tracking (N = 62)

| First Appearance before the CKC | Total | Males | Females | Duration of Data Tracking |
|--|--------------|---------------------|---------------------|----------------------------------|
| October 2005 – May 2006 | 24 | 17 | 7 | 24 – 30 months to May 2008 |
| June – November 2006 | 14 | 9 | 5 | 18 – 24 months |
| December 2006 – May 2007 | 11 | 8 | 3 | 12 – 18 months |
| June – November 2007 | 13 | 12 | 1 | 6 – 12 months |
| December 2007 – May 2008 | 10 | 9 | 2 | Not applicable |
| Total | 72 | 54 (75%) | 18 (25%) | |

Table 2.2: Age and Gender of the Defendants

| Age at First Scheduled CKC Appearance | Total | Males | Females |
|--|--------------|---------------------|---------------------|
| 12 years | 1 | 1 | |
| 13 years | 6 | 4 | 2 |
| 14 years | 11 | 7 | 4 |
| 15 years | 18 | 13 | 5 |
| 16 years | 9 | 4 | 5 |
| 17 years | 13 | 13 | |
| 18 – 19 years | 13 | 11 | 2 |
| Unknown | 1 | 1 | |
| Total | 72 | 54 (75%) | 18 (25%) |

Table 2.4: Overview of Offending History Prior to First CKC Appearance

| Prior histories recorded for each young person | Total | Males | Females |
|--|-----------------|--------------|----------------|
| No history of cautions or prior offences | 11 (18%) | 8 | 3 |
| Cautions or diversions only | 26 (42%) | 18 | 8 |
| Prior offences proven in Children's Courts in Victoria without history of caution or diversion | 6 (10%) | 4 | 2 |
| Prior offences proven in Children's Courts in Victoria with history of cautions or diversion | 19 (31%) | 16 | 3 |
| Total | 62 | 46 | 16 |

Table 2.5: CKC Dispositions


| Dispositions - First CKC Appearance | Total | Males | Females |
|--|--------------|--------------|----------------|
| Charges Dismissed | 3 (4%) | | 3 |
| Accountable undertaking | 8 (11%) | 5 | 3 |
| Good Behaviour Bond | 23 (32%) | 17 | 6 |
| Probation Order | 18 (25%) | 14 | 4 |
| Youth Supervision Order | 5 (7%) | 4 | 1 |
| Youth Training / Residential Centre Order  | 7 (10%) | 7 | |
| | | | |
| Adjourned for contested hearing | 1 (1%) | 1 | |
| Failure to appear – warrant executed, outcome unknown | 1 (1%) | 1 | |
| Initial appearance adjourned – outcome unknown at time of data collection | 6 (8%) | 5 | 1 |
| Total | 72 | 54 | 18 |

Table 2.7: Defendants with a Prior Involvement with the Department of Human Services

| | Total | Males | Females |
|---|---------------------|--------------|----------------|
| Youth Justice, Child Protection and Disability Client Services Histories | | | |
| Prior DHS Youth Justice History (N=62) | 17 (27%) | 15 | 2 |
| Child Protection (CP) History* (N=72) | 19 (26%) | 10 | 9 |
| Registered Disability Services (DS) Clients* (N=72) | 5 (7%) | 5 | |
| *Includes Dual CP and DS clients | (4) | (4) | |
| Total | 41 (33%) | 30 | 11 |

Defendants' Characteristics: Summary

Of the 72 defendants who appeared before the Children's Koori Court during the first 30 months of operation:

- the predominant male group (75 per cent) had an average age of 16 years and 2 months and the girls / young women in the group (25 per cent) averaged 15 years and 9 months – the peak offending ages;
- 11 young men and 2 young women (18 per cent) were aged 18–19 years at the time of their first appearance before the Children's Koori Court, suggesting lengthy delays in bringing matters to court;
- Over 80 per cent of the young people were currently resident in the metropolitan area, although many of these had moved from country Victoria and, in some instances, from interstate. Thus, the group represents the diverse Aboriginal and Torres Strait Islander community in Melbourne and Victoria;
- Of the 62 defendants who comprised the *study population* and, thus, for whom data on prior offending histories were collected, 73 per cent had been formally cautioned and 40 per cent had one or more previous offences proven at previous Children's Court appearances. Overall, a high proportion (83 per cent) of the study population had an established history of offending

- The 72 CKC defendants had committed a very wide range of offences ranging from public transport offences and shop stealing to weapons possession and dangerous and negligent acts endangering persons, robberies and assaults
- The most common disposition of the court was a good behaviour bond (32 per cent) or a probation order (25 per cent) or, expressed somewhat differently, the dispositions included unsupervised orders (43 per cent), probation or youth supervision orders (32 per cent) and custodial orders (10 per cent)
- There was often a considerable time lag between the commission of the offence(s) and first appearing before a CKC.
- Many of the young people were already known to DHS at the time of their first CKC appearance, with at least 27 per cent of the young people known previously to Youth Justice, 26 per cent to Child Protection and seven per cent to Disability Services.

Failure to Appear, Breaches of Court Orders and Recidivism and its Seriousness

Table 3.1 Gender of Defendants and Period of Tracking

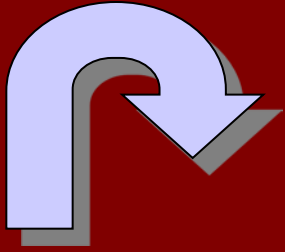
| First Appearance Scheduled (6-month Cohorts) | Total | Males | Females | Duration of Data Tracking |
|---|---------------------|---------------------|---------------------|----------------------------------|
| October 2005 – May 2006 | 24 (39%) | 17 | 7 | 24 – 30 months to May 2008 |
| June – November 2006 | 14 (23%) | 9 | 5 | 18 – 24 months to May 2008 |
| December 2006 – May 2007 | 11 (18%) | 8 | 3 | 12 – 18 months to May 2008 |
| June – November 2007 | 13 (21%) | 12 | 1 | 6 – 12 months to May 2008 |
| Total | 62 | 46 (74%) | 16 (26%) | |

Table 3.2: Failure-to-Appear by Tracking Cohort and Gender

| | Total | Male | Female |
|--|--------------------|-------------|---------------|
| First Appearance Scheduled (x 6-month Cohorts) | | | |
| October 2005 – May 2006 (n=24) | 6 | 3 | 3 |
| June – November 2006 (n=14) | 1 | | 1 |
| December 2006 – May 2007 (n=11) | | | |
| June – November 2007 (n=13) | | | |
| Total: | 7 (11%) | 3 | 4 |

Table 3.3 Breach of CKC-Ordered Probation or Youth Supervision Order Heard at the CKC by Tracking Cohort and Gender

| First Appearance Scheduled (x 6-month Cohorts) | Totals | Male | Female |
|---|----------------|-------------|---------------|
| October 2005 – May 2006 (n=24) | 4 | 3 | 1 |
| June – November 2006 (n=14) | 3 | 2 | 1 |
| December 2006 – May 2007 (n=11) | 1 | 1 | |
| June – November 2007 (n=13) | | | |
| Total | 8 (13%) | 6 | 2 |



Recidivism

The “indicator events’, i.e., the events determining and qualifying for inclusion in assessments of reoffending, can include:

- (1) charges proven in further court appearances,
- (2) re-arrest and/or subsequent charges being laid and
- (3) coming to the attention of the police.

Table 3.4 Offending Histories Subsequent to Initial CKC Appearance

| Subsequent Offending Histories | Total | Males | Females |
|---|-----------------|--------------|----------------|
| Subsequent offences proven at a court appearance | 37 (60%) | 30 | 7 |
| Record of further charges pending at 31 May 2008 | 8 (13%) | 4 | 4 |
| Record of a single subsequent court appearances where all charges were struck out/withdrawn | 4 (6%) | 4 | |
| No subsequent offences recorded | 13 (21%) | 8 | 5 |
| Total | 62 | 46 | 16 |

Table 3.5 Subsequent Offending History by Tracking Cohort

| | Duration of data tracking to May 2008 | | | | Total |
|--|---------------------------------------|----------------|----------------|---------------|-----------------|
| | 24 – 30 months | 18 – 24 months | 12 – 18 months | 6 – 12 months | |
| Subsequent histories recorded for the young people in each six-month cohort | | | | | |
| Subsequent offences proven at a Court appearance | 18 (75%) | 9 (64%) | 4 (36%) | 6 (46%) | 37 (60%) |
| Further charges pending at 31 May 2008 | 1 | 3 | 1 | 3 | 8 (13%) |
| Single subsequent Court appearances where all charges were struck out/withdrawn | 1 | | 2 | 1 | 4 (6%) |
| No record of subsequent offences recorded | 4 | 2 | 4 | 3 | 13 (21%) |
| Totals for each cohort | 24 | 14 | 11 | 13 | 62 |

“Comparative” Recidivism Rates

Two previous studies that employed charges proven in further court appearances as the indicator event .

DHS (2001) = 65 per cent

Smith and Jones (2008) = 78.4 per cent

CKC evaluation = 60 per cent*

*Likely to be slightly overstated because some offences proven at a subsequent court hearing could have been as a result of offences committed prior to initial CKC hearing. Research Advisory Committee believes recidivism more likely to be a few percentage points lower.

Table 3.7: Offence Seriousness Ratings for Principal Offences Proven at Prior, Initial CKC and Any Subsequent Court Hearings

| National Offence Index (NOI) Seriousness Rating and Australian Standard Offence Classification (ASOC) Categories | | Principal Prior Offence Proven in Court | Principal Offence at Initial CKC | Principal Subsequent Offence | |
|---|---|--|---|-------------------------------------|-----------|
| NOI Rating | Aggregated Offence Categories | | | | |
| 0 - 9 | 1. Homicide & related offences | | | | |
| 10 - 35 | 2. Dangerous & negligent acts endangering persons | 15 | 23 | 18 | |
| 36 - 61 | 3. Non-aggravated robbery, threatening behaviour, weapons offences, intent/burglary | 4 | 18 | 11 | |
| 62 - 92 | 4. Fraud & deception (except fare evasion), theft & motor vehicle offences | 3 | 9 | 4 | |
| 93 - 103 | 5. Property damage & transport offences (including fare evasion) | | 9 | 2 | |
| 104-127 | 6. Public health & safety, escape custody & illicit drug offences | 1 | 1 | | |
| 128-137 | 7. Trespass, offensive behaviour & public order offences | 2 | | 1 | |
| 138 | 8. Theft from retail premises | | 2 | | |
| 139-155 | 9. Resist or hinder official, driving, parking, pedestrian & miscellaneous | | | | |
| 156-157 | 10. Not known | | | 1 | |
| | Total | 25 | 62 | 37 | 34 |

Table 3.8 Offence Seriousness Compared: Initial CKC Hearing Offences Relative to those Subsequently Proven in Court Reappearance

| | Totals | Less serious | No change | More serious |
|---|---------------|---------------------|------------------|---------------------|
| Subsequent Offence(s) Proven Relative to Initial CKC Offence(s) | 37 | 16 | 9 | 12 |
| Percentage of re-offenders (N=37) | 100 | 43 | 24 | 33 |

Observations of CKC Hearings

Observations of CKC hearings demanded by study's effort to address:

- RQ1: Extent to which objectives 1d -2c had been realized (outcome evaluation):
 - Objective 1d: To build a culturally-responsive juvenile justice system for Koori youth
 - Objective 2a: Increase positive participation by Koori youth, their families and their community in the Court
 - Objective 2b: Increase accountability of the Koori community for Koori youth
 - Objective 2c: Promote/increase Koori community awareness of community codes of conduct/standards of behaviour
- RQ3: Has the CKC been implemented in accord with its design? (One of the process evaluation questions.)
- RQ4: What improvements should be made to the CKC? (The formative evaluation question.)

Observations of CKC Hearings

- Data saturation reached after 19 hearings across 11 sittings (22 weeks) of the CKC. Each hearing was observed by two observers. Observations notes were recorded on Court Observation Schedule (COS) which then served as the basis for preparing a more detailed report on each hearing based on the structure of the COS. The report was normally completed within a few days of the hearing and thematically analyzed. Each observer shared his findings with the other observer for discussion and confirmation—a form of *peer debriefing* designed to foster the *credibility* of their analyses.
- 14 hearings were new cases, 5 were continuing ones (had been previously adjourned). The observed hearings involved 18 males and 1 female (latter therefore underrepresented) who were variably connected to the Koori community.
- All defendants legally represented. (Mainly by VALS lawyers.)
- 12 of 19 defendants appeared in court were accompanied by one or more family members.
- Indigenous service agency representatives were present at 10 of 19 hearings.

Observations of CKC Hearings: Select Findings

- Relatively little interaction between magistrates and ERPs.
- All of the magistrates sought to directly engage with the defendant. Though variable, degree of engagement was greater than that either normally attempted or seen in the mainstream Children's Court.
- Magistrates often expressed disappointment that the youngster was once again appearing in a Children's Court.
- Hearings were highly supportive and caring and affirmed or validated the young defendants (but not their behaviour).
- Sentence and its rationale were slowly and clearly explained.
- Cultural dimensions of the court received little attention by magistrates other than in opening remarks.
- The extent of the ERPs' interactions with defendants and also the extent to which they made explicit reference to matters cultural were variable.
- ERPs also invariably underscored the gravity of the offences, the impact of the defendant's behaviour on victims.
- Greater interaction often occurred where at least one of the ERPs had some knowledge of the defendant and/or his/her "mob."

Observations of CKC Hearings: Select Findings

- ERPs engaged in reintegrative shaming. Forceful admonishments (when ERPs were most likely to make explicit cultural references) were tempered by positive affirmation. Importance of respect was made issue of.
- Family members' engagement with court actors was generally quite limited.
- Koori Court Worker usually did not actively engage in the discussions around the oval bar table during the hearings.
- Many of the questions which the magistrates directed to the lawyers could, at least in the first instance, have been directed to the defendant.
- Lawyers generally prepared their cases carefully and provided the court with considerable information on their clients. Also typically made strenuous representations on behalf of their clients.
- Police prosecutor's role much less circumscribed than in mainstream Children's Court. Proactively contributed to deliberations.

Observations of CKC Hearings: Select Findings

- Proceedings were usually directed by the magistrate with a “gentle, dignified hand”
- Proceedings were less formal than those in the mainstream Children’s Court.

Observations of CKC Hearings and Outcome Evaluation Questions

Objective 1d:

To build a culturally-responsive juvenile justice system for Koori youth

Indicators include participation of Elders and/or Respected Persons (ERPs) in the hearing process through providing advice to the magistrate and the magistrate conferring with the ERPs about appropriate sentences or conditions to be attached to the sentence.

ERPs participated in all hearings. Degree of participation was variable. A function of, e.g., presiding magistrate's "hearing management style," verbal skills of both defendant and defendant's family members, and extent to which defendant and family were known to the ERPs.

As the magistrate is the sentencing authority, magistrate did not confer with ERPs re most appropriate sentences. Magistrate did consider advice occasionally offered by ERPs re appropriate support services. However, ERPs often elicited additional information (from defendant and family members re background, attachment to Koori community, motivation for offending, peer influences, sporting activities, work experience/preferences, plans for future, etc.) which may have informed magistrate's decision-making.

Observations of CKC Hearings and Outcome Evaluation Questions

Objective 2a:

Increase positive participation by Koori youth, their families and their community in the CKC

Indicated by the active participation of ERPs in the hearing process and the informality and comprehensibility of the proceedings to participants.

Participation of ERPs already mentioned.

Hearings were relatively informal.

Comprehensibility emphasized. Manifest in early part of order of proceedings when nature of court explained. Meaning of sentenced, its implications and rationale carefully explained.

Family member(s), Koori community agency representatives, other members of Koori community often attended court. Always respectfully greeted and invited to contribute by magistrate and then often did so proactively.

Observations of CKC Hearings and Outcome Evaluation Questions

Objective 2b:

Increase accountability of Koori community for Koori youth

Indicators include ERPs conveying the message that the defendant's crimes are condoned by neither the Indigenous nor non-Indigenous communities and support for the defendant, family members and community members to address the CKC.

ERPs also invariably underscored the gravity of the offences and the impact of the defendant's behaviour on victims.

Elders did not resile from being quite forceful in the way they delivered admonitions.

A theme throughout many hearings was the importance ERPs attached to defendants being respectful: Offending behaviour was presented as a manifestation of disrespect to parents, ERPs and the Koori community and a failure by the defendant to meet his/her obligations to them.

As noted previously, defendants, and family members engaged much more actively in proceedings than in mainstream Children's Court. This was especially so for Koori community members. Not only was this participation encouraged by magistrates but Koori participants in the hearing – seated both at oval table and in public gallery – felt comfortable in doing so.

Observations of CKC Hearings and Outcome Evaluation Questions

Objective 2c:

Promote/increase Koori community awareness of Indigenous & community codes of conduct/standards of behaviour

Indicators include family members reinforcing ERPs' expectations of defendants while on sentence and participation by the Koori community in the court process, the latter also reflecting an increased sense of ownership of the administration of the law by that community.

Family members' reinforcing ERPs' expectations while defendant on sentence could not be determined in this study because of the inability to recruit interviewees utilizing the stringent protocol laid down by ethics committees.

The active participation by the Koori community in the court process indicates a high sense of ownership of the CKC approach to the administration of justice.

Interviews with Court Actors and External Stakeholders

Interviews with court actors and external stakeholders were demanded by the study's effort to address:

- RQ1: Extent to which objectives 1d -2c had been realized (outcome evaluation):
 - Objective 1d: To build a culturally-responsive juvenile justice system for Koori youth
 - Objective 2a: Increase positive participation by Koori youth, their families and their community in the Court
 - Objective 2b: Increase accountability of the Koori community for Koori youth
 - Objective 2c: Promote/increase Koori community awareness of Indigenous and community codes of conduct/standards of behaviour
- RQ3: Has the CKC been implemented in accord with its design? (second process evaluation question)
- RQ4: What improvements should be made to the CKC? (formative evaluation question)

Summary of Findings

Outcomes

- Failure to appear rate was very low
- Court order breach was very low
- Recidivism rate was high but lower than that found by other studies
- Offences committed by offenders were often less serious than principal offence heard at initial CKC hearing and, for most, no more serious.
- The CKC is a culturally-responsive institution within Victoria's juvenile justice system
- It has fostered positive participation by Koori youth, their families and their community in the Court
- It has fostered increase accountability of the Koori community for Koori youth
- It ha fostered increased Koori community awareness of Indigenous and community codes of conduct/standards of behaviour

Process

- The CKC served its target population.
- The CKC model was implemented in accord with its design.

Formative

- Greater resourcing for Indigenous community service agencies and service delivery protocols needed.
- Further communications skills training for magistrates and ERPs

The End

Hooray!

