



Australian Government

Australian Institute of Criminology

# Evaluation of the Queensland Murri Court: Final report

Anthony Morgan  
Erin Louis

**AIC** Reports  
Technical and  
Background Paper **39**



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ISSN 1836-2052

ISBN 978 1 921532 67 2

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Project no. 138

Ethics approval no. PO125, PO125a & PO125b

Dataset no. 0125

Published by the Australian Institute of Criminology

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Edited and typeset by the Australian Institute of Criminology

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# Foreword

There have been a variety of innovative court models introduced, piloted and implemented across Australia to improve the effectiveness of the criminal justice system in dealing with specific offender populations. Indigenous sentencing courts have been established in most Australian jurisdictions in order to reduce high rates of reoffending among Indigenous offenders and to provide a more culturally-appropriate criminal justice process for Indigenous Australians that increases the involvement and confidence of the Indigenous community in the courts.

There are a growing number of evaluations investigating the operation and effectiveness of these court models. These are important because they can provide policymakers, judiciary and court partners with an evidence base upon which to make decisions regarding the expansion, improvement and development of both new and existing court programs.

This report presents the findings from the Australian Institute of Criminology's (AIC) comprehensive evaluation of the Queensland Murri Court, undertaken with the support and assistance of a range of stakeholders involved in the program. This research was funded by the Queensland Department of Justice and Attorney General who previously funded the AIC to evaluate the Drug Court program in Queensland and with whom the AIC has a long history of collaboration.

The evaluation examined the extent to which the Murri Court is meeting its objectives in terms of reducing the over-representation of Indigenous offenders in prison and juvenile detention, improving court appearance rates, reducing reoffending and strengthening the partnership between the court and Indigenous community in dealing with Indigenous justice issues. The evaluation involved an in-depth analysis of the operation of the court program to

identify which aspects were working well and where improvements could be made.

Overall, the evaluation has shown that the Murri Court has been successful in achieving many of these objectives. The court has had considerable success in improving its relationship with Indigenous communities to deal with Indigenous justice issues and in delivering a range of benefits to those directly involved in the program. It was clear from the evaluation that the court is highly valued among stakeholders involved in the program and that it has considerable support among the wider Indigenous community. Given that the support of stakeholders and the Indigenous community (particularly that of Elders), is integral to the ongoing operation of these court programs, this was a welcome finding.

Further, it was found that the court improved court appearance rates among both adults and juveniles and provided greater opportunities for adult offenders to participate in rehabilitative programs in the community pre- and post-sentence. While the current evaluation found that the Murri Court had not had a short-term impact upon the rate of reoffending among Indigenous offenders, the Court did appear well-placed to take on a more intervention-focused approach to dealing with Indigenous offending. This may help the court to address rates of reoffending.

Murri Courts are now in place in an increasing number of communities across Queensland. A number of important areas were highlighted in the report that may assist government to further refine court processes, along with a number of strategies to increase the positive outcomes for offenders, the criminal justice system and the wider community. These findings and recommendations are relevant not only to the Queensland Murri Court, but to Indigenous and specialty court programs operating across Australia.

Specialist courts are a growing feature of the criminal justice landscape and it is therefore important that such approaches are rigorously evaluated and operate from a strong evidence base. This evaluation adds important information to that evidence base and has provided a good example of the benefits

that can arise when researchers work closely with those involved in the design and implementation of criminal justice programs as part of longer-term evaluation projects.

**Adam Tomison**  
**Director**

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# Acknowledgements

The Australian Institute of Criminology (AIC) would like to acknowledge the invaluable support and assistance provided by the Queensland Department of Justice and Attorney-General and the various stakeholders involved in the Murri Court program. In particular we would like to thank Gregory Wiman, former Manager of the Murri Court Program who provided support, advice and assistance to us over the duration of the evaluation period.

The authors also wish to acknowledge Jason Payne from the AIC for his considerable input into the development of the research design and assistance with the coding, analysis and presentation of statistical data for this report and Jacqueline Joudo Larsen for her oversight of the project in its initial stages. The authors also wish to thank Peter Homel for his invaluable help and guidance throughout this project.

We would also like to express our sincere gratitude to the Murri Court case coordinators in each of the five evaluation courts for conducting evaluation interviews with Murri Court participants. Our thanks also go to the Evaluation Steering Committee, comprising representatives of the various stakeholders involved in the program, for their feedback on earlier drafts and assistance in providing access to data and interview participants.

Finally, we thank the various stakeholders (past and present) who spoke to us about their experience of the Murri Court program. Those interviews were an invaluable source of information, helping us to understand the range of complex issues faced by Indigenous people appearing in Murri Court. We are particularly grateful to the Elders who provided their time to meet and discuss their involvement in Murri Court and provide us with insights into the support they provide to Indigenous people in their community.

# Acronyms

<b>ABS</b>	Australian Bureau of Statistics
<b>AIC</b>	Australian Institute of Criminology
<b>ATSI</b>	Aboriginal and Torres Strait Islander
<b>ATSILS</b>	Aboriginal and Torres Strait Islander Legal Services
<b>ASGD</b>	Australian Standard Geographical Classification
<b>ASOC</b>	Australian Standard Offence Classification
<b>ATODS</b>	Alcohol, Tobacco and Other Drugs Services
<b>BOCSAR</b>	NSW Bureau of Crime Statistics and Research
<b>CIPES</b>	Courts Innovation Programs Evaluation System
<b>CJG</b>	community justice groups
<b>DoC</b>	Department of Communities
<b>DUMA</b>	Drug Use Monitoring Program
<b>JAG</b>	Queensland Department of Justice and Attorney General
<b>JJA</b>	<i>Juvenile Justices Act 1992</i>
<b>MSO</b>	most serious offence
<b>NOI</b>	National Offender Index
<b>PLOs</b>	police liaison officers
<b>PSA</b>	<i>Penalties and Sentences Act 1992</i>
<b>QCS</b>	Queensland Corrective Services
<b>QIADP</b>	Queensland Indigenous Alcohol Diversion Program
<b>QPS</b>	Queensland Police Service
<b>QWIC</b>	Queensland Wide Interlinked Courts

# Executive summary

In response to the findings of an internal review, the Queensland Department of Justice and Attorney General (JAG) engaged the Australian Institute of Criminology (AIC) to independently evaluate the operation and effectiveness of the Queensland Murri Court. This evaluation examines the extent to which the Murri Court is meeting its objectives in terms of:

- reducing the over-representation of Indigenous offenders in prison and juvenile detention;
  - reducing the rate at which Indigenous offenders fail to appear in court;
  - decreasing the rate of reoffending and number of court orders breached by Indigenous offenders; and
  - strengthening the partnership between Magistrates Courts and Indigenous communities with regard to how they deal with Indigenous justice matters.
- the development and recommendation of key data collection instruments to meet the needs of the current evaluation and the future information needs of JAG;
  - collaboration with JAG on the development of data collection systems (including data collection methodologies), for implementation in each of the evaluation courts;
  - a literature review on the development of Indigenous sentencing courts in Australia and evaluations into their effectiveness;
  - an assessment of the implementation and operation of the Murri Courts at each of the five evaluation sites;
  - a qualitative assessment of the impact of the Murri Court program on the relationship between the court and the Indigenous community; and
  - a quantitative assessment of key outcomes from the Murri Court in comparison to other court jurisdictions and mainstream court processes.

## Evaluation methodology

This evaluation has combined both quantitative and qualitative research methodologies. The AIC has worked closely with JAG to develop new, and to enhance existing, data collection processes to improve the quality of data available for this evaluation and future monitoring of the impact of the Murri Court. This has included the development and implementation of an offender profile questionnaire and dedicated Murri Court database. In addition, the AIC embarked on an extensive consultation program which has involved interviews with a range of stakeholders involved in both evaluation and non-evaluation sites. This included observations of Murri Court sittings in all five evaluation court sites (Brisbane, Caboolture, Mount Isa, Rockhampton and Townsville). The AIC's evaluation of the Murri Court included:

## Review of the implementation and operation of the Murri Court

Murri Courts operate within a Magistrates Court framework, but provide additional opportunities for greater involvement of Indigenous Elders and respected persons, the offender's family, Indigenous community organisations and Community Justice Groups (CJG) in the sentencing of Indigenous offenders. The Murri Court is designed to be more informal, less intimidating and where possible, deliver sentences that focus on rehabilitation.

The evaluation included a detailed assessment of the operation of the Adult and Youth Murri Courts at each of the five evaluation sites. This involved reviewing the key features of the Murri Court program, the role of each stakeholder involved in the program, important differences between the courts and issues relating to the operation of the program in individual courts.

The key differences between the Murri Court and mainstream court processes include:

- the contribution of Elders, respected persons, CJGs, the offender and the offender's family to the sentencing process;
- the level of information that is made available to the court regarding the offender's circumstances, obtained through a comprehensive assessment process prior to sentencing;
- attempts to engage the offender in discussions determining appropriate sentencing outcomes and in developing strategies to address their offending behaviour;
- a higher degree of informality in court processes, including modifications to the court environment and interaction between stakeholders involved in Murri Court sittings;
- strategies that have been implemented to increase the degree of coordination between court processes and service providers, overseen by a case coordinator; and
- the level and nature of support, both formal and informal, provided to offenders at each stage of the sentencing process by court partners (particularly by Elders and CJGs) is greater than in mainstream court process.

Murri Courts are initiated through joint agreements between local Magistrates and Elders from local Indigenous communities. A key feature of the Queensland Murri Court program has been the relative independence of each court and the flexibility which enables Magistrates and Elders to work collaboratively to reach an agreement regarding the most efficient and effective Murri Court appropriate to the conditions of the local area. Differences between the evaluation courts were observed in the following practices:

- the process through which offenders are referred to the Murri Court;

- the use of assessment mentions and the degree of input from Elders and CJG members into the eligibility of offenders for Murri Court;
- the number and nature of assessments conducted prior to sentencing;
- pre-sentence interviews between the offender and Murri Court stakeholders, particularly Elders;
- pre-sentence supervision arrangements, including the use of bail programs and formal or informal supervisory arrangements;
- Murri Court proceedings, including the layout of the courtroom and the level of informality in court proceedings;
- the level of formal and informal support provided to the offender from CJGs and Elders while on bail or post-sentence; and
- the degree of involvement (if any) of a CJG, Indigenous community organisations and/or Elders in various stages of the Murri Court process.

### *Key issues relating to the operation of the Murri Court*

Several issues were identified during the process evaluation as impacting upon the operation of the Murri Court.

- While the program was initially conceived as a more culturally-appropriate alternative to mainstream court processes for sentencing Indigenous offenders, stakeholders involved in the Murri Court program identified a trend towards an expanded intervention model involving the use of bail programs, case management plans and pre- and post-sentence support provided by Elders, CJG members and community based organisations.
- Consistent with the findings of the review, feedback from key stakeholders involved in the Murri Courts suggests that the process is resource intensive when compared to mainstream court processes.
- A common concern raised during the interviews with various stakeholders involved in the Murri Court program across the different locations was the lack of resources available to support the program and the impact that this might have on the capacity of the Murri Court program to continue to operate effectively over the long term.

- Although the majority of court partners are not funded for their participation in the Murri Court program, there is a high level of support for the program among those agencies that are involved.
- Some stakeholders indicated that a more consultative approach to assessing the eligibility of offenders would help to identify those offenders not suited to participation in the Murri Court, especially for adults and more serious juvenile offenders, as well as increase compliance with bail conditions and community-based orders.
- While the Adult Murri Court has been established as a jail diversion strategy, the Youth Murri Court has also been utilised as an 'early intervention' court, in an attempt by Elders to engage with the young people and reduce the risk of further offending behaviour that might lead to incarceration. This has had implications for the operation of the court, but has strong support among Elders as a measure to address crime and antisocial behavioural problems.
- The Murri Court assessment process is viewed by stakeholders as being integral to providing informed, relevant and culturally-appropriate advice to Magistrates on issues relevant to the offending behaviour of those appearing before them and the offender's suitability for a range of possible sentencing options. There is scope for better coordination of assessments and for improved information sharing.
- Many stakeholders regard the role of Murri Men's and Women's Groups, CJGs, Murri Court coordinators and, to some extent, Elders in supporting offenders while on bail as an important factor in improving compliance and minimising breaches.
- A greater level of support is offered to Indigenous offenders post-sentence in the Murri Court than in mainstream Magistrate or Children's Courts, although this varies between the different court locations. Stakeholders considered post-sentence support to be a crucial factor in increasing compliance with community-based orders.
- There was considerable concern regarding the lack of rehabilitative and support services for Indigenous offenders in many Indigenous community locations, particularly services that are culturally-appropriate and Indigenous-specific.

## Murri Court referrals and profile of participants

Between January 2007 and December 2008, there were a total of 1,918 referrals made to Murri Courts (both the Adult and Youth Murri Courts), across the five evaluated courts sites. Fifty-eight percent of these referrals were to an Adult Murri Court and 42 percent of the total referrals were to a Youth Murri Court.

The total number of referrals to Murri Court increased gradually over the evaluation period, increasing by 32 percent between 2007 and 2008. The number of referrals to Adult Murri Court increased by 21 percent and in Youth Murri Court the total number of referrals across the five courts increased by 48 percent. The total number of Murri Court sittings also increased during the same period, rising by 59 percent in Youth Murri Courts and 36 percent in Adult Murri Courts. This included those sittings that were part of the establishment of an Adult Murri Court in Caboolture in 2008.

Of the 1,407 unique individuals referred to a Murri Court on at least one occasion during the evaluation period, around four in five (79%) were male. The proportion of offenders appearing in Youth Murri Court who were female was higher (26%) than in Adult Murri Court (18%). The mean age of juveniles coming before the Youth Murri Court across the five evaluation sites was 15.3 years of age and in Adult Murri Court, the mean age of participants was 29.3. Nearly two-thirds of all offenders dealt with by the Murri Court were aged 25 years and younger.

Offenders were referred to Murri Court for a range of matters:

- Around one-third (32%) of adult offenders were referred to Murri Court with a violent offence as their most serious offence (MSO), followed by property offences (29%) and breach offences (14%). Forty percent of adult offenders were charged with at least one property offence and 30 percent were charged with a traffic offence.
- Fifty percent of juveniles assessed as being at risk of receiving a custodial sentence had a property offence as their MSO, 46 percent had a violent offence as their most serious and 83 percent were charged with at least one property offence.
- Among those juveniles not at risk of receiving a custodial sentence, twice as many offenders were referred to Murri Court with a property offence (48%) as their MSO than with a violent offence (24%).

A significant proportion of offenders appearing before the Murri Court have extensive criminal histories, particularly those offenders at risk of receiving a custodial sentence (ie adults and more serious juvenile offenders). According to the results of an analysis of the profile data collected during interviews with offenders, Adult Murri Court participants reported high rates of drug and alcohol use, high rates of unemployment and experience a range of stressful events around the time of their offending and subsequent court matter. Juveniles were found to also experience problems with alcohol and other drug use, family instability and low levels of school attendance.

## Murri Court activity

The total number of court appearance events and number of days taken to finalise the reference court episode (and each phase within this episode) was calculated for each offender referred to Murri Court and compared with those offenders in the control group. Among those offenders appearing before Murri Court:

- Adult offenders required an average of 6.9 court appearance events and 177 days to finalise their reference court episode.
- Juveniles at risk of a custodial sentence required an average of 6.1 court appearance events and 163 days to finalise their reference court episode.
- Juveniles who were not at risk of receiving a custodial sentence required an average of 2.6 court appearance events and 56 days to finalise their reference court episode.

A comparison of episodes in Murri Court and Magistrates and Children's Courts for a group of matched offenders whose reference court episode was finalised during the evaluation period demonstrated that, on average:

- Adult Murri Court matters required nearly twice as many court appearances and took, on average, 15 days longer to finalise than equivalent matters in a mainstream Magistrates Court.
- Youth Murri Court matters for juveniles at risk of receiving a custodial sentence required fewer court appearance events to finalise than equivalent matters dealt with by a mainstream Children's Court; however, there was little

difference in terms of the average number of days for the matter to be finalised.

- Youth Murri Court matters for less serious offenders required an equivalent number of court appearances to similar matters heard in a Children's Court, but fewer days overall.

## Impact of the Murri Court on offenders and the criminal justice system

The evaluation included a quantitative assessment of the impact of the Murri Court on court appearance rates, the over-representation of Indigenous offenders in prison and reoffending among Indigenous offenders.

### *Court appearance rates*

This report used the number and proportion of offenders who absconded subject to warrant on at least one occasion and the number and proportion of events that resulted in a warrant being issued or ordered to lie on file as the primary indicator of court appearance rates. The proportion of offenders who absconded subject to warrant on at least one occasion and the proportion of court appearance events that resulted in a warrant being issued (or ordered to lie on the file) was lower for offenders appearing in a Murri Court than for the same Murri Court participants appearing in a mainstream Magistrates or Children's Court. It was also lower than a comparable group of offenders appearing only in a mainstream Magistrates or Children's Court.

### *Imprisonment of Indigenous offenders*

Two different measures of imprisonment were used to determine the impact of Murri Court on the over-representation of Indigenous offenders in prison. The first compared the relative proportions of offenders sentenced in a Murri Court and offenders sentenced in a mainstream Magistrates or Children's Court who had received a custodial sentence. The second compared the groups on the basis of whether offenders were incarcerated in prison or detention eight days after their final sentence date.



Both measures indicated that the number and proportion of juveniles who were incarcerated in either a Youth Murri Court or Children's Court was low and that there was little difference between the two. Offenders sentenced in an Adult Murri Court were more likely than a similar group of offenders sentenced in a mainstream Magistrates Court to receive a custodial sentence and to be incarcerated post-sentence. However, when those offenders who were already serving a period of imprisonment at the time of being sentenced were excluded from the analysis, there was no significant difference in the rate of imprisonment between the two groups. In other words, Adult Murri Court participants not already serving a period of imprisonment relating to other charges finalised outside of Murri Court were no more likely to be sentenced to a term of imprisonment than offenders sentenced in Magistrates Court.

Of the remaining offenders who did not receive a custodial penalty, Adult Murri Court participants were more likely to receive a custodial sentence with an immediate parole release date, a suspended sentence and in the case of those offenders that received a non-custodial penalty, more likely to receive some form of community supervision and work order. While data on the extent to which Murri Court participants received rehabilitative orders were not available, it appears that they were more likely to receive a sentence that provided them with the opportunity to participate in programs post-sentence under some form of supervision arrangement.

## *Recidivism*

Three measures of recidivism were used to assess the overall impact of the Murri Court program on reoffending. There was no significant difference between those offenders sentenced in a Murri Court and those sentenced in a mainstream Magistrate or Children's Courts with respect to the time taken to reoffend. There was also little evidence of change in the seriousness of offending or the frequency of offending in the periods before and after the reference court episode, taking into consideration variable observation times and time spent in custody. This suggests that appearing for sentence in the Murri Court had no impact on reoffending among Indigenous offenders, at least in the short term.

## The relationship between the court and the Indigenous community

This report also outlines the findings from a qualitative assessment of the impact of the Murri Court on the relationship between the Magistrates Court and the Indigenous community in dealing with Indigenous justice matters. There is considerable evidence that the Murri Court is achieving this objective. Taken as a whole, this component of the evaluation found that the Murri Court had been successful in:

- increasing the level of participation of the Indigenous community—including Elders and respected persons, CJG members, community based organisations, offenders and their families and to a lesser extent, victims—within criminal justice processes and their contribution to the sentencing process for Indigenous offenders, which has delivered a range of benefits for those involved in the program;
- improving perceptions of the fairness and cultural-appropriateness of Magistrates and Children's Court jurisdiction in dealing with Indigenous offenders, including among Elders, Indigenous offenders and non-Indigenous stakeholders involved in the program; and
- increasing the level of collaboration between the different stakeholders involved in the operation of the Murri Court in the various locations in which it operates, which has reportedly had a flow-on effect into other criminal justice processes.

## Recommendations to improve the operation and effectiveness of the Murri Court program

Queensland Murri Courts are highly valued among those stakeholders involved in the program and the Indigenous community and there is evidence that the program is achieving some of its stated objectives. To improve the operation and effectiveness of the program and to overcome issues and limitations identified in this report, the AIC recommends that the following actions be considered.

### *Recommendation 1: Key features of the Murri Court program*

While allowing for some local flexibility, those key features of the Murri Court program that distinguish the court from mainstream court processes and are regarded by court partners as fundamental to the effectiveness of the court, should continue to form the basis of both new and existing Murri Courts across Queensland.

### *Recommendation 2: Modifications to the Murri Court model*

Decisions to modify the operation of a local Murri Court as it relates to fundamental features of the program should be, like the establishment of the courts themselves, based on a collaborative agreement between Magistrates, Elders and relevant key court partners and should take into consideration the impact of the changes in terms of both the efficiency and effectiveness of the court process.

### *Recommendation 3: Practice and procedure manuals*

Practice and procedure manuals for each court should be developed in consultation with key stakeholders involved in the program. Practice and procedure manuals should be endorsed by court partners and be consistent with the overarching framework guiding the operation of the court program.

### *Recommendation 4: Documenting changes to the Murri Court process*

Changes to the Murri Court process should be documented in the practice and procedure manual for that court and communicated to various stakeholders involved in the program and those potentially affected by the changes.

### *Recommendation 5: Resourcing*

Adequate resources need to be available to support the continued operation of the program, irrespective of what mode of operation the program adopts in the future. This includes funding to support the involvement of the core group of stakeholders involved in the program in each location.

### *Recommendation 6: Training, mentoring and professional development*

Training and induction should be provided to new staff employed by those organisations involved in the Murri Court program. Training for staff involved in the Murri Court should focus on the underlying philosophy of the court program, important aspects of Indigenous culture relevant to the operation of the court program and procedures, guidelines and key principles relating to the operation of the court. Opportunities for mentoring of new staff should be explored.

### *Recommendation 7: Assessing the eligibility of offenders*

There is a need to consider the viability of a more consultative approach in assessing the eligibility of offenders where it does not currently exist; one that involves Indigenous groups, CJG members and Elders, particularly where they are involved in supporting the offender pre- or post-sentence.

### *Recommendation 8: Pre-sentence assessments*

Protocols surrounding the sharing of information from the various pre-sentence interviews conducted as part of the assessment process should be reviewed and strategies implemented to minimise the time and resources required to complete multiple assessments without limiting the level of information available to Elders, Magistrate and court partners.

### *Recommendation 9: Pre-sentence interviews*

Consistent processes in both Adult and Youth Murri Courts (primarily with more serious juvenile offenders) should be established that provide the opportunity for offenders to meet with Elders, CJGs and/or Indigenous support groups prior to sentencing.

### *Recommendation 10: Murri Court bail programs*

The expansion of bail programs into other locations should be supported by the various stakeholders

likely to have some level of involvement in monitoring offenders' progress while on bail. Where they do operate, bail programs would benefit from greater definition of purpose, process and partner participation. In addition, there must be adequate resources available to support the program.

### *Recommendation 11: Relationship to other court-based diversion programs*

The relationship between the Murri Court program and other court-based diversion programs needs to be strengthened and consideration given to whether Indigenous offenders should be able to access these programs and still be sentenced in a Murri Court. This includes Queensland Indigenous Alcohol Diversion Program (QIADP), which currently operates in a number of jurisdictions in which a Murri Court has been established.

### *Recommendation 12: Contact with offenders post-sentence*

Where they do not already exist, processes should be instituted that allow offenders the opportunity to meet with either Aboriginal and Torres Strait Islander Legal Services (ATSILs) field officers, Murri Court coordinators, Elders, CJGs or, where applicable, Queensland Corrective Services (QCS) or Department of Communities (DoC) immediately after a community-based sentence has been imposed. This provides offenders with the opportunity to 'debrief' and to be made aware of the requirements of their sentence, their obligations and any additional support that may be available.

### *Recommendation 13: Role of CJGs and Indigenous community organisations in supporting offenders post-sentence*

The role of CJGs and Indigenous community organisations in supporting offenders post-sentence and in increasing compliance with both bail conditions and community-based orders should be more clearly defined.

### *Recommendation 14: Culturally-appropriate programs and services in the community*

Strategies to improve the availability of rehabilitative and diversionary programs for Indigenous offenders, targeted at the specific needs of offenders referred to the Murri Court for sentencing, should be implemented. These could include:

- increasing support for Indigenous community organisations and CJGs to develop and implement culturally-appropriate services to meet the needs of local Indigenous communities and to support the Murri Court;
- developing the skills and expertise of local Indigenous people through training and mentoring to contribute to the delivery of services for Murri people and increase the capacity of communities to deal with local issues; and/or
- increasing the capacity of existing service providers (not limited to those that deal only with Indigenous people), especially those that target substance abuse problems and mental health issues, to cater for Indigenous clients.

### *Recommendation 15: Culturally-appropriate programs in custodial settings*

In addition to ensuring that services are available for offenders serving community-based sentences, there is a need to review the availability and appropriateness of programs for Indigenous offenders delivered in custodial settings and to ensure that programs are accessible to offenders sentenced in Murri Court to a period of imprisonment or detention.

### *Recommendation 16: Overarching framework*

The Murri Court program would benefit from the development of an overarching framework that may be used to provide guidance to new and existing Murri Courts operating across Queensland. It is recommended that this be developed in consultation with court partners, and reflect the key elements of the program described in this report.

### *Recommendation 17: Roles and responsibilities of court partners*

There is a need to more clearly define the roles and responsibilities of the core group of stakeholders involved in the Murri Court program.

### *Recommendation 18: Debriefing for Elders post-sentence*

Given the emotional and sometimes confronting nature of court proceedings, it is recommended that formal processes be established to provide opportunity and support for Elders to debrief (where requested) following the completion of Murri Court hearings on each sitting day.

### *Recommendation 19: Ensuring the availability of Elders to support the Murri Court*

Strategies should be implemented to continue to actively encourage new Elders and respected persons to participate in the Murri Court program and to provide support to existing representatives to increase the pool of Elders and respected persons in each court. Particular emphasis should be placed on finding Elders from local Indigenous communities not represented in the different court locations. The potential role of younger representatives of the Indigenous community in supporting Elders, particularly in Youth Murri Court, warrants further investigation. The potential impact of involving Elders from outside an offender's community also requires further exploration, particularly in terms of whether it may undermine attempts to incorporate traditional cultural elements such as shaming in the sentencing process, or attempts to reconnect offenders with their community.

### *Recommendation 20: Additional considerations in determining the eligibility of Adult Murri Court participants*

In addition to the basic criteria for participating in the Murri Court, additional guidelines should be established to assist legal representatives, police prosecutors, Magistrates and Elders to assess the eligibility of offenders, particularly where participation

involves formal pre-sentence supervision under bail conditions or is likely to involve significant contact with Elders, Indigenous community groups or a CJG post-sentence. These guidelines could consider issues such as:

- whether the offender has shown signs that they are willing to take steps to address their behaviour;
- whether they have shown a willingness to engage openly and honestly with representatives of their community;
- whether the Elders in the court feel comfortable dealing with the offender; and
- whether the offender is likely to be able to deal with the interactive and emotional demands of the court.

### *Recommendation 21: Encouraging the involvement of family members and support persons*

Strategies that encourage and support family members to be involved in the Murri Court process, particularly in Youth Murri Courts, should be developed and implemented to help facilitate contact with important support networks.

### *Recommendation 22: Training opportunities for Magistrates*

Opportunities for training focused on the skills required to establish and manage the Murri Court process should be explored. This training should incorporate the management of stakeholder relationships, dealing with local politics and working with Indigenous communities.

### *Recommendation 23: Victim support and impact statements*

Processes should be established in each court where they do not already exist to obtain victim impact statements and provide formal mechanisms to support victims when they attend court (ie victims support staff).

### *Recommendation 24: Training for Elders*

In addition to providing training on the criminal justice system and operation of Murri Court, it is

important that Elders are informed of their obligations with respect to standing down from matters in which they believe they cannot remain objective.

### *Recommendation 25: The role of police liaison officers in supporting the court process*

The role of police liaison officers (PLOs) in supporting the Murri Court program should be more clearly defined.

### *Recommendation 26: Consistency in Magistrates presiding over Murri Court*

Where possible, strategies should be implemented to enable Magistrates to preside over Adult and Youth Murri Courts for an extended period of time, thereby providing the opportunity to build long-term relationships with court partners.

### *Recommendation 27: Murri Court coordinator*

A dedicated coordinator should be tasked with the responsibility for managing the Murri Court process in each location. The role of this coordinator should be clearly defined so as to ensure that they are able to focus on their primary role in supporting the operation of the court.

### *Recommendation 28: Establishing new Murri Courts*

Prior to establishing new Murri Courts, the capacity of individual courts, local stakeholders and

communities that support them should be assessed to determine whether they have the capacity to implement and sustain a Murri Court. Adequate time and resourcing should be invested in supporting communities to establish a Murri Court where the capacity exists.

### *Recommendation 29: Strengthening the relationship between Murri Court and culturally-appropriate programs and services*

In addition to increasing the availability of culturally-appropriate programs and services (Recommendation 14), there is a need to strengthen the relationship between the Murri Court and programs designed to address the factors that increase the risk that an individual will reoffend. This may be facilitated through the recognition of these services as a formal component of Murri Court bail programs or post-sentence supervision arrangements.

### *Recommendation 30: Improving data quality and further research*

There is a need to improve the quality of information available for monitoring the impact of the court, including better recording of court attendance and of referrals and completion rates for rehabilitative programs. Processes should be implemented to monitor the performance of the court against key indicators on an ongoing basis. Further research should be undertaken into the long-term impact of the court program and the impact of the program since its expansion into other locations across Queensland.





# Introduction

The Magistracy established Queensland's first sentencing court for Indigenous offenders in 2002. The court, known as the Murri Court, is based upon the Nunga Court model in South Australia and aims to address Indigenous over-representation in the criminal justice system. Murri Courts are initiated through joint agreements between local Magistrates and Elders from local Indigenous communities to support the program. Murri Courts operate within a Magistrates Court framework, but provide additional opportunities for greater involvement of Indigenous Elders and respected persons, the offender's family and CJGs in the sentencing of Indigenous offenders. The Murri Court is designed to be more informal, less intimidating and where possible, deliver sentences that focus on rehabilitation.

Magistrates, government departments, service providers and local Indigenous communities have worked together to establish a Murri Court in the Adult Magistrates Court criminal jurisdiction and/or the Children's Court in a number of locations. At the time of writing this report, the Murri Court operates in 14 courts across Queensland, including the evaluated Murri Courts in Brisbane, Rockhampton, Townsville, Mount Isa and Caboolture, and non-evaluated Murri Courts in Coen, Cherbourg, Caloundra, Cleveland, Ipswich, Cairns, St George, Mackay and Richlands.

## Background to the evaluation

In 2005–06, an internal review of the Murri Court (the review) was conducted by JAGs Strategic Policy Unit (Parker & Pathé 2006). The aim of the review was to assess the effectiveness of the Murri Court program and to determine how the court operations could be improved in making the courts a recognised and permanent fixture of the Queensland Magistrates Court and Children's Court system. Input was sought from a range of stakeholders, via face-to-face consultations, telephone and written submissions, in addition to observations of the operation of the Murri Court.

The review concluded that there was a general opinion among stakeholders that the Murri Court was a culturally-appropriate sentencing court and that the involvement of Elders and respected persons in court processes increased the level of trust in the court among Indigenous offenders. Stakeholders were also supportive of the problem-solving focus of the court, insofar as it assisted offenders to undertake rehabilitation to address their offending behaviour. Involving members of the Indigenous offender's community in the court process was felt to assist the offender to become more responsible for their own behaviour and to



recognise the impact of their offending on their victim, their family and the broader community. Stakeholders reported that offenders were being encouraged and supported to change their behaviour and to reintegrate into the Indigenous community. The Murri Court was viewed by stakeholders as an effective mechanism for increased participation and ownership by the Indigenous community in the criminal justice process.

The review reported anecdotal evidence that suggested that the Murri Court had been successful in reducing the number of offenders sentenced to imprisonment, with offenders instead receiving rehabilitative orders which addressed the underlying reasons for their offending behaviour. Based on the outcomes of the review and these findings, the Queensland Government committed additional funding to support the Murri Court.

However, the review recognised the limited nature of the data collection processes as a key problem in properly assessing the effectiveness of the Murri Court program. It was not possible to determine the full extent of the impact of the Murri Court on reducing imprisonment rates, the rate of reoffending among Indigenous offenders or reducing the number of Indigenous offenders who fail to appear in court, which meant it was not possible to determine the extent to which the Murri Court was meeting its objectives.

Consequently, a number of recommendations were made with respect to establishing the data collection mechanisms required to undertake a comprehensive evaluation of the Murri Court. The review recommended that:

- JAG develop and implement an information system/database to collect the data required to monitor and evaluate the performance of the Murri Court;
- the information system/database be developed in consultation with Queensland Government agencies that have an Indigenous criminal justice research agenda; and
- court staff are trained and provided with adequate supervision to input data and operate the information system/database.

It was also recommended that a further independent qualitative and quantitative evaluation of the Murri Court take place when better mechanisms are in place for collecting data. In response to these findings, JAG engaged the AIC to independently evaluate the operation and effectiveness of the Queensland Murri Court.

## The Australian Institute of Criminology evaluation

The purpose of the AIC's evaluation of the Queensland Murri Court was to review and report on the operation and outcomes of the Murri Court system over a two year period commencing in January 2007. The evaluation has sought to examine the extent to which the Murri Court is meeting its objectives in terms of:

- reducing the over-representation of Indigenous offenders in prison and juvenile detention;
- reducing the rate at which Indigenous offenders fail to appear in court;
- decreasing the rate of reoffending and number of court orders breached by Indigenous offenders; and
- strengthening the partnership between the Magistrates Court and Indigenous communities with regard to how they deal with Indigenous justice matters.

Five court locations were originally selected as evaluation sites including Brisbane, Caboolture, Rockhampton, Townsville and Mount Isa. The evaluation examined both Adult and Youth Murri Courts operating in each location (an Adult Murri Court was established in Caboolture in the latter stages of the evaluation).

The original aims of the AIC's evaluation were to:

- document the model of operation of the Adult and Youth Murri Court in each of the five evaluation locations;
- assess the potential impact of the Murri Court models on differential sentencing outcomes and reoffending behaviour;
- determine the criminal justice impacts of the Murri Court program, including the impact on:



- rates of imprisonment;
- reoffending rates (frequency and severity of offending);
- rate of sentences that involve rehabilitative programs for offenders;
- completion of court orders; and
- court appearance rates;
- determine the health and social impacts of the Murri Court program on participants;
- determine the impact of the Murri Court on the relationship between the courts and the Indigenous community;
- estimate the relative cost/savings of the Murri Court program; and
- outline recommendations that will inform the future development and expansion of the Murri Court.

This evaluation has combined both quantitative and qualitative research methodologies. The AIC has worked closely with JAG to develop new, and enhance existing, data collection processes to improve the quality of data available for this evaluation and future monitoring of the impact of the Murri Court. This has included the development and implementation of an offender profile questionnaire and a dedicated Murri Court database. In addition, the AIC has embarked on an extensive consultation program that has involved interviews with a range of stakeholders involved in both evaluation and non-evaluation sites.

## Structure of this report

This report presents the findings from qualitative and quantitative research into the implementation and effectiveness of the Queensland Murri Court program. This includes:

- an overview of the development of Indigenous sentencing courts in Australia based upon a review of the literature, including an overview of the available evidence with respect to the effectiveness of Indigenous sentencing courts in Australia;
- an overview of the methodology used in the current evaluation, including methodological limitations;

- a summary of the key findings from an analysis of operational components, which describes the key differences and similarities between the different Murri Courts and between Murri and mainstream courts, as well as operational issues that may impact upon the effective and efficient operation of the courts;
- a profile of offenders participating in Murri Court, highlighting the demographic characteristics of Murri Court participants, information on a range of variables obtained via the profile and the types of charges that come before the Murri Court;
- court processing data, including a comparison between the length and number of sittings per episode in Murri Court and mainstream Magistrates and Children's Courts;
- findings from a quantitative analysis of the Murri Court's effectiveness in achieving its objectives in terms of improving court appearance rates and reducing incarceration and recidivism among Indigenous offenders and the impact of participation in the Murri Court on participant wellbeing;
- findings from a qualitative assessment of the impact of the Murri Court on the partnership between the Magistrates Courts and Indigenous community, including the involvement of the Indigenous community in court processes, perceptions of the court and collaboration between stakeholders; and
- a summary of key findings from the evaluation and implications for the future operation and expansion of the Murri Court program.

## Terminology

There are several terms used throughout this report that require clarification. This report uses the term *Indigenous* to refer to individuals that are of Aboriginal or Torres Strait Islander descent and in the case of some Murri Court participants in northern Queensland, South Sea Islanders.

This report also refers to *Elders and respected persons* when discussing representatives of the Indigenous community involved in the Murri Court. The AIC relied upon the guidance and advice of members of the Indigenous community when

identifying individuals as Elders or respected persons. As a general rule, both are respected members of their community. The distinction between the two is based largely on age, although there is no prescribed limit whereby a respected person automatically becomes an Elder. Instead, it is a more organic process in which the Indigenous community and other Elders within that community come to acknowledge a member of their community as an Elder.

This report refers to both adult and juvenile offenders. In Queensland, a person who has turned 17 years of age is considered to be an adult and will be dealt with in a Magistrates Court. A person aged 17 years and older may be dealt with as a juvenile if they

committed the offence for which they were charged prior to turning 17. For the purposes of this report, *juvenile* refers to those offenders who were 10 to 16 years of age at the time of committing the offence or offences for which they have been charged and are appearing in a Children's Court.

Lastly, this report makes several references to the bail program which currently operates in Mount Isa Adult Murri Court and a bail program more recently established in the Brisbane Adult Murri Court.

This term is used to refer to formal pre-sentence supervision involving participation in some form of rehabilitative program prior to sentencing. It does not refer to bail programs as they are recognised under the Bail (Prescribed Programs) Regulation 2006.



# The development of Indigenous sentencing courts in Australia

In recent years, there has been considerable development in the criminal justice system to include principles of restorative justice, introduce innovative sentencing methodologies and move away from harsh sentencing principles. A variety of innovative court models have been introduced, piloted and implemented in Australia and overseas to improve the effectiveness of the criminal justice system in dealing with offenders (Freiberg 2004). Indigenous sentencing courts have been introduced to reduce high rates of reoffending among Indigenous offenders, provide a more culturally-appropriate process for Indigenous Australians and engage the community in a more holistic approach to sentencing.

This section provides an overview of the background to the development of Indigenous sentencing courts in Australia and specialty court programs generally. It begins with a brief overview of the rationale underpinning the development of these innovative court practices. In particular, this section reviews the development of innovative practices to reduce contact with the criminal justice system and where contact is unavoidable, enhance the capacity of the criminal justice system to cater to the needs of Indigenous offenders.

## Indigenous over-representation in the criminal justice system

Indigenous sentencing courts are said to have emerged as a result of three key factors:

- the over-representation of Indigenous people at all stages of the criminal justice process;
- findings from the Royal Commission into Aboriginal Deaths in Custody (RCIADIC); and
- a recognition of the need for government and Indigenous communities and organisations to work together to improve the criminal justice response to Indigenous people (Marchetti & Daly 2004)

Indigenous people come into contact with police, the courts and corrections at a higher rate than the rest of the community (AIC 2009). RCIADIC concluded that addressing the disproportionate numbers of Indigenous people within the criminal justice system and in custody would require:

- modifying criminal justice responses to reduce the number of Indigenous people in custody and the likelihood that they will reoffend; and
- addressing those underlying factors that increase the likelihood that Indigenous people will come into contact with the criminal justice system in the first place (RCIADIC 1991).

As a result, an extensive body of literature has been developed over the last 20 years focusing on Indigenous Australians and their contact with the criminal justice system.

Indigenous people are significantly over-represented in Australian prisons. According to the National Prisoner Census, in 2008, Indigenous people represented around 2.5 percent of the total Australian population, but accounted for 24 percent of the total prisoner population (ABS 2008). As of June 2008, the age standardised imprisonment rate for Indigenous prisoners was 1,769 per 100,000 adult Indigenous population; meaning that Indigenous people were 13 times more likely than non-Indigenous people to be in prison (ABS 2008). In Queensland, the ratio is slightly lower than the national average, with Indigenous people 11 times more likely to be imprisoned (ABS 2008). Indigenous Australians are also far more likely than their non-Indigenous counterparts to be serving community corrections orders (AIC 2009).

Indigenous young people are also significantly over-represented in juvenile detention and many juveniles are under some form of community supervision. In 2006–07, Indigenous young people were 14 times more likely to be under supervision than non-Indigenous young people (AIHW 2008). Despite only accounting for five percent of people aged 10 to 17 years, there were on average nearly as many Indigenous young people in detention as non-Indigenous young people (AIHW 2008).

Considerable resources have been invested in the pursuit of understanding and addressing the underlying reasons for the disproportionately high number of Indigenous Australians coming into contact with the criminal justice system and serving custodial sentences. However, the collective efforts to reduce Indigenous offending and contact with the criminal justice system appear to have had limited overall success (Snowball & Weatherburn 2006). For example, while partly the result of improved recording practices (specifically, enhancements to the recording of Indigenous status), the rate of imprisonment for Indigenous people has increased 40 percent since 2000 (ABS 2008).

Taken as a whole, these figures suggest that the rate with which Indigenous offenders are sentenced to custodial and non-custodial sentences is higher than

non-Indigenous offenders. Some commentators have attributed this disparity to structural or institutional bias within criminal justice processes (Joudo 2008; LRCWA 2006). Others have argued that differences in the nature and level of offending are responsible. In reality, it is likely to be a combination of the two.

Research by Snowball and Weatherburn (2006) found that, rather than being the result of any sentencing bias, Indigenous offenders were more likely to be sentenced to a term of imprisonment for several reasons. In particular they concluded that the likelihood is greater because Indigenous offenders:

- had more extensive criminal histories;
- were appearing for more serious offences;
- were appearing in court for multiple offences;
- more frequently breached previous court orders; and
- were more likely to have reoffended after receiving an alternative to imprisonment in the past (Snowball & Weatherburn 2006).

What these findings suggest is that the degree of contact with the criminal justice system is a reflection of the high rates of offending among Indigenous people. Most notably:

- homicide rates for Indigenous people (as victims and offenders) are significantly higher than for non-Indigenous people;
- the incidence of violence is disproportionately high in some communities, particularly among young males;
- there are disproportionately high rates of family violence and violence against Indigenous women, particularly within rural and remote communities; and
- reoffending rates are higher for Indigenous offenders (Memmott et al. 2001; Snowball & Weatherburn 2006).

However, not all communities experience the same level of crime and Indigenous involvement in criminal activity. Serious disadvantage within Indigenous communities is a significant contributor to high rates of offending. There is evidence of disadvantage across a range of health, education, income and employment indicators (SCRGSP 2009). Recent Australian research has identified the following social

and economic factors as being associated with Indigenous people being in contact with the justice system:

- substance abuse, including the abuse of alcohol, cannabis, inhalants and increasingly, amphetamines;
- early school leaving;
- unemployment;
- low rates of social involvement;
- living in households that have experienced financial stress;
- living in a crowded household;
- living in an area with perceived neighbourhood or community problems; and
- being a member of the 'stolen generation' (Delahunty & Putt 2006; Putt, Payne & Milner 2005; Weatherburn, Snowball & Hunter 2006).

Other factors have also been identified including child neglect and abuse, poor physical and mental health, a lack of support from parents, families and friends, and the prevalence of family violence and abuse (Snowball & Weatherburn 2006). Taken as a whole, these findings highlight the range of complex issues underlying disproportionate rates of offending among Indigenous communities and the need to develop policies and programs that can address these factors.

However, this already complex problem is further complicated by the fact that a significant proportion of Indigenous people live in regional and remote areas. According to the ABS (2003), almost 70 percent of Australia's Indigenous population live outside the major cities. Around one in four Indigenous Australians live in remote areas, compared with only one in 50 non-Indigenous Australians. Rural and remote communities are particularly disadvantaged as the infrastructure is often inadequate, residents have limited access to services and there may not be the local capacity necessary to address problems (Delahunty & Putt 2006). Finding resources and program staff is frequently a challenge in these communities (Willis 2008).

There is also a growing acknowledgement of the cyclical nature of offending and that social exclusion can be exacerbated by contact with the criminal justice system. Among those Indigenous offenders in prison during 2008, almost three-quarters (73%)

had previously served time in prison (ABS 2008). Hunter and Borland (1999) found that being arrested by police has a significant impact on future employment prospects for both male and female Indigenous people.

## Reducing offending within Indigenous communities

Various responses have been developed which attempt to reduce Indigenous people's contact with the criminal justice system. These include changes in the way in which police respond to drug and alcohol issues within Indigenous communities, drug diversion programs, diversionary alternatives within the juvenile justice system and post release support for Indigenous prisoners (Joudo 2008; Snowball 2008; Willis 2008). Taken as a whole, they appear to have been largely unsuccessful in reducing rates of incarceration for Indigenous people, which have continued to increase since 2000 (ABS 2008).

Research suggests that to be effective, programs and services aiming to reduce offending within Indigenous communities should incorporate several important features:

- meet the specific needs of Indigenous offenders, include Indigenous-specific content and where practical, be Indigenous-specific;
- implement a holistic approach to Indigenous health and wellbeing;
- involve Indigenous persons (particularly Elders) in the development and delivery of programs;
- involve family and community in programs and services;
- incorporate an understanding of Indigenous society and emphasise Indigenous heritage, culture and law;
- develop strategies to overcome language and literacy barriers;
- address alcohol and drug problems, including those that are most common among Indigenous populations (eg alcohol and inhalants), as well as mental health problems;
- review and amend eligibility criteria where possible to enable Indigenous people to access programs; and

- assist in establishing and strengthening relationships with Indigenous persons who are able to mentor others (CIRCA 2008; Cunneen 2001; Joudo 2008; Willis 2008).

It is important that these features become commonplace in criminal justice responses to Indigenous offending. One response which incorporates these features is Indigenous sentencing courts. Involving indigenous people in the administration of criminal justice and improving cultural awareness within the court process are important strategies in overcoming:

- language and communication barriers;
- the differences between non-Indigenous criminal justice processes and Indigenous dispute resolution mechanisms; and
- the historically poor relationship between Indigenous people and the criminal justice system (LRCWA 2006).

## Innovations in courts

The development of Indigenous sentencing courts reflects a shift in the manner in which courts operate and deal with both offenders and victims (Makkai 2007). In the last decade, the traditional adversarial court system has evolved in response to a changing social, economic and political environment (Freiberg 2004). There has been a growing acknowledgement that standard court practices are limited in their ability to prevent offenders from engaging in further criminal activity and coming back before the court.

This has resulted in the emergence of specialty and problem-solving courts, which attempt to incorporate therapeutic and rehabilitative components into criminal court structures and procedures (Payne 2005). The introduction of problem-solving and specialist courts represents a paradigm shift within the judicial process and a growing recognition of the need for more holistic approaches to crime and punishment (Casey & Rottman 2005; Freiberg 2003). These innovations in court practices and sentencing are not alternatives to punishment (Duff 1992). Instead, by drawing upon restorative justice principles and the principles of therapeutic jurisprudence, it is argued that alternative punishments can be imposed which will have a more significant impact on future offending (Daly 2000).

They seek to broaden the focus of legal proceedings, moving to changing the future behaviour of offenders and ensuring the overall wellbeing of communities (Berman & Feinblatt 2001; Latimer & Foss 2004; Lee 2000).

Specialty courts involve modifying court structures and processes to deal more effectively with specific offender populations (Payne 2005). They give greater recognition to the behavioural and environmental factors that increase the likelihood a person will engage in criminal behaviour (Freiberg 2001). Berman and Feinblatt (2001) identified four typical characteristics of specialty and problem-solving courts:

- a focus on generating positive outcomes (defined by the specific objectives of the court) for those groups with a vested interest in the court process, including the offender and their families, the victim and the broader community;
- physical and procedural changes in the way in which the court and its core group of stakeholders operate when compared with traditional court processes;
- reliance upon the authority of the court and the judiciary to manage offenders and develop and prescribe appropriate responses to address their offending behaviour; and
- collaboration between stakeholders in the management of offenders, both in the administration of the court process and the development and implementation of rehabilitative programs, drawing upon the wide ranging expertise and capacity of government and non-government agencies to achieve shared goals.

Central to the evolution of specialty court programs has been a specific focus on customising court processes to suit specific offending populations and actively target the underlying problems associated with an offender's behaviour.

Since the development of problem-solving and specialist court programs, various different models have been introduced across Australia. Two examples of court programs that have been widely implemented are drug courts and family and domestic violence courts. Drug court programs have been implemented in every state except Tasmania (Freiberg 2004; Payne 2005) and family and domestic violence courts have been implemented in South Australia, Western Australia, Victoria and the Australian Capital Territory (Payne 2005).

Drug courts aim to reduce drug dependency and associated criminal activity and improve the health of participants. The programs utilise an integrated treatment and rehabilitation program, designed and monitored in a non-adversarial judicial environment and offered as an alternative to a custodial sentence. Compliance is formally monitored through regular drug testing and criminal offence monitoring (Payne 2005). Evaluations of drug court programs in Australia have indicated reductions in both offending and drug use, as well as improvements to the general health of participants (CRC 2003; Payne 2005; Weatherburn et al. 2008). They have also been shown to be a cost-effective approach to reducing future drug-related offending (Goodall, Norman & Haas 2008).

Family and domestic violence courts have been developed in response to the steady rise in reported violence against women and changing attitudes towards family and domestic violence. Some courts operate within an adversarial and non-therapeutic environment, where participants may be required to undertake violence prevention programs as part of their sentence. Other programs utilise therapeutic principles. Each court relies on the availability of appropriate and accessible services for victims and perpetrators (Stewart 2005). Evaluations of these courts have been largely process-oriented. Nonetheless, procedural evaluations have illustrated that these courts improve the efficiency, speed and consistency with which family and domestic violence matters are dealt with by the court system (CRC 2003; Payne 2005). Less is known, however, about their effectiveness in reducing domestic violence.

The number and variety of specialty court programs operating across Australia has continued to grow and court procedures and objectives vary considerably between courts and jurisdictions. Nevertheless, it is possible to identify three different categories of specialty court programs:

- *courts as case managers*—these are characterised by significant changes in the way in which the judiciary and court operate, whereby the function of the court is to work collaboratively with partner agencies that provide case management and program delivery for each offender (eg drug and mental impairment courts);

- *courts as diversionary operators and case monitors*—these maintain traditional judicial roles but incorporate moderate changes to the adversarial nature of the courtroom, with a review process that provides information for consideration in sentencing (eg drug court diversion programs); and
- *courts as specialist adjudicators*—these focus on case processing and procedural justice for special offender groups, giving consideration to the information provided by experts and dedicated court advisers in delivering sentences that are appropriate to the individual circumstances of the offender (eg Indigenous sentencing courts and family and domestic violence courts; Payne 2005).

In reality, there is some overlap between these categories, particularly as the various court programs evolve in response to growing evidence of how they can work most effectively to support specific offender groups. This is especially true of Indigenous sentencing courts.

## Indigenous sentencing courts

Dedicated courts for Indigenous communities have emerged in Australia, New Zealand, Canada, Fiji and the United States in the last decade. This has been in response to a growing recognition that the traditional adversarial system has proven ineffective in dealing with disproportionate rates of contact with the criminal justice system among people from Indigenous backgrounds (Johnson 2007; New Zealand Law Commission 2004; Ralogaivau 2007; Shaw 2006).

South Australia introduced the Nunga courts in 1999. This was the first pilot program of specialised Indigenous sentencing courts in Australia. Indigenous sentencing courts now operate in some form in all Australian jurisdictions outside of Tasmania (Fitzgerald 2008). There is a great deal of variation in the way in which Indigenous sentencing courts have been established and operate in each state and territory (Marchetti & Daly 2007). Queensland, Western Australia and Victoria have based their Indigenous sentencing court upon the Nunga Court



model. Other jurisdictions including New South Wales, the Australian Capital Territory and the Northern Territory have instead implemented a model that combines the Nunga Court model with circle sentencing adapted from the Canadian circle court model (Marchetti & Daly 2007).

The implementation of specialist Indigenous sentencing courts has become a recognised mechanism for attempting to reduce incarceration rates and recidivism among Indigenous offenders in various jurisdictions (Harris 2006a; Tomaino 2004). They attempt to introduce more culturally-appropriate sentencing practices and increase the involvement and confidence of the Indigenous community in the court process (Marchetti & Daly 2007). Indigenous courts work in accordance with many of the principles associated with restorative justice and therapeutic jurisprudence (Edney & Bagaric 2007; Marchetti & Daly 2007).

Indigenous sentencing courts introduce Indigenous cultural practices, such as shaming, through the involvement of Indigenous Elders in the sentencing process (CIRCA 2008). Rather than practice customary law, Indigenous sentencing courts use the existing principles of the Australian criminal justice system when sentencing Indigenous people, while allowing Indigenous Elders and respected persons to participate in the process (CIRCA 2008). They encourage a greater level of communication between Elders, the offender, their support persons and Magistrates, place greater importance on Indigenous knowledge and cultural practices, and attempt to impose more appropriate and effective sentences for Indigenous offenders (Marchetti & Daly 2007).

Indigenous sentencing courts in Australia share many similar features that distinguish them from mainstream court processes:

- offenders must be Indigenous and have entered a plea of guilty before they can be referred to an Indigenous sentencing court;
- the offence must have occurred in the geographical area covered by the court and one that would ordinarily be heard in a Magistrates Court or Children's Court;
- proceedings are conducted in an informal and less adversarial manner and attempt to involve various stakeholders that have an interest in the offender's wellbeing;

- the Indigenous community is encouraged to participate in the sentencing process, including Elders and respected persons, offenders and their families;
- the Magistrate remains the sentencing authority but is advised by one or more Elders or respected persons from the Indigenous community;
- courts are adapted to suit local conditions and therefore vary according to whether they operate in urban, regional and remote areas and depending upon the nature and extent of Indigenous participation and
- the court processes aim to be more culturally-appropriate and inclusive (Auty 2006; Dwyer 2005; Freiberg 2004; Harris 2006b Marchetti & Daly 2007, 2004; Tomaino 2004).

While there are a number of consistent elements across the different courts, there are also key differences between the Indigenous sentencing courts operating in different jurisdictions. Circle sentencing differs from the Nunga Court model in that it is typically held in a venue of cultural significance, places a greater emphasis upon victim involvement, requires participants to sit in a circle rather than a normal courtroom and allows for Elders to have a greater say in the nature of penalties imposed by the court (Marchetti & Daly 2007). Other differences between jurisdictions include:

- distinctions between high-volume and low-volume courts;
- whether the court will allow any Indigenous offenders to have their matters heard before the court or will only allow those that are at high risk of incarceration to come before the court;
- the degree to which victims are involved in the process;
- the nature of charges that may be heard by the court and whether offences relating to assault and domestic violence are eligible; and
- whether the court is supported by specific legislation that outlines its role and function (King & Auty 2005; Marchetti & Daly 2007).

Indigenous sentencing courts are flexible in so far as they allow for the Indigenous community, local Magistrates and other court partners to decide upon the most appropriate court model to suit the local community. The flexibility of these court models is



**Table 1** Indigenous sentencing courts in Australia (excluding Queensland) as at 2009

Jurisdiction	Location	Name of court	Type of court	Date established
South Australia	Port Adelaide	Nunga Court	Aboriginal Court	June 1999
	Murray Bridge	Nunga Court	Aboriginal Court	January 2001
	Port Augusta	Special Aboriginal Court	Aboriginal Court	July 2001
	Port Augusta	Youth Aboriginal Court	Aboriginal Court	May 2003
	Ceduna	Aboriginal Court	Aboriginal Court	July 2003
Victoria	Shepparton	Koori Court	Aboriginal Court	October 2002
	Broadmeadow	Koori Court	Aboriginal Court	April 2003
	Warrnambool	Koori Court	Aboriginal Court	January 2004
	Mildura	Koori Court	Aboriginal Court	July 2005
		Children's Koori Court		September 2007
	Melbourne Children's Court	Children's Koori Court	Aboriginal Court	October 2005
	Moe/Latrobe Valley	Koori Court	Aboriginal Court	May 2006
	Mildura	Children's Koori Court	Aboriginal Court	September 2007
	Bairnsdale	Koori Court	Aboriginal Court	March 2007
	Swan Hill	Koori Court	Aboriginal Court	mid 2008
Western Australia	Norseman	Norseman Community Court	Aboriginal Community Court	February 2006
	Kalgoorlie	Kalgoorlie-Boulder Community Court—Adult and Youth	Aboriginal Court	November 2006
	Yandeyarra	Yandeyarra Community Court	Circle Sentencing Court	2004
New South Wales	Nowra	Circle Court	Circle Sentencing Court	January 2002
	Dubbo	Circle Court	Circle Sentencing Court	October 2003
	Walgett	Circle Court	Circle Sentencing Court	April 2005
	Brewarrina	Circle Court	Circle Sentencing Court	January 2005
	Bourke	Circle Court	Circle Sentencing Court	July 2005
	Lismore	Circle Court	Circle Sentencing Court	July 2005
	Armidale	Circle Court	Circle Sentencing Court	July 2005
	Kempsey	Circle Court	Circle Sentencing Court	October 2005
	Mt Druitt	Circle Court	Circle Sentencing Court	January 2007
Northern Territory	Darwin	Darwin Community Court	Community Court	April 2005
Australian Capital Territory	Canberra	Ngambra Circle Court	Circle Sentencing Court	May 2004

Note: Excludes conferences that do not impose a sentence

Source: CIRCA 2008; Dwyer 2005; Magistrates' Court of Victoria 2008; Marchetti & Daly 2007, 2004; SA Court Authority 2008

vital in building community respect for judicial processes and contributing to the efficacy of these court models in providing a more appropriate sentencing option for Indigenous offenders that meets the needs of specific communities.

## Evaluations of Indigenous sentencing courts

There is a small but growing body of evaluations investigating the implementation and impact of Indigenous sentencing courts in Australia. These studies have included both process and outcome evaluation. For the most part, evaluations have relied on qualitative evidence to demonstrate effectiveness, although more recently, efforts have been made to address the limitations associated with previous evaluations and examine the impact of Indigenous sentencing courts on outcomes such as reoffending.

The NSW Circle Sentencing Court was the first court program specifically dedicated to Indigenous offenders to be evaluated (Potas et al. 2003). The evaluation of a 12 month trial of circle sentencing in Nowra concluded that the court had 'succeeded on a number of levels' (Potas et al. 2003: iv). Specifically, the court was found to have reduced barriers for the participation of Aboriginal people, increased support for Aboriginal offenders and victims, increased community confidence and empowered Indigenous communities and was recognised to be a more meaningful and appropriate sentencing option for Indigenous offenders (Potas et al. 2003). There was a high level of satisfaction with the process among participants, including offenders, victims, lawyers, community representatives and support persons.

The evaluation also concluded that, among the very small number of offenders examined (n=4), the rate of reoffending was low. However, there was also no control group and only a short follow-up period to assess reoffending. This raises questions concerning the validity of the conclusions regarding the impact of the court on recidivism (Fitzgerald 2008; Potas et al. 2003).

An evaluation of the Victorian Koori Courts pilot program concluded that the process had:

- increased the level of ownership and participation in the legal process among the Koori community;
- provided an effective mechanism to integrate cultural considerations into the sentencing process;
- enhanced the integration of service providers to deliver tailored community-based orders;
- reinforced the status and authority of Elders and respected persons within the Indigenous community;
- increased support for the Koori court process;
- led to a reduction in the rate with which Indigenous offenders breached community-based orders and failed to appear for scheduled court dates; and
- reduced recidivism among Koori offenders (Harris 2006a).

The finding that Koori Courts had reduced the levels of reoffending among Indigenous offenders appearing before them has been criticised by some authors (Fitzgerald 2008; Marchetti & Daly 2007). In particular, concerns have been raised in relation to the lack of a suitable comparison group and the extent to which this has contributed to the evaluation overestimating the impact of the Koori Court on reoffending.

The Children's Koori Court of Victoria is the only Indigenous sentencing court for juveniles to have been evaluated (Borowski 2009). This evaluation found that the court provided a more culturally-responsive sentencing option that provided greater opportunities for the participation and ownership of the Koori community in the administration of justice. The evaluation also concluded that the rate of recidivism (at 60%) was high, but that it compared favourably with the rate observed for Indigenous youth in previous studies. Likewise, failure to appear rates and the rate at which court orders had been breached were both low among Koori Court participants. However, like the evaluation of the adult court before it, this study was unable to identify a suitable comparison group and, as such, conclusions regarding the impact of the court on reoffending must also be interpreted with some caution.

Borowski (2009) highlighted a number of areas in which the operation and effectiveness of the court could be improved. This included the need to

increase efforts to ensure the defendant's family and members of the community attended hearings to support the defendant, provide greater resourcing to Indigenous community service organisations and build stronger relationships between the court and service providers. In addition, the evaluation recommended that Magistrates and Elders and respected persons needed more training to engage with young people effectively, that Magistrates needed to engage more directly with defendants in the court and that there was scope for Indigenous culture to feature more predominantly within the day-to-day operation of the court.

Further research into the impact of NSW Circle Sentencing Court, which examined the effectiveness of the court program since its expansion, revealed mixed findings (CIRCA 2008; Daly & Proietti-Scifoni 2009; Fitzgerald 2008). In 2008, a qualitative evaluation by CIRCA produced findings that were similar to the earlier evaluation of the pilot. Confidence in the court process among Indigenous communities was high, and the court had provided an effective mechanism for increasing the involvement of the offender, victim and Indigenous community in the sentencing process (CIRCA 2008). Some limitations were identified, such as the relatively low number of offenders that participate in circle sentencing compared to mainstream court processes and problems associated with the lack of adequate rehabilitative services to address the factors associated with offending.

A quantitative assessment by the NSW Bureau of Crime Statistics and Research (BOCSAR) of the impact of circle sentencing on recidivism among Indigenous offenders compared with those that were heard in a mainstream Magistrates court concluded that circle sentencing did not have any effect on the frequency, time to or seriousness of reoffending (Fitzgerald 2008). These findings suggest that involving representatives of the Indigenous community in the sentencing process alone was insufficient to impact upon future offending behaviour. It was argued that for circle sentencing to have any impact on reoffending, it would need to combine the sentencing process with rehabilitative programs targeting those underlying factors associated with the disproportionate rate of offending among Indigenous offenders, which is currently not a core feature of the program (Fitzgerald 2008).

Qualitative research undertaken by Daly and Proietti-Scifoni (2009) with NSW circle sentencing participants found evidence that desistance from crime was a gradual process and that a number of factors outside of the court process influenced whether a person would continue to offend and to what extent. These included whether the person had a problem with drug or alcohol abuse and whether there were family responsibilities or relationships that motivated them to change their behaviour. Whether the participant was ready to change or prepared to accept responsibility for their behaviour was also an important factor in determining the impact of the court on individuals. They argue that reoffending should not be measured in a strictly dichotomous manner, instead suggesting that offending should be considered across a continuum from persistence to total desistance.

Furthermore, circle sentencing may have an impact on offending in ways that are more difficult to measure. Informal social controls, such as the opinions of families and friends, are more effective in controlling criminal behaviour than criminal justice responses (Snowball & Weatherburn 2006). Fitzgerald (2008) suggests that circle sentencing courts may, through the involvement of representatives of the community, work to strengthen informal social controls which may, in turn, help to prevent crime. This is more difficult to measure, but highlights the need for a better understanding as to how being sentenced through Indigenous sentencing courts results in behavioural change. Fitzgerald (2008) also points out that recidivism is one of a number of goals of the circle sentencing process and therefore not the only measure of success.

Other jurisdictions have not yet released formal evaluations into the effectiveness of their Indigenous courts programs. An evaluation is currently being undertaken into the effectiveness of the South Australian Nunga Court. Taken as a whole, research into the impact of Indigenous sentencing courts suggests that they are an effective mechanism for improving the court process for Indigenous offenders. The impact of these court processes on offending behaviour is less certain, certainly in the short term, although further research is required to examine the impact of different court models and of regional variations. In addition, research is

required to determine whether the involvement of Indigenous community members in the sentencing process can lead to positive changes in offenders' lives that may, with further support and assistance, lead to changes in offending behaviour in the longer term.

## Important lessons for the evaluation of specialty courts

There are a number of important lessons to be drawn from a review of research into the effectiveness of Indigenous sentencing courts, specialty courts and Indigenous criminal justice programs more broadly. In a review of specialty court programs and the evaluations that had been conducted, Payne (2005) highlighted several limitations. These include:

- the lack of appropriate comparison groups to determine the relative impact of innovative court programs;
- the lack of adequate data collected on a routine basis that enables important outcomes to be evaluated; and
- short follow-up times which limited the capacity of evaluators to determine whether outcomes would in fact be achieved over a longer period of time, or alternatively, whether the outcomes that were observed would be sustained over time.

Many of these problems have been present in past attempts to measure the impact of Indigenous sentencing courts. Past experience has yielded important lessons for the evaluation of specialty courts and Indigenous sentencing courts in particular.

- Incorporate both process and outcome evaluation to determine whether the program is being implemented according in line with its original design, whether implementation failure is limiting the effectiveness of the court and to determine what features of a program are contributing to the observed outcomes.
- Ensure that adequate data is available for the purposes of evaluation, either by enhancing existing court information systems (which may or may not be suitable for the purposes of evaluation) or developing new data collection mechanisms.
- Establish processes to enable ongoing monitoring and evaluation of the operation and effectiveness of the court on a regular basis, both during the pilot period and beyond (should the program be expanded).
- Integrate evaluation processes, such as data collection, into regular court processes.
- Combine both quantitative and rigorous qualitative methodologies that enable a range of outcomes to be measured, including improvements to court processes and community attitudes to judicial processes and outcomes that extend beyond the court environment, such as reductions in reoffending or improvements in individual or community wellbeing.
- Be realistic with respect to the likely outcomes that can be affected through the implementation of a specialty court program.
- Determine the full range of outcomes from the court program so that no single outcome, such as a reduction in reoffending, is relied upon as the sole measure of the effectiveness of a specialty court program.

These lessons are important, and should guide the development of methodologies for evaluating the implementation and effectiveness of specialty court programs and Indigenous sentencing courts.



# Evaluation methodology

The methodology for the AIC's evaluation of the Queensland Murri Court was developed in consultation with JAG and overseen by an evaluation steering committee comprising representatives of organisations involved in the Murri Court program. The evaluation has included four key components:

- the development of data collection systems;
- an assessment of the operational components of the Murri Court process;
- a qualitative assessment of the impact of the Murri Courts on the relationship between the court and community; and
- a quantitative assessment of the impact of the program.

Each component is described in detail below.

## Development of data collection systems

The first stage of the evaluation involved the development and implementation of data collection instruments designed to meet the needs of the evaluation as well as the future information needs of JAG. In response to the recommendations from the 2005–06 review (Parker & Pathé 2006), JAG

developed and implemented a new database to collect the data required to monitor and evaluate the performance of the Murri Courts as part of the Courts Innovation Programs Evaluation System (CIPES). Prior to the review, there were limited data collected that related specifically to the operation of the Murri Court, as distinct from other Magistrates and Children's Court processes. Some data was being collected manually in certain jurisdictions and some data was available from the Queensland Wide Interlinked Courts (QWIC) information system, however, the capacity to identify participation in the Murri Court was limited. The data that was available was deemed to be insufficient for operational, evaluation and research purposes.

The development of a database for the Murri Court program provided the opportunity for the introduction of an interview tool to collect information on each of the Murri Court's participants. An offender profile questionnaire was developed by the AIC and was implemented across each of the evaluation sites. The profile was designed as an assessment tool through which the longitudinal impact of participation in the Murri Court on Indigenous offenders could be measured. This involved the development of a viable set of measures relevant to the operation and objectives of the Murri Court. These measures were identified in consultation with JAG staff and through a literature search of pre-existing and tested

measures suitable for application to Indigenous communities. The literature search also sought to identify pre-existing instruments that had been utilised in a similar context and were capable of being adapted to the Murri Court environment and the specific characteristics of the offenders sentenced in that jurisdiction.

The profile includes a series of questions across a broad range of issues that are asked of Murri Court participants prior to their participation in the Murri Court (at the time of referral) and then again six months after their final sentence. Questions relate to areas such as living arrangements, family circumstances, education and employment, community involvement and participation, recent stressors, drug and alcohol use, health, income and expenditure and attitudes towards the criminal justice system and (in the follow-up profile) towards the Murri Court. Questions were designed to enable change to be measured across each of the key indicators. Participants' responses to these questions from before and then six months after, participation in the Murri Court program could therefore be compared to measure the extent to which the Murri Court process assisted to address underlying causes of offending behaviour among Indigenous offenders. This additional data was intended to supplement existing administrative data sources, including court appearance, criminal history and incarceration data.

Once an appropriate survey instrument had been developed, the AIC provided advice and assistance to JAG in the development of an appropriate data collection system to record and monitor the progress of offenders through the Murri Court program. This was needed to provide quantitative data for comparing the operation and outcomes of the Murri Court and other comparable court jurisdictions hearing cases involving Indigenous offenders.

A Murri Court database was developed (within CIPES), which provides a central repository for information pertaining to the criminal history and court appearance of Murri Court participants (regularly uploaded from the QWIC database), as well as data collected via the offender profile questionnaire. The database allows for each Murri Court coordinator to enter personal details and basic demographic data for each offender referred to the Murri Court program, create new episodes that

commence on the date of referral to Murri Court, record an offender's progress through the Murri Court and enter a case file number that enables court appearance data to be migrated across from QWIC. Criminal histories are generated through an automated name search of QWIC. The AIC worked closely with JAG to improve the quality of data available for both the current evaluation and future performance monitoring of court innovation programs. This has led to significant improvements in extraction protocols for matching criminal history and court appearance records that will be of benefit not only to Murri Court but in the evaluation of other court programs.

## Assessment of the operation of the Murri Court

The next stage of the evaluation examined the operation of the Murri Court in each of the five evaluation sites. Key similarities and differences between the courts were identified. This was to try to better understand and explain the nature of these differences and their potential impacts on differential outcomes for Murri Court participants measured in subsequent stages of the evaluation. This stage also sought to describe the relative strengths and weaknesses of the operation of the Murri Court at each location and identify any improvements that could be made.

This involved the development of a systems model (involving the mapping of court processes) outlining the way the courts operated in each of the five evaluation sites. These models were drafted based on the examination of practice and procedure manuals provided by JAG, which summarised the operational procedures of each Murri Court. This was in addition to information obtained from consultations with key Murri Court stakeholders and observations of the court processes in both Adult and Youth Murri Courts. Interviews examined issues such as:

- primary differences between mainstream court processes and Adult and Youth Murri Courts;
- challenges and impediments to the effective and efficient operation of the Murri Court; and
- possible strategies to improve the way in which the court operates.

An overview of key elements of the Murri Court program, the process in each court and key differences between the operation of the five evaluation courts (and mainstream courts in general, including the different role each stakeholder has in the various courts), was presented in a progress report to Qld JAG. A comprehensive systems model of each phase in the Murri Court program was also presented in the report, as well as an overview of preliminary findings relating to factors impacting upon the effective operation of the court. Some of these issues were similar with those identified during the review undertaken in 2005–06. These issues were examined further as part of the next stage of consultations conducted during the formal qualitative component of the impact evaluation (described below). In examining these issues there was a particular focus on their impact upon the overall effectiveness and efficiency of the Murri Court.

## Qualitative assessment of the impact of the Murri Court program

The next stage of the evaluation investigated the impact of the Murri Court program in terms of strengthening the partnership between the Magistrates Court and Indigenous communities to deal with Indigenous justice issues. This was undertaken in three stages and preliminary consultations conducted in late 2007 and early 2008 provided an opportunity to pilot the qualitative interview questions. The second stage of consultations commenced in July 2008 and the third and final stage was undertaken in September 2008. Consultations included individual and group face-to-face interviews and telephone interviews with key stakeholders in a number of court locations, not limited to those included in the evaluation. The purpose of these interviews was to undertake a retrospective analysis that sought people's impressions of the relative impact of the Murri Court on the partnership between the court and the Indigenous community.

The AIC consulted a range of stakeholders involved in Murri Court in each location visited, including:

- Magistrates sitting in both Adult and Youth Murri Courts;
- JAG staff (primarily Murri Court coordinators);
- ATSILS, including both solicitors and field officers;
- Legal Aid Queensland;
- Members of Queensland Police Service (QPS), including police prosecutors and PLOs;
- QCS;
- Youth Justice, DoC;
- Indigenous Elders who represent their communities in the Murri Court process;
- CJG members; and
- a range of government and non-government service providers.

An interview schedule was developed which, while not repeated verbatim, outlined questions that addressed issues such as the:

- perceptions of whether court processes were fair and culturally-appropriate for Indigenous offenders and the degree of community trust and confidence in the court process;
- level of participation in, and ownership of, criminal justice system processes and the impact on outcomes for Indigenous persons; and
- contribution of the Indigenous community within court processes and the personnel employed to assist in dealing with Indigenous justice issues.

In addition to an extensive consultation process, the qualitative component of the evaluation involved observations of Murri Court sittings in all five evaluation courts. The purpose of employing an observation component as part of the field work in conjunction with consultations was to observe:

- the interaction between all court partners on Murri Court days, particularly between Elders and Magistrates;
- Elder interaction with offenders and the effect that interaction with the Elders during sentencing has on the offenders, particularly in terms of their demeanour and body language;
- pre-court interviews between offenders and Elders and observing whether establishing a relationship impacts upon court sittings (whether the offender seems more comfortable in court and more willing to participate);
- the level and nature of support provided to offenders by the Murri Court case coordinator and other agencies or service providers during sentencing;



- offender participation in the Murri court process; and
- whether there was a notable difference in the layout of courts for Murri Court and to identify how this impacted upon the sentencing process.

The observation of court processes was also designed to validate information provided by court stakeholders during the consultations.

## Quantitative assessment of the impact of the program

The final stage of the evaluation involved undertaking a quantitative assessment of key outcomes from the Murri Court in comparison with other court jurisdictions and mainstream court processes. This entailed a quantitative analysis of the data collected and stored by JAG in the CIPES database. The AIC provided advice to JAG at various stages on the nature of data required for the purposes of the evaluation, with a view to ensuring that this data would enable the AIC to determine the extent to which the court was achieving its objectives. Data for the evaluation was routinely collected by JAG staff (in CIPES) and court staff (in QWIC) for all Murri Court participants relevant to the operation and objectives of the Murri Court.

This component of the evaluation involved a quantitative analysis of data collected via the offender profile questionnaire, along with court appearance and criminal history data collected and stored by JAG in CIPES. This included descriptive analysis of the characteristics of Murri Court participants, court attendance rates and sentencing outcomes of each Murri Court participant, as well as a post-Murri Court recidivism analysis. The purpose of this analysis is to measure the longitudinal impact of involvement in the Murri Court on Indigenous offenders. The findings from the quantitative analysis are presented throughout this report.

## The control group

The gold standard for evaluation is the randomised control trial, in which research subjects are randomly

allocated to either the experimental (in the case of Murri Court) or control group (mainstream Magistrates or Children's Court) to ensure that there is no bias between the two groups. In criminal justice programs, this is a difficult standard to attain. The current study therefore uses a quasi-experimental design, which is a common research design for program evaluation, particularly in the area of social policy (Eck 2005).

In order to determine whether the Murri Court had an impact in terms of outcomes such as court appearance rates, sentencing outcomes and reoffending, it was necessary to select an appropriate control group. This was comprised of a comparable group of Indigenous offenders who had not participated in a Murri Court, either in the five evaluation courts or other locations that have established a Murri Court, but were not included in the evaluation. The AIC worked closely with JAG to develop a control group of sufficient size and comparability with the Murri Court population so as to enable reliable estimates of the relative impact of Murri Court to be developed.

The selection of a control group was undertaken in a number of stages. Stage one involved JAG extracting data from the QWIC database relating to offenders who, should they have appeared in jurisdictions in which it existed, would have been eligible to be referred to Murri Court for sentencing. JAG provided to the AIC an extraction of criminal history records for charges finalised during the evaluation period for both adult and juvenile offenders who:

- were identified in QWIC as being Indigenous;
- had appeared in a Qld Magistrates or Children's Court in locations other than those in which a Murri Court has been established (not limited to evaluation sites); and
- had received a conviction for at least one of the charges (adults only).

Juveniles were separated into two groups. This was to account for the expanded eligibility criteria which have allowed juveniles not at risk of receiving a custodial penalty to appear before a Murri Court. The first group included less serious offenders which, in addition to the criteria listed above, had not had a pre-sentence report ordered during their



reference court episode. The absence of a pre-sentence report was, on the advice of JAG, taken as an indication that the offender was not at risk of being sentenced to a period of detention. The second group included those offenders who had been ordered to complete a pre-sentence report because they were assessed as being at risk of receiving a custodial penalty and their suitability for a community-based order needed to be assessed. The AIC then randomly selected offenders from each of the three groups to reduce the number of offenders to a manageable size, while still providing sufficient numbers from which to select the final control group.

JAG entered the details of the offenders into the Murri Court database which enabled full criminal histories to be extracted. The final control group of offenders were then matched with offenders sentenced in Murri Court on:

- Indigenous status and gender (exact matches);
- age at referral (taken as the commencement of the evaluation period for the control group);
- the number of proven offences and most serious proven offence for the reference court episode (charges finalised on the first date after the episode date);
- the number of prior proven offences and most serious prior proven offence; and
- whether they had received an imprisonment order in the five years prior to referral.

For the Murri Court group, the reference court episode refers to the first matter referred to Murri Court during the evaluation period (January 2007 to December 2008). For the control group, the reference court episode was their first matter finalised during the same period. The most serious prior offence and proven offence for the reference court episode were determined on the basis of the ABS (2009) National Offence Index (NOI). This is a tool which provides an ordinal ranking of the offence categories in the Australian Standard Offence Classification (ASOC) according to perceived seriousness of each offence. The MSO is that which is ranked highest according to this scale. It is important to note that different offence types (eg property offences and disorder offences) can fall near to one another according to this index, depending upon their perceived seriousness.

For all Murri Court participants, matching observations were selected based on a Mahalanobis distance measure (Tabachnick & Fidell 2001). For each treated observation in the experimental group (Murri Court participants), the closest matching non-Murri Court observation was selected according to the calculated distance measure, subject to the constraints of the variables above. Simply put, this measure is calculated based on the correlation between two observations, one treated and the other not treated, comparing the two across all variables specified in the selection process. The observation within the non-Murri Court group that returned the shortest distance measure (ie most closely correlated) was selected as the matched observation within the control group. Where two treated observations returned the same matched observation within the control (which occurs when two treated observations are similar or exactly the same across the range of specified variables), the next closest match was identified and included in the control group.

A small number of offenders were excluded from the selection process (both among Murri Court and the randomly-selected control group participants) for the following reasons:

- they did not have at least one charge finalised during their reference court episode (the first episode during the evaluation period), which was necessary to verify that the offender's criminal history had been extracted from QWIC;
- it was not possible to link the offender's criminal history charges with the relevant orders to determine whether an imprisonment order had been imposed, due to missing data;
- criminal history data was found to be missing or incorrect;
- they were among the group of offenders who were found to be missing court appearance data due to data entry errors (or failure to enter the relevant case file number into CIPES); and
- they were included in the control group but were later found to be duplicate records of offenders who had participated in the Murri Court program, or had participated in another specialty court program.

Offenders were excluded at two stages—following the random selection of control group members and then again once matching observations had been identified.

In response to feedback from the Evaluation Steering Committee, the AIC modified the control group selection criteria to include the MSO as an exact match. In addition, since the evaluation was primarily concerned with the impact of appearing in a Murri Court for sentencing, the control group selection was subsequently limited to those offenders whose matters were fully finalised in a Murri Court. Offenders who were fully finalised, but remitted back to a mainstream Magistrates or Children’s Court for sentencing, were excluded from the selection process. Further explanation in relation to the point of finalisation is located in the section *Murri Court activity*.

This had the effect of improving the overall closeness of matches between the two groups. However, it also reduced the total number of offenders sentenced in a Murri Court for whom a match could be found among the control group. As a result, of the 504 unique offenders finalised in an Adult Murri Court and 265 unique offenders finalised in a Youth Murri Court during the evaluation period, matches could be found for 77 percent and 82 percent of offenders respectively. There are several important issues that warrant consideration when interpreting

the findings from a comparison between Murri Court and control group participants within this matched group.

- The matched group of offenders may not necessarily be representative of all offenders sentenced in Murri Court during the evaluation period.
- Findings cannot be generalised to those offenders who are referred to a Murri Court but are subsequently remitted back to Magistrates or Children’s Court.
- Restricting the control group selection process to achieve a close match on the specified selection criteria may have inadvertently resulted in differences across other variables not included in the selection process.

To address the first point, results from an analysis of key outcomes include results for the total Murri Court population as well as the more closely matched group. As this is not a randomised control trial, it is expected that the control group selection will produce some degree of variation across the range of variables not included as exact matches during the selection process. Therefore, when determining the impact of the Murri Court program on key outcomes in subsequent sections, in addition to presenting the percentage difference between Murri Court and control group participants,

Table 2 Key characteristics of Murri Court and control group participants (%)						
	Adults		Juveniles at risk of custodial sentence		Juveniles not at risk of custodial sentence	
	Murri	Control	Murri	Control	Murri	Control
Male	79	79	93	93	68	68
Female	21	21	8	8	32	32
Age at referral (mean)	30	29	15	15	15	15
Court location						
Brisbane	43	—	8	—	4	—
Caboolture	0	—	0	—	4	—
Mount Isa	14	—	62	—	20	—
Rockhampton	11	—	8	—	28	—
Townsville	32	—	23	—	43	—
Total (n)	390	390	13	13	197	197

Note: Percentages may not add to 100 due to rounding  
Source: AIC, Queensland Murri Court database [computer file]

additional statistical analysis has been undertaken to control for this difference. This also enables Murri Court and control group participants to be compared across variables not included as part of the selection process, such as regional locations, which were determined on the basis of ABS (2009) Australian Standard Geographical Classification (ASGD) remoteness areas.

Key characteristics of the Murri Court and control group participants included in the final comparison group are presented in Table 2. Details of referring charges and prior criminal history for both the Murri Court and control group participants are presented in Tables 3 and 4.

## A cost/savings comparison

According to the original evaluation design, using the results obtained from an analysis of key outcomes, the AIC was to then (in consultation with JAG) develop an adequate set of key measures upon which the cost and savings associated with the Murri Court could be attributed. These measures were to include operational units (such as the number of court appearances, episodes of failure to appear and sentencing outcomes) and outcome units (such as reoffending and recidivism rates).

A series of simple relative cost-benefit analyses were to be then undertaken to assess the costs/savings associated with the outcomes identified for each

Table 3 Referring charges for Murri Court and control group participants, by court jurisdiction (%)						
	Adults		Juveniles at risk of custodial sentence		Juveniles not at risk of custodial sentence	
	Murri	Control	Murri	Control	Murri	Control
MSO						
Violent offence	30	30	38	38	24	24
Property offence	21	21	54	54	47	47
Drug offence	3	3	0	0	1	1
Drink driving offence	10	10	0	0	1	1
Traffic offence	10	10	0	0	5	5
Disorder offence	5	5	0	0	18	18
Breach offence	16	16	0	0	2	2
Other	5	5	8	8	9	9
Number of offences						
1–5	83	86	69	54	93	95
6–10	14	12	15	46	6	5
More than 10	3	2	15	0	1	0
Median number of offences	2	2	2	3	2	2
Total (n)	390	390	13	13	197	197

Note: These figures relate to each offender's first episode (reference court episode) during the evaluation period. Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 4** Prior criminal history of Murri Court and control group participants, by court jurisdiction (%)

	Adults		Juveniles at risk of custodial sentence		Juveniles not at risk of custodial sentence	
	Murri	Control	Murri	Control	Murri	Control
<b>Most serious prior offence<sup>a</sup></b>						
Violent offence	57	57	33	46	46	36
Property offence	19	19	58	54	36	46
Drug offence	5	3	0	0	0	1
Drink driving offence	9	10	0	0	1	0
Traffic offence	2	2	0	0	1	1
Disorder offence	2	4	8	0	10	6
Breach offence	5	2	0	0	1	2
Other	2	3	0	0	6	8
<b>Number of prior proven offences</b>						
None	5	5	8	0	42	43
1–5	24	27	23	23	32	29
6–10	21	25	23	15	10	13
11–20	25	23	23	38	8	9
More than 20	24	20	23	23	8	6
Median number of prior proven offences	10	8	10	12	1	1
Prior imprisonment order <sup>b</sup>	50	49	38	23	6	5
Total (n)	390	390	13	13	197	197

a: Proportion of those offenders with prior proven offences

b: Prior imprisonment order includes actual custodial order, imprisonment with immediate parole release date, fully- and partly-suspended sentences

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

jurisdiction. However, several challenges arose over the course of the evaluation that prevented this analysis from being completed:

- While data relating to the operation of the Murri Court was available, JAG was unable to provide adequate and comparable data on equivalent matters appearing before a Queensland Magistrate or Children's Court.
- Concerns were raised regarding the ability of savings to be attributed to the improved relationship between the Indigenous community and criminal justice system and improved perceptions of the cultural appropriateness of the court process, regarded by many as critical outcomes from the Murri Court program.

In the absence of reliable costing data, the evaluation instead examined the relative efficiency of the court in processing Indigenous offenders compared with mainstream Magistrates and Children's Courts. This involved additional court appearance data being sourced for the control group. The cost/savings comparison is therefore based upon a comparison between the time taken for a matter to be finalised in a Murri Court compared with mainstream court processes, the costs associated with the operation of the programs (in broad terms) and relative outcomes including the impact of the program on the over-representation of Indigenous offenders in prison and reoffending post-sentence.

## Methodological limitations

The problems associated with the quality of administrative data for Indigenous offenders within the criminal justice system have been widely acknowledged (Hunter & Ayyar 2009). In the present study, several methodological issues arose which impacted upon the AIC's capacity to address all components of the original evaluation design in full. Several issues relating to the measurement of key outcomes were encountered over the course of the evaluation, including:

- the relatively low rate of profiling conducted with offenders upon their referral to the Murri Court;
- the low number of follow-up profiles conducted with offenders while on Murri Court orders due to problems encountered in trying to contact offenders post-sentence;
- the decision to discontinue the administration of the profile with Youth Murri Court participants due to concerns raised by the coordinators surrounding whether it was culturally appropriate and their capacity to continue to administer the profile in light of this and other logistical issues;
- the information provided by DoC in the case studies for Youth Murri Court participants (in place of the offender profile questionnaire) provided limited background information on DoC clients, contact with DoC or information on outcomes for participants of Murri Court;
- inconsistencies between the status of Murri Court participants in the CIPES database (ie recorded episode phase) and the status of the relevant charges in QWIC;
- data entry errors in the Murri Court database, which resulted in the creation of several duplicate individuals and episodes;
- problems relating to the accuracy of episode start and end dates recorded for each Murri Court episode, which are required to determine which court appearance events took place in Murri Court (as distinct from a mainstream Magistrates or Children's Court);
- incorrectly entered case file numbers (or case file numbers that had not been entered at all), which resulted in five percent of Murri Court participants not having any court appearance information and an indeterminable number with incomplete court appearance records;
- problems associated with the use of aliases and inconsistent names which caused problems for the linkages between the Murri Court database and QWIC and which has resulted in some offenders having missing criminal history data, despite having charges finalised in the Murri Court;
- reliable estimates of sentence length not able to be determined from the data recorded in QWIC (and migrated across into CIPES), as in addition to comparing sentence outcomes, the AIC had sought to examine whether there was any difference in terms of the severity of custodial penalties imposed in Murri Court; and
- information on referrals to programs and services having been recorded inconsistently (or not at all) within the Murri Court database and there being no record of rehabilitative orders relating to sentence orders within the QWIC database.

The impact of these issues on the measurement of key outcomes has been considered and discussed throughout the report and the potential impact on the validity of findings from this research explained.

A number of these issues, such as data entry errors and duplicate offenders, have been examined since the data extraction was provided to the AIC and steps have been taken to improve the quality of data available for future evaluation. While there were several issues encountered during the evaluation, the AIC has worked closely with JAG to improve the quality of data available for both the current evaluation and future performance monitoring of court innovation programs. A number of enhancements have since been made to CIPES, including the inclusion of aliases to increase the capacity of the database to search QWIC for criminal history data.

# A review of the implementation and operation of the Murri Court program

This section of the report presents the findings from a detailed assessment of the operation of the Murri Courts in five evaluation sites that were the focus of the 2005–06 review of the Murri Court (Parker & Pathé 2006). A substantial number of new Murri Courts have since been established across Queensland, both prior to the commencement of the evaluation and during the evaluation period, however, these were not the focus of the current evaluation.

This component of the evaluation report outlines an overview of the key features of the Murri Court program, the role of each stakeholder involved in the program, important differences between the various courts and several issues relating to the operation of the program and individual courts. The Murri Court locations included in this evaluation and the date they were established are as follows:

- Brisbane Adult Murri Court (2002) and Youth Murri Court (March 2004);
- Rockhampton Adult Murri Court (June 2003) and Youth Murri Court (October 2004);
- Mount Isa Adult Murri Court (February 2004; Mount Isa Adult Murri Court was established as a pilot in February 2004, which was suspended in May 2005. The court reconvened in December 2005) and Youth Murri Court (July 2006);
- Caboolture Adult Murri Court (July 2008) and Youth Murri Court (February 2006); and

- Townsville Adult Murri Court (March 2006) and Youth Murri Court (February 2006).

This section draws upon a review of the local practice and procedure manuals provided by JAG staff relating to the operation of each court, consultation with key stakeholders and court observations. In later chapters, findings from the assessment of the operation of the court are used to explain differential outcomes for Murri Court participants.

## Operating framework

The Murri Court sentences Indigenous offenders who plead guilty to an offence that falls within the jurisdiction of the Magistrates Court. Murri Courts operate within a Magistrates or Children's Court framework, but provide additional opportunities for greater involvement of Indigenous Elders and respected persons, the offender and their family and CJGs in the sentencing of Indigenous offenders. Elders and respected persons sit alongside the Magistrate in court and have the opportunity to address the offender during sentencing, provide advice to the Magistrate and facilitate communication between the Magistrate and offender, although it is the Magistrate who sentences the offender. CJG members are encouraged to be involved in supporting the court process.

The Murri Court, unlike some Indigenous sentencing courts currently operating in other jurisdictions, has not been specifically established in legislation. However, the involvement of CJGs, Elders and respected persons in the Adult Murri Court is authorised under s 9(2)(o) of the *Penalties and Sentences Act 1992* (PSA), pre-existing legislation which provides a court must have regard to relevant submissions made by CJGs, including Elders and respected persons, when sentencing Aboriginal or Torres Strait Islander (ATSI) offenders. Sections of the *Bail Act 1980* also allow the Murri Court to receive and take into account any submissions made by a representative of the CJG in the offender's community if the offender is an ATSI person during bail proceedings.

Similarly in the Youth Murri Court, the role of Elders and respected persons is authorised under s 20(1) and s (7) of the *Children's Court Act 1992* and s 150 of the *Juvenile Justices Act 1992* (JJA). Provisions also exist within the JJA for the involvement of respected members of the Indigenous community or a representative of a CJG to attend youth justice conferences, where the offender is an ATSI person.

While this provides the basis for the involvement of representatives from the local Indigenous community, it does not provide a framework to guide the operation of the court. Instead, Murri Courts are initiated from joint agreements between local Magistrates and Elders from local Indigenous communities to support the program. These local agreements, which are largely informal, determine how the court will be run, who will be involved and the precise nature of their contribution.

In addition, a practice and procedure manual has been prepared by the Murri Court coordinator in each court (Adult and Youth), documenting the process for that jurisdiction and the roles and responsibilities of each stakeholder involved in Murri Court. These manuals are intended to serve an important purpose, ensuring that all stakeholders are aware of how the court operates and the nature of their contribution. This document is intended to be dynamic, insofar as it can be updated when changes to the process are made, based upon decisions made by the local Magistrate and/or Elders.

## Key features of the Murri Court program

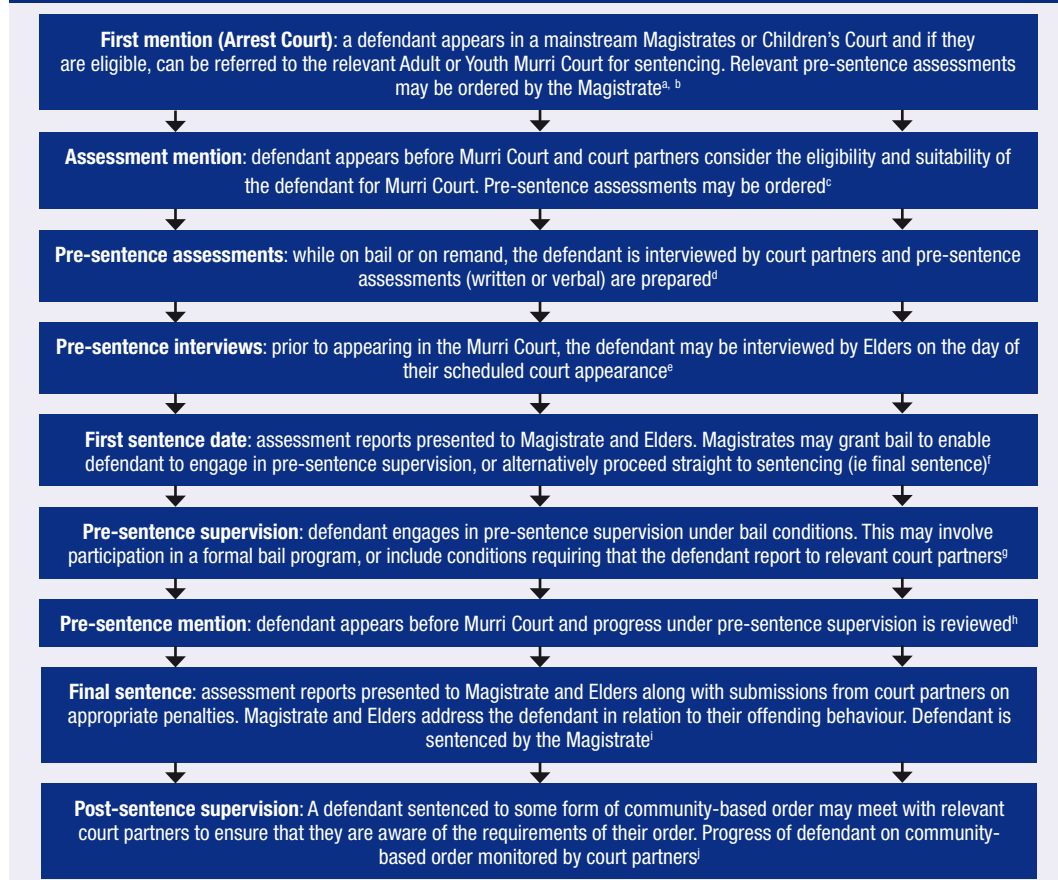
There are important differences between the Murri Court process and mainstream Magistrate and Children's Courts. Understanding the nature of these differences is important in evaluating the mechanisms through which the Murri Court aims to contribute to more positive outcomes for Indigenous offenders. Key differences between the Murri Court and mainstream court processes include:

- the contribution of Elders, respected persons, CJGs, the offender and the offender's family to the sentencing process;
- a greater level of information made available to the court regarding the offender's circumstances, obtained through a comprehensive assessment process prior to sentencing;
- attempts to actively engage the offender in discussions determining appropriate sentencing outcomes and in developing strategies to address their offending behaviour;
- a higher degree of informality in court processes, including modifications to the court environment and interaction between stakeholders involved in Murri Court sittings;
- strategies that have been implemented to increase the degree of coordination between court processes and service providers, overseen by a Murri Court coordinator; and
- the level and nature of support, both formal and informal, provided to offenders at each stage of the sentencing process by court partners (particularly by Elders, Indigenous community organisations and CJGs) is greater than in mainstream court processes.

While these are common features across all Murri Courts, there are differences in the operation of the Murri Court across the locations in which they have been implemented; a fact recognised in the 2005–06 review (Parker & Pathé 2006). There is no single model of operation or process that is consistent across the five courts. Nevertheless, it is possible to identify stages in the Murri Court process that are common across at least some of the five courts examined for the purposes of this evaluation. These stages are presented in Figure 1 and are examined in more detail within the remainder of this section.



**Figure 1** Stages in the Murri Court process



a: An offender's participation in the Murri Court is contingent upon them meeting a number of eligibility criteria. Basic criteria exist that extend to all courts examined as part of this evaluation. Additional criteria have been specified for the Mount Isa bail program. The offender must also request and/or consent to the referral

b: In Youth Murri Court, less serious matters may proceed directly and be heard for the first and only time in a Murri Court for sentencing

c: Townsville is the only location to schedule an assessment mention for all offenders at risk of a custodial sentence. In Mount Isa, representatives of the Murri Men's or Women's Group will attend hearings involving Indigenous offenders in Arrest Court to advise the Magistrate as to the eligibility of the offender for the bail program. A matter may be adjourned to a subsequent assessment mention should the representative be unable to attend

d: Pre-sentence assessments include a QCS or DoCs pre-sentence report (for offenders at risk of custodial sentence), CJG cultural report (Townsville and Rockhampton) and treatment provider reports. In Mount Isa, due to the bail program, a formal pre-sentence report (either by QCS/DoCs, CJG or Elders) is not ordered by the Magistrate, with court partners instead participating in a pre-sentence meeting with the offender. In Townsville, Rockhampton and Mount Isa the police prosecutor or PLO may also seek a statement from the victim to be submitted as part of a victim impact statement

e: In Mount Isa, Rockhampton, Townsville and Caboolture, Elders attempt to meet with each adult offenders individually on the day of Court. Elders do not meet with offenders prior to their scheduled court appearance in Brisbane. Pre-sentence interviews with children are more ad hoc and infrequent

f: A Magistrate may opt to adjourn a matter for sentencing to allow an offender to complete any outstanding orders, to allow more time to complete pre-sentence reports, or to enable an offender to engage in pre-sentence supervision under bail conditions. The Magistrate may also elect to proceed straight to sentencing

g: Mount Isa and more recently Brisbane are the only locations to have implemented a formal bail program. In other court locations with formal involvement of a CJG, including Rockhampton and Townsville, conditions may be imposed as part of an offender's bail undertaking to report to Elders and the CJG

h: Failure to abide by the conditions of their bail may result in an offender being remanded into custody, the Magistrate proceeding direct to sentencing, or the offender being remitted back to mainstream Magistrates or Children's Court for sentencing

i: The precise order and format of proceedings, the court layout, and the extent to which Elders are involved in the proceedings, varies between courts

j: QCS/DoC and (contingent on their availability) the CJG and/or Elders will meet with the offender immediately following sentencing to ensure the offender understands the conditions of the sentence, the requirements of their order, the procedure they need to undertake while on orders and check that they are comfortable after attending Court. In Rockhampton, Townsville and Mount Isa there may be formal conditions imposed as part of a non-custodial sentence for the offender to visit or report to the CJG and/or Elders. In other locations, Elders may provide support to offenders (in custody or while serving orders) on a more informal basis



## Variability in court practices and procedures

Similar models of operation have emerged across the different court locations. The Townsville Murri Court was originally based on the Rockhampton model, albeit with some minor modifications to suit local conditions. A key feature of both courts is the active involvement of the CJG, both in conducting pre-sentence assessments and submitting cultural reports, and providing formal support as part of an offender's bail conditions or conditions imposed as part of a community-based order. Both courts utilise a traditional adversarial court structure and layout in accordance with the views of the Elders.

Brisbane and Caboolture are both characterised by less formal support mechanisms within the Indigenous community, including the absence of a CJG (in Caboolture a CJG has recently been established) or formal involvement of the CJG in court processes (eg contact as part of bail conditions or post-sentence). The layout of both courts (along with Mount Isa) is consistent with the circle sentencing model, with a greater level of informality in court processes and proceedings.

The prominent feature of the Mount Isa Murri Court and more recently Brisbane Murri Court, is the operation of the formal bail program. In Mount Isa, the Men's and Women's Murri Groups are actively involved in the Murri Court process and there is a focus on integrating more traditional aspects of Indigenous culture and providing therapeutic support to offenders prior to sentencing. In Brisbane, the focus is slightly different, with the bail program oriented towards helping offenders develop skills that will help to prepare them for employment.

A key feature of the Queensland Murri Court program has been the relative independence of each court and the flexibility which enables Magistrates, Elders and other court partners to work collaboratively to reach an agreement regarding the most efficient and effective Murri Court appropriate to the conditions of the local area. As a result, despite similarities between some of the courts, there are notable differences. Key differences were observed in the following practices:

- the process through which offenders are referred to the Murri Court;
- the use of assessment mentions and the degree of input from Indigenous community groups into the eligibility of offenders for Murri Court;
- the number and nature of assessments conducted prior to sentencing;
- pre-sentence interviews between the offender and Murri Court stakeholders, particularly Elders;
- pre-sentence supervision arrangements, including the use of bail programs and formal or informal supervisory arrangements;
- Murri Court proceedings, including the layout of the courtroom and the level of informality in court proceedings;
- the level of formal and informal support provided to the offender from CJG and Elders while on bail or post-sentence; and
- the degree of involvement (if any) of a CJG and/or Elders in various stages of the Murri Court process.

Understanding the nature and potential impact of these differences is important in the context of evaluating the Murri Court program. These differences may result in differential outcomes for Murri Court participants. For example, one of the key differences between the evaluation courts is the level and nature of the contribution made by the Indigenous community to the court process. As a result, the impact on the relationship between the Indigenous community and the Magistrates Court may differ between courts.

There are also differences between the processes for Adult and Youth Murri Courts within each site. The time required to prepare for the cases of adult offenders is often much greater than for juveniles. This is due to the number of assessments that are required and the degree of communication between stakeholders to decide on an appropriate course of action prior to the court appearance. This is primarily because the vast majority of adult offenders are at risk of receiving a custodial sentence and significant consideration must be given to their suitability and the appropriateness of non-custodial sanctions.

A large proportion of the children referred to Murri Court appear for relatively minor matters and are not at risk of receiving a period of detention. They will usually be referred straight to the next available Murri Court day for sentence and any assessments (by Elders and/or CJG members) will take place

immediately prior to their appearance in Murri Court (if at all). Different processes for children are also established to overcome logistical barriers that limit the contact between the stakeholders and the offender outside of the court process, such as the presence of guardians and limited transport options. Procedures are modified so as to minimise the impost of these barriers on the overall efficiency of the court process. Where children are at risk of receiving a custodial sentence, the court appearances for children in Murri Court, much like regular Children's Court, can often take a considerable amount of time.

An overview of the key elements of the Murri Court program and how these operate across the five evaluation courts is presented in Table 5.

### *Factors influencing court processes*

There are a number of factors that may determine the mode of operation of the Murri Court in a particular location. Factors identified as having influenced the court process in different locations include:

- the capacity of the Indigenous community to contribute to Murri Court processes, including the presence and/or availability of Elders, CJGs and Indigenous community groups;
- the number of Indigenous offenders that appear before the Murri Court and the time and resources available for each offender;
- the decisions made by the Magistrate, sometimes in conjunction with the Elders, based on their personal views as to the most effective way to run the Murri Court;
- views of the Elders as representatives of the Indigenous community as to the most culturally appropriate way to run the court;
- local issues impacting upon the court's operations, including the existence of other diversionary programs (eg QIADP) and local problems impacting upon offending behaviour; and
- the presence of motivated and dedicated individuals and organisations to actively support the court and Indigenous offenders.

It is not the objective of the current evaluation to determine a single best practice model of Murri Court operations. Instead, the findings from this evaluation are intended to inform the development of a number of fundamental principles or key elements which should guide or be incorporated into new and existing Murri Courts, with some flexibility so as to accommodate the local context in which they are operating. Identifying different procedures can enable an assessment to be made regarding the relative contribution of key elements of the court process to positive outcomes for Indigenous offenders.

## Evolution of the Murri Court program

Traditionally, the focus of Indigenous sentencing courts has been on case processing and procedural justice for Indigenous offenders, giving consideration to the information provided by experts and dedicated court advisers (ie Elders and respected persons) in delivering sentences that are appropriate to the individual circumstances of the offender (Payne 2005). These courts aim to provide opportunities for greater levels of communication between Elders, the offender, their support persons and Magistrates, emphasise the importance of Indigenous knowledge and cultural practices and attempt to impose more appropriate and effective sentences for Indigenous offenders (Marchetti & Daly 2007). This was the philosophy underpinning the Murri Court as it was originally designed.

However, many stakeholders involved in the Murri Court program identified a trend towards an expanded intervention model. Increasingly, the Murri Court has integrated aspects of other specialty court programs whereby the function of the court is to work collaboratively with partner agencies that are involved in case management and program delivery for each offender (Payne 2005). Key features of this modified focus include:

- the increasing prominence of bail programs and pre-sentence supervision incorporating therapeutic interventions and service delivery tailored to the needs of offenders referred to the Murri Court;

**Table 5** Key features of the Murri Court process and a comparison across court locations<sup>a</sup>

	Brisbane	Cabooteure	Mount Isa <sup>b</sup>	Rockhampton	Townsville
<b>Eligibility</b>	Basic eligibility criteria apply (described below)	Basic eligibility criteria apply	In addition to the basic eligibility criteria that apply to all courts, offenders appearing in the Mount Isa Murri Court must also have a residential address in Mount Isa in order to comply with the bail program and be considered by the Mt Isa Murri Men's or Mt Isa Murri Women's Groups to be suitable to engage in a bail program over a period of three to six months	Basic eligibility criteria apply	Basic eligibility criteria apply
<b>Assessment mention</b>	Offender referred directly to Murri Court for sentencing after the appearance in Arrest Court, and the matter adjourned to a first sentence date.  The final decision as to who will appear in Murri Court is at the discretion of the presiding Magistrate	Offender referred directly to Murri Court for sentencing after the appearance in Arrest Court and the matter adjourned to a first sentence date.  The final decision as to who will appear in Murri Court is at the discretion of the presiding Magistrate	The Mt Isa Murri Men's and Women's Groups facilitators regularly attend Arrest Court to advise the Magistrate on Indigenous clients. The Magistrate may ask the facilitators for a recommendation as to whether the defendant is suitable to engage in the bail program.  If the offender is remanded to appear in Murri Court from Arrest Court without the advice of the facilitators, the Magistrate may refer the matter to the next Murri Court (as an assessment mention) in order to seek feedback from the Elders and respected persons as to whether the matter should be formally transferred to the Murri Court	Offender referred directly to Murri Court for sentencing after the appearance in Arrest Court and the matter adjourned to a first sentence date.  The final decision as to who will appear in Murri Court is at the discretion of the presiding Magistrate	Following the referral of an offender (at risk of a custodial sentence) to Murri Court, the matter may be adjourned to a Murri Court assessment date.  This is a Murri Court sitting involving the Magistrate, legal representative and police prosecutor (CJG members and Elders may attend to take notes) in which the eligibility and suitability of the offender for Murri Court is confirmed

**Table 5 continued**

	Brisbane	Caboolture	Mount Isa <sup>b</sup>	Rockhampton	Townsville
<b>Pre-sentence assessments</b>	Pre-sentence reports requested from QCS or DoC for offenders at risk of imprisonment/detention	Pre-sentence reports requested from QCS or DoC for offenders at risk of imprisonment/detention	Formal pre-sentence reports (either by QCS/DoC, CJG or Elders) are not ordered by the Magistrate. Instead, the Magistrate orders cultural reports and victim impact statements for consideration at sentence. Murri Men's and Women's Groups meet with and interview offenders, producing cultural reports. The Men's and Women's Group then inform the court, Elders and other stakeholders	Cultural report sought from CJG. Pre-sentence reports requested from QCS or DoC for offenders at risk of imprisonment/detention	Cultural report sought from CJG. Pre-sentence reports requested from QCS or DoC for offenders at risk of imprisonment/detention
<b>Pre-sentence interviews</b>	In Brisbane, the Murri Court Case coordinator, an Alcohol, Tobacco and Other Drugs Services (ATODS) officer and the QCS probation and parole services officer attend a meeting with the defendant the day prior to Murri Court.  Elders do not meet with adults or juveniles prior to the court appearance	Elders attempt to meet with each offender on the day of Court prior to sentence hearing	Elders, members of the CJG, the police prosecutor, the offender's legal representative, QCS officers or DoC officers (for children) and other relevant agencies, may participate in a pre-sentence meeting with the offender and the offender's family.  Elders do not meet with juveniles prior to court appearance	Elders attempt to meet with each adult offender for around 10 minutes on the day of court prior to court appearance.  Elders and/or respected persons meet with juveniles (at risk of custodial sentence) and their legal guardian prior to Youth Murri Court. The Murri Court co-ordinator and the Milibi psychologist also attend the meeting.  Juveniles not at risk of custodial sentence may not meet with Elders prior to court appearance	Elders attempt to meet with each offender on the day of Court prior to sentence hearing (where possible)
<b>Victim impact statements</b>	No formal process in place	No formal process in place	PLOs have recently been tasked with obtaining victim impact statements	No formal process in place. The prosecutor, following the referral of a matter to Murri Court, may be requested by the Magistrate to make enquiries of the investigating officer as to whether the victim of the offence(s) wishes any statement to be made to Court	No formal process in place. The prosecutor, following the referral of a matter to Murri Court, may be requested by the Magistrate to make enquiries of the investigating officer as to whether the victim of the offence(s) wishes any statement to be made to Court

**Table 5 continued**

	Brisbane	Caboolture	Mount Isa <sup>b</sup>	Rockhampton	Townsville
<b>Pre-sentence supervision</b>	Recent attempts to introduce pre-sentence supervision for offenders while on bail, as part of a joint project between JAG, Brisbane City Council and the Construction Training Centre Salisbury to provide construction skills training.  Participants are supported by Murri court case coordinators and have regular contact with Elders	No formal bail program as part of Murri Court process.  Conditions requiring the offender to have contact with the Elders are not imposed as part of a bail undertaking (in addition to normal reporting requirements)	Conditional bail program lasting from three to six months for adults and one to three months for juveniles (at risk of custodial sentence).  The Murri Court Case coordinator oversees the offender's progress—sourcing information from a range of bail program stakeholders and other community agencies as appropriate, reports breaches to QPS.  Usually required to report to the Men's Murri Group coordinator and attend ATODS counselling (where relevant) and attend either the Murri Men's or Women's Groups	No formal bail program as part of Murri Court process.  Conditions requiring the offender to have contact with the Elders may be imposed as part of a bail undertaking (in addition to normal reporting requirements)  Offenders may be referred to QIADP program while on bail and prior to sentencing in Murri Court	No formal bail program as part of Murri Court process.  Conditions requiring the offender to have contact with the Elders may be imposed as part of a bail undertaking (in addition to normal reporting requirements)  Offenders may be referred to QIADP program while on bail, and prior to sentencing in Murri Court
<b>Court layout</b>	Consistent with the circle sentencing model (with all stakeholders sitting around a table) and with a greater level of informality in court processes and proceedings.  Dedicated courtroom with Indigenous artwork and artefacts of cultural significance displayed in courtroom	Consistent with the circle sentencing model (with all stakeholders sitting around a table) and with a greater level of informality in court processes and proceedings	Consistent with the circle sentencing model (with all stakeholders sitting around a table) and with a greater level of informality in court processes and proceedings.  Indigenous artwork and artefacts of cultural significance may be displayed in courtroom	Traditional adversarial court structure and layout, with Elder(s) sitting at the bench alongside the Magistrate	Traditional adversarial court structure and layout, with Elder(s) sitting at the bench alongside the Magistrate.  Indigenous artwork and artefacts of cultural significance displayed in court room

**Table 5 continued**

	Brisbane	Caboolture	Mount Isa <sup>b</sup>	Rockhampton	Townsville
<b>Sentencing</b>	<p>Submission from prosecution and offender's legal representative.</p> <p>Pre-sentence reports and report on bail progress submitted to court.</p> <p>Following submissions being made to the court, Elders invited to address offender and Magistrate imposes sentence</p>	<p>Submission from prosecution and offender's legal representative.</p> <p>Pre-sentence report submitted to the court.</p> <p>Following submissions being made to the court, Elders invited to address offender and Magistrate imposes sentence</p>	<p>Submission from prosecution and offender's legal representative.</p> <p>Outcomes of pre-sentence meeting are presented along with progress reports, cultural reports and victim impact statements from all relevant parties detailing the offender's performance while on the bail program.</p> <p>Following submissions being made to the court, Elders invited to address offender and Magistrate imposes sentence.</p> <p>Sentencing includes a focus on offender compliance with the Bail Program along with relevant feedback from court partners<sup>c</sup></p>	<p>Submission from prosecution and offender's legal representative.</p> <p>Pre-sentence report and verbal C/JG cultural report submitted to the court.</p> <p>Following submissions being made to the court, Elders invited to address offender and Magistrate imposes sentence</p>	<p>Submission from prosecution and offender's legal representative.</p> <p>Pre-sentence report and C/JG cultural report submitted to the court. Both reports may be submitted verbally.</p> <p>Following submissions being made to the court, Elders invited to address offender and Magistrate imposes sentence</p>
<b>Post-sentence supervision</b>	<p>Formal conditions requiring offenders to have contact with Elders post-sentence are not imposed.</p> <p>Elders may visit offenders in correctional centres to offer support and assistance where possible</p>	<p>Formal conditions requiring offenders to have contact with Elders post-sentence are not imposed</p>	<p>May be formal conditions imposed as part of a non-custodial sentence for the offender to visit or report to the Murri Men's Group, Murri Women's Group, C/JG and/or Elders</p>	<p>May be formal conditions imposed as part of a non-custodial sentence for the offender to visit or report to the C/JG and/or Elders.</p> <p>Informal arrangements whereby Indigenous Liaison Officers in correctional centres may be notified to facilitate inclusion in programs, identify needed support, or identify risk of self harm</p>	<p>May be formal conditions imposed as part of a non-custodial sentence for the offender to visit or report to the C/JG and/or Elders</p>

a: Reflects the operation of the Murri Court in each location during the evaluation period. The AIC has been advised that there have been a number of changes to the court process in the evaluation sites since the end of 2008

b: In the early stages of the evaluation period, advice provided to the AIC indicated that the C/JG had a more active role in the court process. The C/JG coordinator performed many of the functions now performed by the coordinator of the Murri Men's and Women's Groups

c: Initial reports provided to the AIC indicated that the Mount Isa Murri Court did not impose a period of imprisonment —where a custodial sentence was to be imposed the offender was remitted back to arrest court for sentencing. This policy has since been changed. Periods of imprisonment may be imposed, however, positive levels of compliance with the bail program may be reflected in custodial sentences that can be served in the community through immediate release parole or suspended sentences

- the preparation of case plans by QCS or DoC in consultation with other service providers including drug, alcohol, psychological and violence treatment agencies and in some locations, in consultation with Elders, the offender's family, CJG and Indigenous community groups;
- increasing the direct involvement of service providers in Murri Court processes; and
- Men's and Women's Murri Group coordinators, CJG coordinators and/or Murri Court coordinators increasingly taking on the responsibility for supporting and managing the offender during pre-sentence and, to a lesser extent, post-sentence supervision.

This is not necessarily true across all courts and offenders; the focus of the Youth Murri Court has remained, for the most part, on providing a culturally-appropriate sentencing option for young Indigenous offenders and an opportunity for the Elders to confront the offender regarding their behaviour. Nevertheless, expanding the focus of the Murri Court has significant implications with respect to the future resourcing and overall management of the program.

## Flexibility in court processes

In practice, while there are local protocols and processes that have been established in each court location, it is not unusual for these processes to vary between different matters. The relative informality that characterises Murri Court processes allows those involved in the court some flexibility in regards to how they support the process. For example, while there are formal processes in place for the CJG, Elders or Murri Group to interview offenders (either to prepare a cultural report or as part of a pre-sentence interview), in many cases, there will be a need to accommodate the various circumstances of each offender and to work within the bounds of their availability for interviewing.

Similarly, court processes in each jurisdiction are dynamic and subject to refinement. Murri Court is constantly evolving to respond to the needs of the court, the community and local issues as they arise. For example, since completing the initial round of consultations and observations, Caboolture had

established both a CJG and an Adult Murri Court. In the early stages of the evaluation period, advice provided to the AIC indicated that the CJG had a more active role in the court process. The coordinator of the Murri Men's and Women's Groups now performs many of the functions previously performed by the CJG coordinator. Brisbane has also attempted to initiate a bail program coordinated by the JAG Murri Court coordinator that focuses on providing meaningful training and employment opportunities for offenders.

Many stakeholders have reported that Murri Court requires continuous refinement and modification of local practices and procedures to ensure that the court remains responsive to the needs of the local community and operates as efficiently and effectively as possible. One of the important findings from the consultations has been the extent to which information and lessons learnt are shared between the different courts, something that has facilitated the regular improvement of court processes.

Flexibility and local discretion are important features of effective programs supported by the community. However there are certain features of the program, specifically those that distinguish Murri Court from mainstream Magistrate and Children's Courts (see above), which are regarded as critical factors in the ability of the program to deliver a more appropriate and effective sentencing option for Indigenous offenders. In addition, there is growing support for the inclusion of certain elements of the program that are viewed as enhancing the overall impact of the court, such as pre-sentence interviews, pre-sentence supervision (either as part of a formal bail program or under bail conditions) and post-sentence support. These are important mechanisms for delivering key outcomes and need to be retained and where possible, enhanced.

Ensuring that key elements of a program are implemented as intended refers to implementation or program fidelity. Determining whether a program has implementation fidelity requires examining the:

- adherence to program design;
- exposure or number of interventions delivered;
- quality of program delivery; and
- extent to which participants are engaged and involved in the program (Mihalic et al. 2004).



Modifications to the Murri Court model, whether they be ad hoc or longer-term changes, need to be considered against the effect these changes have on the impact of the intervention, the quality of the service delivery and participation in the program (including both offenders and court partners). These need to be considered at the local level (ie within the relevant court) but reflect statewide standards and decisions to modify components or deliver them on an ad hoc or as required basis should be, like the establishment of the courts themselves, based upon a collaborative agreement between Magistrates, Elders and other key court partners.

The practice and procedure manuals were designed to support this process by documenting the court process in each location to ensure that all stakeholders were aware of how the court operates and the nature of their contribution. The intention was that this document would be updated when changes to the process were made. However, there was little evidence that this had actually occurred during the evaluation period and not all stakeholders appeared to be aware of, or supportive of, the manuals. It is important that local practice and procedure manuals for each court be developed and agreed through consultation with court partners, as well as being consistent with any guidelines developed centrally. As processes change in response to local issues, or when more effective processes are established, it is important that there is a formal process established in which someone involved in the program systematically records procedural changes and communicates these changes to court partners, particularly Elders. This can help to ensure the court operates with maximum efficiency and ensures that the potential for confusion or frustration with changes to the court process among court partners is minimised.

## Program funding and resources

In response to the findings from the 2005–06 review, the Queensland Government committed additional funding to support the Murri Court program in the five evaluation courts. In addition to funding the

development of a dedicated information system and the AIC evaluation, funding was also provided for:

- six Murri Court case coordinators and a statewide coordinator;
- Magistrate relief, to enable Magistrates to be relieved of their usual duties to appear in Murri Court and continue to build stakeholder relationships;
- an expense allowance for each Elder or respected person who advises the Magistrate on Murri Court sitting days as well as to cover the cost associated with travel for both Elders and case coordinators;
- training for CJGs, Elders and respected persons to enable them to better assist the Murri Court;
- training all other stakeholders in court processes and cultural awareness; and
- a conference for Murri Court Magistrates, court staff, CJG members, Elders and respected persons.

Consistent with the findings of the review, feedback from key stakeholders involved in the Murri Courts suggests that the process is resource intensive when compared to mainstream court processes.

- A comparatively small number of matters are heard on any one Murri Court sitting day, due to the additional time taken to deal with individual offenders and matters can take much longer to finalise in Murri Court than in mainstream court processes.
- Additional preparation is required prior to each sitting day to prepare pre-sentence reports (especially for QCS, Youth Justice and Elders) and liaise with other key Murri Court stakeholders.
- Post-sentence support from the community can be intensive and places considerable burden on Elders, Indigenous community groups and members of CJGs.
- The focus of Murri Court has expanded to take on an increasingly intervention-focused approach to reoffending.

A common concern that was raised during the interviews with various stakeholders involved in the Murri Court program across the different locations was the lack of resources available to support the



program and the impact that this might have on the capacity of the Murri Court to continue to operate effectively over the long term.

## Court partners and stakeholders

There is a core group of stakeholders involved in the delivery of Murri Court across all five evaluation sites. These stakeholders and the nature of their contribution to the Murri Court process are described in Table 6. In practice, there are differences between the evaluation courts in terms of level of involvement of some of these stakeholders in Murri Court, however, where they are involved they generally perform a number of key functions.

For some of these court partners, such as QCS, DoC and QPS, the nature of their role in Murri Court in terms of what they contribute to the process is not significantly different from their role in a mainstream Magistrates or Children's Court. However, the time taken for each matter is substantially greater in Murri Court—often requiring far greater amounts of preparation prior to court sittings and higher levels of coordination and contact with other agencies involved in the process.

Beyond this core group of stakeholders there are a range of other agencies (government and non-government) who have a role in Murri Court, either on a regular or more ad hoc basis. These agencies and their role in Murri Court differ between courts and their involvement is largely negotiated at the local level.

The majority of court partners in the evaluation sites are currently not receiving specific funding to support their involvement in Murri Court. Most acknowledge that their organisation invests a significant amount of time as additional duties to support the operation of Murri Court processes. The rapid growth of Murri Courts operating across Queensland has placed an increased burden on those partners involved in the court program. Many stakeholders advocated for greater recognition of their considerable involvement in Murri Court processes, not only on the day of sentencing,

but also for their role and the support provided to offenders pre- and post-sentencing. It was suggested that this was becoming increasingly important as the Murri Court moved towards an expanded intervention model and is also likely to become an increasing issue for some stakeholders in those areas that implement formal pre-sentence supervision (ie a bail program).

Despite the fact that the majority of court partners are not funded for their participation in the Murri Court program, there is a high degree of support for the program among those agencies that are involved. A number of stakeholders indicated that, despite the lack of funding for their role in the program, key state government stakeholders including QPS, DoC and QCS have demonstrated that they are supportive of the process and modify the manner in which they interact with other court stakeholders, consistent with the informal nature of proceedings. Similarly, CJG members and community-based organisations continue to invest considerable time and resources in supporting Murri Court participants.

There was some feedback from court partners that suggested that, on occasion, some individuals were not as supportive of the program, or did not appear to understand what the philosophy was behind the Murri Court. This was more often the case with staff that had been recently appointed or allocated responsibility for contributing to Murri Court. This highlights the importance of training and induction for new staff employed by those organisations involved in the Murri Court program. Given the issues often encountered in the delivery of programs associated with staff retention and turnover, particularly those operating in regional and remote areas, there is likely to be a continual turnover of new staff with either limited experience in working with Indigenous communities or Indigenous criminal justice initiatives and who have not previously been involved in the Murri Court program. Training for stakeholders involved in the Murri Court should focus on conveying the underlying philosophy of the court program, important aspects of Indigenous culture relevant to the operation of the court program and guidelines and key principles relating to the operation of the court in the various jurisdictions.

**Table 6** Key stakeholders and a description of their involvement in Murri Court

Stakeholder	Roles and responsibilities
Magistrate	<p>Responsible for sentencing the offender and the overall management of the Murri Court hearing.</p> <p>Has the final say with respect to whether an offender is eligible for Murri Court.</p> <p>Presides over court proceedings and imposes sentences based on the evidence before the court and the information provided through the various submissions made by all court participants.</p> <p>Responsible for encouraging and supporting an open dialogue between all stakeholders, including the Elders, the offender and their family and various court partners during sentencing</p>
Elders and respected persons	<p>The role of Elders and respected persons can include:</p> <ul style="list-style-type: none"> <li>• advising the Magistrate about cultural and familial issues;</li> <li>• providing background information about the offender;</li> <li>• assisting the offender in understanding court processes and explaining the meaning of the Magistrate's questions or concerns to the offender;</li> <li>• assisting the Magistrate to decide on a sentence that is most appropriate; and</li> <li>• acting as a connection between the court and the local Indigenous communities.</li> </ul> <p>Elders may meet with the offender and their family prior to sentencing, will participate in the sentence hearing and may provide support to the offender while on pre-sentence supervision, in custody or post-sentence (contact with Elders may be informal or condition of bail/sentence)</p>
CJG members	<p>Support Indigenous offenders at all stages of the legal process, encourage diversionary processes and develop networks with other agencies to ensure that adequate support is available for Indigenous offenders. In Murri Court, this can include:</p> <ul style="list-style-type: none"> <li>• Providing the court with information regarding the offender, their suitability for Murri Court and community-based orders and the effect of the offending on the local Indigenous community through written or oral reports to the Court following consultation with offenders, Elders and the local community.</li> <li>• Providing information to the court on culturally-appropriate programs, courses and treatment options available in the community. These programs and treatment options may be included in the sentencing options open to the court and may be tailored to the issues relating to the offending behaviour in the best interests of the community.</li> <li>• Providing support to the offender while engaged in pre-sentence supervision, in custody or post-sentence</li> </ul>
Murri Court coordinator (JAG)	<p>Liaise with other government departments and non-government organisations to source rehabilitation and program options for Murri Court clients, providing this information to the Magistrate and Elders for their consideration.</p> <p>Attend meetings on behalf of the Magistrate to keep the community in touch with the Murri Court activity.</p> <p>Compile an offender profile before and after sentencing and record details of each client on a purpose-developed database for the evaluation of the Murri Court.</p> <p>Organise and transport the Elders or respected persons to Court and to any specific meetings associated with Murri Court, liaise with Elders or respected persons before court to provide information regarding the clients for Murri Court and liaise with the Registrar for payment of the Elders or respected persons.</p> <p>May assist in providing support to offenders before and after court and while offender is engaged in pre-sentence supervision under bail conditions</p>
Offender's legal representative	<p>Typically an employee of ATSILS.</p> <p>Takes instruction from their client at the time of the appearance before the Magistrates or Children's Court regarding their plea and their willingness to have the matter transferred to the Murri Court. They also provide advice to offenders regarding whether they should consider the option of being sentenced in Murri Court.</p> <p>Makes submissions to the Court on behalf of their client relating to their client's background and any circumstances surrounding the offence that they have discussed with their client and which the offender wishes the Court to take into consideration. They may also discuss their client's willingness and capacity to commit to a recommended course of action as part of their sentence to address these underlying issues.</p> <p>Additional support is provided to the offender before, during and after sentencing by ATSILS field officers, who will help to explain the sentence order or facilitate contact with the relevant agency post-sentence</p>

**Table 6 continued**

Stakeholder	Roles and responsibilities
QPS	<p><i>Police prosecutor</i></p> <p>This role is usually fulfilled by a police officer but in some courts, the prosecutor may be a civilian.</p> <p>Preparation for Murri Court can include researching the facts of the case and gathering information pertaining to the charges, checking criminal histories and ascertaining whether new offences have been committed, reviewing offender's progress while on bail, researching appropriate sentencing options.</p> <p>Role in sentence hearing includes reading out of the charges and presenting the facts of the offence(s), providing the Magistrate with the details of an offender's criminal history, making submissions as to, or commenting on, recommended sentences, submitting victim impact statements to the Court where applicable.</p> <p><i>PLOs</i></p> <p>Support the Murri Court process, particularly while an offender is on bail, by actively contacting offenders to ensure that they abide by their bail conditions.</p> <p>Also support the Murri Court in their role building and maintaining a positive relationship between the Indigenous community and the QPS.</p> <p>In addition to locating and supporting offenders while on bail, PLOs roles have also been expanded in at least one location (Mount Isa) to assist in the preparation of a victim impact statement</p>
QCS	<p>Prepare a pre-sentence report (where a report has been ordered by the Magistrate and the offender is at risk of a custodial sentence) based on an interview with the offender once they have been referred to the Murri Court for sentencing.</p> <p>Make submissions to the court based on this report outlining recommendations for sentencing and strategies for addressing the offender's offending behaviour, including referral to local service providers.</p> <p>Supervise offenders on community-based orders, including those placed on intensive correction orders, probation, community service orders and those who are imprisoned but are immediately released on parole.</p> <p>May develop case management plans for an offender based on an individual assessment of the issues associated with that individual's offending behaviour. This will include referrals to programs provided by QCS and referrals to external counselling services. QCS is responsible for the delivery of programs and services that may be offered to offenders sentenced in Murri Court to custodial sentences or non-custodial sentences</p>
DoC Youth Justice Services	<p>Provide submissions to Youth Murri court, primarily for those offenders who may be facing a period of detention, including information relating to:</p> <ul style="list-style-type: none"> <li>• factors that may be contributing to the offending behaviour, the young person's attitude to the offence and consequences experienced by the young person;</li> <li>• the offender's past experience serving community-based orders and their performance on any existing orders; and</li> <li>• programs and services that the department can provide which may help to address the underlying causes of the young person's offending behaviour.</li> </ul> <p>Usually involved in making recommendations as to appropriate bail conditions for serious offenders and supervise offenders serving community-based orders.</p> <p>Provide a range of programs for young people that receive a court order in Youth Murri Court, are responsible for the delivery of programs, activities or counselling to juveniles sentenced to a period of detention and provide youth justice conferencing</p>
Service providers	<p>A range of government and non-government organisations may, at the request of the Magistrate, provide rehabilitative and intervention services to offenders in Murri Court. This may occur as part of an offender's bail conditions, or as a condition of a community-based order.</p> <p>They may be required to conduct an assessment prior to sentencing as to the suitability of the offender to participate in the relevant service and provide submissions to the court either directly or via the submissions of QCS, DoC or CJC</p>

## Eligibility for the Murri Court

An offender's participation in the Murri Court is contingent upon them meeting a number of eligibility criteria. Basic criteria exist that extend to all courts examined as part of this evaluation. These state that for an offender to be referred to the Murri Court they must:

- be Aboriginal and/or Torres Strait Islander (and in Rockhampton, a South Sea Islander);
- have pleaded or intend to plead guilty to an offence in the Magistrates Court;
- be charged with an offence(s) that was committed within the relevant Magistrates Court jurisdiction (additional charges may be listed along with this charge);
- be charged with an offence(s) that are summary offences or indictable offences that can be dealt with summarily by law (ie for which they may be sentenced in a Magistrates Court);
- consent or request to be sentenced in the Murri Court; and
- for Youth Murri Court, be a child under Queensland law (ie under 17 years).

Responsibility for deciding whether an offender will be referred to a Murri Court ultimately rests with the Magistrate. The Magistrate, when deciding whether to refer the matter to Murri Court, will consider submissions from the prosecutor, the offender's legal representative and where applicable, the coordinator involved in supporting the offender while on bail.

The Adult Murri Court has been established as a jail diversion strategy for those offenders who have pleaded or intend to plead guilty and who can, with the appropriate support mechanisms, demonstrate that they are suitable, willing and capable of complying with the requirements and conditions of alternative non-custodial sentencing options. In all five Adult Murri Courts examined as part of this evaluation, feedback from court partners indicated that prospective participants needed to be at risk of receiving a custodial penalty; this included an actual term of imprisonment as well as suspended sentences or imprisonment with an immediate parole release date (ie custodial penalties served in the community).

Offenders must be willing for the referral to take place and aware that they are required to take the process seriously. However, in most courts there is limited opportunity to assess the offender's willingness to participate outside of the initial appearance in Arrest Court. The offender will typically be informed of their obligations associated with participating in the Murri Court by their legal representative, so that they are made aware of the level of commitment required. Legal representatives therefore serve an important function in determining who is referred to Murri Court. Legal representatives who specialise in representing Indigenous offenders indicated in consultations that they will only recommend Murri Court to the offender if they believe that the offender is prepared to confront their offending behaviour and is suitable for the program. There is limited guidance to assist them in determining whether this is the case.

Some stakeholders indicated that a more consultative approach to assessing the eligibility of offenders would help to identify those offenders not suited to participation in the Murri Court, especially for adults and more serious juvenile offenders and to increase compliance with the conditions of formal bail programs, pre-sentence supervision and community-based orders. Strategies that have been implemented in some locations include:

- Men's and Women's Murri Group coordinators attending mainstream Magistrates Court to advise the Magistrate about Indigenous offenders and their suitability of the bail program (Mount Isa);
- adjourning the matter to an assessment mention, that is, a Murri Court sitting involving all stakeholders in which the eligibility and suitability of the offender for Murri Court can be considered (Townsville and, if necessary, Mount Isa); and
- Murri Elders becoming more actively involved in assessing the eligibility of offenders for participation in the bail program (Brisbane).

Assessing the suitability of offenders for transfer to the Murri Court is considered particularly important for those locations with a bail program. However, most stakeholders acknowledged that additional assessment processes would have an impact on the efficiency of the court and its capacity to continue to manage current caseloads.

One of the important lessons from experience with specialty court programs has been the need to review and, where necessary amend, eligibility criteria as circumstances change and the need arises (Payne 2005). The young people selected for the Murri Court are those who have been charged with a wide range of offences and may, like adults, also be facing a period of detention. However, the Youth Murri Court has also been utilised as an 'early intervention' court in an attempt by Elders to engage with young people and reduce the risk of further offending behaviour that might lead to incarceration. Consultations with stakeholders involved with Murri Court also identified a growing trend towards extending eligibility to adult offenders not at immediate risk of receiving an actual custodial sentence (as distinct from a suspended sentence or immediate parole release order).

Not restricting eligibility to those juveniles at risk of custodial sentences has had important implications for the operation of the Murri Court. Increasing the number of offenders appearing before Murri Court places a significant strain on limited resources and the small number of individuals that support the process. In response to the increase in referrals, many courts have increased the number of sitting days. While it is important that Indigenous offenders are provided the opportunity to appear before a culturally-appropriate court, it is also important that a balance is found between the number of offenders that appear before the Murri Court and the capacity of the court and stakeholders involved to continue to manage the increased workload.

Interviews with Murri Court stakeholders indicate that the current approach to Youth Murri Court has strong support among Elders as a measure to address crime and antisocial behaviour problems as early as possible. Elders have been vocal supporters and advocates of the expanded eligibility criteria for young people. Nonetheless, there have been issues relating to the implementation of the court and of the Murri Court model with juveniles not at risk of custodial sanctions. Many of the issues that have been encountered are not uncommon for programs working with young offenders, such as engaging young people and issues relating to the presence of guardians. However, some Elders expressed concerns about the impact that extending the court has had on the overall process, including their

capacity to continue to dedicate sufficient time to each matter and offender.

## Pre-sentence assessments

Once an offender has been referred to Murri Court, the presiding Magistrate may (depending upon the severity of the matter) order that the relevant assessments be undertaken prior to the offender's appearance in Murri Court for sentencing. A key difference between Murri Courts and mainstream Magistrate and Children's Court is the level of information that is made available to the court on the offender through a comprehensive assessment process. The Murri Court assessment process is viewed by stakeholders as being integral to providing informed, relevant and culturally-appropriate advice to the Magistrate on issues relevant to an offender's offending behaviour and their suitability for a range of possible sentencing options.

Based on the information obtained through the assessment process, the Magistrate is able to make a decision on appropriate sentencing responses and therapeutic intervention. The assessment process serves several important functions:

- providing information on the circumstance of offenders referred to Murri Court, including those factors that may have contributed to their offending behaviour, which helps to inform the sentencing process as to the needs of offenders;
- determining the impact of the offending behaviour of Indigenous offenders on themselves, the community and their victims; and
- identifying issues that may impact upon an offender's capacity or willingness to successfully comply with the conditions of certain sentencing options, particularly intensive community-based sentences.

In addition to the briefs prepared by the offender's legal representative and police prosecution, assessments that may be requested by the Magistrate include pre-sentence reports (QCS or DoC), a CJG cultural report, Elder assessments, treatment provider reports and victim impact statements. A brief description of these assessments is presented in Table 7.

**Table 7 Pre-sentence assessments**

Assessment type	Responsibility	Description
Pre-sentence report	QCS (Adult Murri Court) or DoC (Youth Murri Court)	This report outlines the reasons that may be contributing to the offending behaviour, the offender's attitude to the offence and consequences experienced by the person as a result of their offending behaviour. The pre-sentence report may address issues such as drug and alcohol use, family circumstance, education and employment status and criminal history. Mental health issues may also be identified. May also outline the offender's past experience serving community-based orders and their performance on any existing orders
Cultural report	CJG or Murri Men's and Women's Group	<p>The cultural report gathers information regarding the offender's personal, family or other social and community information. Cultural reports may also include cultural, spiritual, family issues, historical family connection to land, community participation and development over a period of time.</p> <p>The cultural report may also provide the court with information regarding the offender, their suitability for Murri Court and community-based orders and the effect of the offending on the local Indigenous community. In the case of Mt Isa, the cultural report also provides information regarding the offender's performance and compliance with the bail program</p>
Elder assessment	Elders	<p>Elders interview the offender to seek information that will assist them in their role to provide advice to the Magistrate on cultural issues and provide background information about the offender. They can also use this meeting to explain to the offender the meaning of the Magistrate's questions or address the concerns of the offender if required.</p> <p>The interview with offenders also provides the opportunity for the Elders to determine the needs of the offender with respect to rehabilitative and diversionary services, which helps them to advise the Magistrate during sentencing</p>
Treatment provider report	Government and non-government service providers	<p>Relevant service providers (government and non-government) may be required to assess the suitability of Indigenous offenders for participation in rehabilitative services and programs.</p> <p>If this service is attended as part of the offender's bail conditions, they may also be required to submit to the Magistrate during sentencing a report of the offender's attendance and progress with treatment</p>
Victim impact statement	QPS	Brief statement from the victim regarding the effect of the offending on the victim including any residual matters and/or any detriment suffered by the victim as a result of the offences

The process of completing the range of reports required can be both time consuming and resource intensive. Due to the increasing number of offenders referred to Murri Court, the level of detail required for each report and the number of reports required for each offender, the process of scheduling and reporting on these pre-sentence interviews has been refined. Strategies that have been implemented to overcome these issues include:

- developing a streamlined version of the pre-sentence report, which aims to reduce or eliminate potential duplication between the QCS/DoC report and the CJG report (Rockhampton);
- allowing for the pre-sentence report to be submitted verbally, rather than requiring that a written report be prepared (Townsville);
- organising pre-sentence interviews so that multiple stakeholders and service providers can meet with the offender simultaneously to reduce the potential for duplication across reports (Mount Isa and Brisbane);
- allowing for these pre-sentence interviews to be used to gather information relating to the offender's circumstances and suitability for non-custodial sentences; and

- establishing processes to share information and to discuss issues raised in the different pre-sentence assessments prior to court, to ensure that all relevant information pertaining to the offender's circumstances are brought to the attention of the court and that there is little duplication across the various assessments and submissions (Rockhampton).

Observations of court processes and the submission of these reports suggests that there is occasionally some duplication in terms of the information provided in different reports, including between the pre-sentence reports and cultural reports prepared by the CJG and Elders. However, the CJG cultural report often highlights additional information on underlying issues that may contribute to a pattern of offending behaviour. This includes information such as a recent family death or family problems. Stakeholders suggested that offenders are often more open and honest in describing issues to the CJG and Elders than with government agencies. In some locations, the process of interviewing the offender and completing a cultural report is used by the CJG to decide if, and how, they will support the offender and the role or involvement of the CJG in orders that may be made by the court. The pre-sentence assessment process is as much about informing the responses of key stakeholders in supporting offenders as it is the Magistrate's sentencing options.

Where the offender has been placed on bail, it is common practice in most evaluation courts for a condition to be included that requires the offender to attend meetings with Murri Court stakeholders for pre-sentence assessments. Attendance at these pre-sentence assessment interviews as a formal condition of their bail undertaking was suggested to increase the likelihood that the offender will attend scheduled interviews.

Nevertheless, there is scope for better coordination of assessments and for improved information sharing. Offenders may be subject to a number of different assessments prior to sentencing. It is not always practical for offenders to be contacted and interviewed, particularly where there is limited time between referral and sentencing or where there are issues associated with contacting offenders outside of court (especially with juveniles). Some Elders

expressed some frustration at not being able to access information on offender's current charges and there was some confusion surrounding what information could be shared. Strategies to overcome these issues may include:

- developing pro forma guidelines to assist the preparation of the various pre-sentence assessments;
- improving guidelines and protocols surrounding the sharing of information about offenders;
- establishing processes across all courts whereby the various court partners meet prior to the court appearance to discuss issues raised in the pre-sentence assessments; and
- conducting joint pre-sentence assessments with Elders, CJG members, QCS or DoC and other service providers.

### *Pre-sentence meetings with Elders*

There were different views between stakeholders as to the most appropriate context in which the Elders should engage the offender to discuss their circumstances and the circumstances related to their offending behaviour. Most were of the opinion that such discussion should, wherever possible, take place outside of the court proceedings in the first instance. This provides greater opportunity for Elders to elicit the information necessary to support the offender and advise the Magistrate during court. This can help to improve the efficiency of court sittings. It also increases the likelihood that any issues that the offender may wish for the Elder to be aware of, but may be uncomfortable disclosing to the whole court, will emerge.

In Mount Isa, Rockhampton, Townsville and Caboolture, the Elders attempt to meet with each offender individually on the day of court before the scheduled starting time to discuss a range of issues relating to the current charges, the offender's background and factors relevant to their offending. This pre-sentence meeting with Elders is also designed to elicit a commitment from the offender to meet with Elders or the CJG regularly, attend programs as directed and to not reoffend; the Elders use this meeting to gauge whether the offender appears committed to addressing their behaviour and to determine how they will support them in



court. The interview also represents an important opportunity for the Elders to initiate contact with the offender in a less threatening environment.

Most adult offenders will meet with the Elders for approximately 10 minutes prior to their appearance in court. However, this may not always be possible. Increasing referrals and demands upon the court limit the time available to Elders to conduct these interviews. For young people, logistical barriers relating to transport and guardianship can make it difficult to find time other than immediately prior to court sittings. Where Youth Murri Court runs for a full day, finding the time to meet with offenders prior to their court appearance can prove problematic. There is often limited time to speak with juveniles prior to their court appearance and discussions with the Elders will instead be restricted to inside court.

In Brisbane, there is no opportunity for offenders to meet with the Elders prior to their court appearance, primarily due to the number of matters dealt with on a normal Murri Court day and the logistical barriers this poses in terms of allocating sufficient time for pre-court meetings. All interactions and conversations take place within the court sitting. Similarly, in Mount Isa, the Elders decided not to meet with children not at risk of a custodial sentence prior to their court appearance. In Rockhampton, changes to the original process and scheduling of court times now allows for young people who are not at risk of receiving a custodial sentence to meet with Elders prior to their court appearance. In practice, this process has been difficult to implement and is applied inconsistently.

Given the significance placed upon these pre-sentence interviews and the value of the information that can be obtained through them, it is important that consistent processes be established and strategies implemented in both Adult and Youth Murri Courts (primarily with more serious juvenile offenders) to enable regular contact prior to sentencing.

## Pre-sentence supervision and bail programs

Bail programs have become increasingly prominent as a means of diverting people from incarceration. These programs typically involve the provision of services, intervention or support to assist offenders to successfully complete their bail period (Cotter 2008). Programs are designed to help those on bail to understand and rectify their behaviour, help them to address factors relating to their offending behaviour and demonstrate to the court that they can abide by the conditions of a community-based order when it is time for sentencing.

Within the Murri Court program, upon the tendering of a guilty plea by the offender and with the agreement of the offender and others involved (ie their legal representative, the prosecution, the Murri Men's and Women's Groups where applicable, CJG and Elders), the Magistrate may defer sentence, during which time the offender may engage in pre-sentence supervision under bail conditions. This may involve participation in a formal bail program.

Cotter (2008) has suggested that there are several key principles of effective practice in bail support programs, including:

- voluntary participation rather than mandatory intervention;
- support and intervention rather than supervision or monitoring;
- holistic approaches to intervention and support;
- coordination across various agencies to provide access to different service providers; and
- they be adaptable and responsive to local conditions.

There is evidence that these principles have been applied in locations that have implemented some form of bail program. Offenders must consent to participate in the programs operating in Mount Isa and Brisbane. In Mount Isa, offenders are supported



by the Murri Men's Group or the Murri Women's Group. The involvement of Elders in the Brisbane program is considered an important factor to its long-term success. The Brisbane Murri Court Elders are assisted by Murri Court Case coordinators to continue contact with participating offenders throughout the program.

In Mount Isa, the focus is on integrating more traditional aspects of Indigenous culture and providing therapeutic support to offenders prior to sentencing. In Brisbane, the focus is slightly different, with the bail program oriented towards helping offenders develop skills that will help to prepare them for employment. Both programs were developed to address the specific needs of offenders coming before the respective Murri Courts.

In other court locations with the formal involvement of a CJG, including Rockhampton and Townsville, conditions may be imposed as part of an offender's bail undertaking. These conditions may require them to regularly report to the Elders and/or CJG, in addition to normal reporting requirements. In Caboolture, conditions requiring the offender to have contact with Elders may also be imposed as part of a bail undertaking. The Elders and CJG will offer support to the offender while they are on bail, encourage them to attend relevant programs and services and to attend court as required.

There was evidence that some offenders in Townsville and Rockhampton who were eligible for Murri Court were being referred to QIADP. However, there was some concern that Murri Court participants were not accessing QIADP once they had been referred to Murri Court because Townsville and Rockhampton Adult Murri Courts did not operate as a formal bail program. As a result, it appeared there was some lack of clarity around how the two programs interact and conflicting evidence as to whether someone who appeared in Murri Court would be granted bail, participate in the QIADP program and then return to Murri Court for sentencing.

In Mount Isa, there is strong support among stakeholders for the bail program that currently operates. Views regarding whether a formalised bail program, like the Mount Isa program, could be introduced in other court locations were mixed. Most saw merit in the program insofar as offenders were given the opportunity to address issues affecting

their behaviour prior to sentencing and were therefore potentially less likely to offend if sentenced to some form of community-based order.

Similarly, offenders are also able to demonstrate their willingness and capacity to comply with stringent bail conditions, which may provide some indication as to whether they are suitable for a non-custodial sentence. Some stakeholders expressed concerns that without the mechanisms currently supporting the bail program in Mount Isa, such as the Murri Men's and Women's Groups (and previously the CJG coordinator), there is a significant risk of offenders breaching bail conditions. The implications of pre-sentence supervision for stakeholders such as CJGs and QPS need to be carefully considered (the issue of monitoring compliance is discussed below).

However, the recent experience in Brisbane, whereby a bail program has been implemented that focuses on improving offender's employment prospects, suggests that bail programs can be adapted to suit local circumstances. The key feature of this program is that there is support from a range of partners, not limited to those involved in Murri Court and the program is appropriately resourced. It is worth noting that the Brisbane bail program is not continually available and has yet to gain formal recognition among all court partners as a complementary support for improved sentencing options within the Murri Court.

The expansion of these programs in other locations must be well supported by the various stakeholders likely to have some level of involvement in monitoring offenders' progress while on bail. In addition, there must be adequate resources available to support the program. The Murri Men's group supporting the bail program in Mount Isa, while now in receipt of funding to ensure its continued operation, was originally supported by dedicated staff with limited funding. Such an approach is not sustainable, nor is it likely to be effective.

### *Monitoring compliance*

One of the key issues in relation to the operation of bail programs is the responsibility for monitoring compliance. Responsibility for monitoring compliance with bail conditions rests with QPS. However, processes have been instituted in both Mount Isa

and Brisbane bail programs to provide assistance in monitoring offenders' progress while on bail. In Mount Isa, the coordinator of the Men's and Women's Murri Group oversees the offender's progress on the bail program and is responsible for following up with the offender if they fail to meet the conditions of the bail. The Murri Men's and Women's Group coordinators are supported in monitoring the progress of the offender by the Murri Court coordinator. In Brisbane, participants are supported by Murri Court Case coordinators. Interviews with PLOs indicated that they undertake to support offenders to comply with their bail conditions (not limited to bail programs) and contact the offender when an issue arises.

In Mount Isa, if an offender is not complying satisfactorily with the bail program, the Men's or Women's Murri Group coordinator may recommend that the offender be transferred back to mainstream Magistrates Court. If non-compliance with the conditions of the bail program remains an issue after intervention by the coordinator, they may then make a complaint to QPS regarding the breach of the bail program. An application for revocation of bail and a warrant for breaching bail will be made by the police prosecutor. There was limited feedback on the relationship between the coordinator of the Murri Men's and Women's Groups, Murri Court coordinators and QPS in managing bail compliance and responding to breaches. However, the role of Murri Men's and Women's Group, CJGs, the Murri Court coordinator and to some extent Elders in supporting offenders while on the bail program is regarded by many stakeholders as an important factor in improving compliance and minimising breaches. Developing some form of agreement between the various parties in relation to monitoring offenders while participating in these bail programs and reporting breaches to QPS may lead to increased efficiency in supervising Murri Court participants while on bail.

## Post-sentence support and the availability of programs and services for Indigenous offenders

A greater level of support is offered to Indigenous offenders post-sentence in the Murri Court than in mainstream Magistrate or Children's Courts, although this varies between the different court locations. Stakeholders were of the view that post-sentence support was a crucial factor in increasing compliance with community-based orders.

There are two levels of post-sentence support. Initial contact with the offender post-sentence aims to complete communication with the offender so that there is no misunderstanding of the court outcome or the expectations of the offender. An offender may not fully understand all that has been said in court and will need further explanation as to the directions of the court and their obligations outside of the formal court process. The offender may be approached by QCS or DoC to ensure that they understand the conditions of the sentence, the requirements of their order and the procedure they need to undertake while on orders. ATSILS field officers, Murri Court Coordinators, Elders and CJG members may also approach the offender to provide an opportunity to debrief. Contact with offenders immediately post-sentence is viewed by stakeholders as an important part of the process, however, this contact is frequently ad hoc depending upon the nature of the sentence imposed by the Magistrate and the availability of relevant stakeholders.

Providing longer-term support to the offender post-sentence also aims to minimise the likelihood that the offender will breach the conditions of their community-based order as well as facilitate access to counselling, treatment and other programs and services. The process reaffirms the interest of the

court and stakeholders in the future progress of the offender. Murri Court also seeks to provide additional support as part of community-based orders imposed on offenders. In Rockhampton, Townsville and Mount Isa there may be formal conditions imposed as part of a non-custodial sentence for the offender to visit or report to the CJG and/or Elders. The CJG liaises with the QCS or DoC (as appropriate) as to whether such reporting or visits are actually occurring and what course of action should be adopted if they are not. The Elders offer general support to the offender. The CJG and the Elders may be a conduit for referral of the offender to culturally-appropriate counselling, treatment or other services in conjunction with QCS or DoC. They may assist the offender with the practical aspects of following through with those referrals (eg transport, making appointments etc). In those instances where there are formal reporting conditions, the QCS or DoC will check periodically with the CJG to ensure that offenders are complying.

In those courts where CJGs are involved, they will often liaise with QCS or DoC to ensure that offenders are complying with their reporting conditions. Feedback from QCS suggests that offenders may be more likely to comply with orders requiring them to report to CJG than with those requiring them to report to government agencies. This suggests that CJG may have an important role in increasing compliance with bail conditions and community-based orders among Indigenous offenders. This supports the need to clearly define the nature of CJG involvement (including whether it is on a formal or informal basis).

For offenders who have been sentenced to custodial sentences, some courts have negotiated informal arrangements whereby Indigenous Liaison Officers in correctional centres may be notified to facilitate inclusion in programs, identify support needed, or identify risk of self harm. In addition, some Elders will visit offenders in custody to offer support and assistance where possible. This is important, as offenders sentenced to prison are frequently separated from important support networks which can exacerbate problems associated with their successful reintegration back into the community.

## *Culturally-appropriate programs and services*

As with the 2005–06 review, consultation with Murri Court stakeholders indicated that there was considerable concern regarding the lack of available services for Indigenous offenders in many Indigenous community locations, particularly services that are culturally-appropriate and Indigenous-specific. Particular concern was raised regarding the availability of temporary accommodation, especially in regional and remote areas, and residential drug and alcohol treatment facilities. The role of rehabilitative and support services for offenders prior to and upon release from prison or detention is also regarded as being critical to their successful transition back into the community.

The range of issues faced by Indigenous offenders appearing before the Murri Court means that the availability of culturally-appropriate services that address the underlying reasons for offending are critical to the effectiveness of the court process.

They are not suffering from one singular problem at any one time they are suffering from multiple problems that stem from long term abuses of various kinds, including addiction, lack of education, family dysfunction and often social exclusion as well as an inherent distrust of the criminal justice system and everything that stems from it (Elder personal communication 2008)

It is important that the programs and services committed to those offenders appearing before the Murri Court are available to offenders post-sentence, both to reduce the risk of reoffending and to maintain perceptions of the court as a legitimate intervention to address high rates of offending in Indigenous communities. This is particularly true in light of the fact that Magistrates will consider the availability of appropriate services and treatment options when considering non-custodial sanctions. The availability of appropriate services for offenders engaged in pre-sentence supervision under bail conditions is also important.

The court process is an effective mechanism for identifying a range of problems, such as substance

abuse and mental health issues as contributing factors to offending behaviour. However, if there are no services available to address these problems, then the process is likely to have limited success in modifying behaviour and reducing reoffending. It appeared on the basis of the interviews with key stakeholders and observations of Murri Court matters that offenders were frequently offered opportunities for drug and alcohol treatment and counselling, however, there were fewer examples of referrals to other culturally-appropriate forms of counselling such as life skills, anger management and cognitive skills programs.

In addition to services within the community, stakeholders identified the lack of culturally-appropriate programs in correctional settings, including anger management and cognitive skills programs. Issues relating to the availability of culturally-appropriate programs and services, and service provision more generally, vary across regions, but appear to be an issue of common concern across all evaluation courts. Issues relating to the availability of diversionary activities for Indigenous young people were also discussed, with some stakeholders expressing the view that the lack of programs for Indigenous youth increases the risk of young offenders reoffending or coming into contact with the criminal justice system.

A key feature of the Murri Court is that wherever possible, the rehabilitation and program options offered to Murri Court clients are recommended on the basis that they are either Indigenous specific or culturally appropriate. The CJG, Elders and more recently, the Murri Court case coordinators, assist in this regard by sourcing information about appropriate services available in the region and facilitating contact between offenders and these services.

Positive steps have been taken by stakeholders involved in Murri Court to increase access to services. Nonetheless, it was clear from the consultations that steps needed to be taken to improve the availability of culturally-appropriate services. Facilities are often overworked and under-resourced, and the lack of services is a

significant point of frustration which, it was argued, may have a detrimental impact on the positive support for the program within the community.

There were different views regarding how best to address the problem. Some stakeholders felt that the situation could be improved through:

- increasing financial and technical support for Indigenous community organisations and CJGs to develop and implement culturally-appropriate services to meet the needs of local Indigenous communities;
- developing the skills and expertise of local Indigenous people through training to assist in the delivery of services for Murri people and increase the capacity of communities to deal with local issues; and
- increasing the capacity of existing service providers (not limited to those that deal only with Indigenous people), especially those that target substance abuse problems and mental health issues, to cater for Indigenous clients.

Feedback from court partners suggests that steps already taken by coordinators, CJGs and Elders, such as audits of local services available to support clients and coordination between court partners, have helped to increase contact between offenders and service providers.

Several service providers indicated that when they adopt culturally-appropriate processes, Murri participants become more willing to be involved in counselling. This includes, as with Murri Court itself, removing formality from the program and taking the time to build effective relationships between service providers and Indigenous clients. While this is a time consuming process, it increases the likelihood that offenders will engage in the process and discuss issues relating to addictions and behavioural problems openly and honestly.

Nevertheless, there is scope to improve the degree of coordination between services provided by QCS and DoC, Elders and CJGs, and other external service providers. The absence of a statewide coordinated approach to Murri Court may hamper efforts in this regard.

# Framework to guide the establishment and operation of Murri Courts

The Murri Court program would benefit from the development of an overarching framework to provide guidance to new and existing Murri Courts operating across Queensland. There are certain features of the program, specifically those that distinguish Murri Court from mainstream Magistrate and Children's Courts, which are generally accepted as important factors in contributing to the ability of the program to deliver a more culturally-appropriate and effective sentencing option for Indigenous offenders. It is important that these features are applied, albeit with some adaptations to suit local circumstances, across the different Murri Court locations. These features were highlighted at the beginning of this chapter.

As has already been discussed, a key feature of the Queensland Murri Court program has been the relative independence of each court and the flexibility which enables Magistrates and Elders to work collaboratively to reach an agreement regarding the most efficient and effective Murri Court appropriate to the conditions of the local area. It is important that any operating framework not be overly prescriptive and instead be sufficiently flexible so as to accommodate the local context in which each Murri Court is operating. The development of a framework should also reflect the different modes of operation in Murri Court, including bail programs and sentencing courts, as well as the differences between Adult and Youth Murri Courts.

There are different mechanisms through which this framework could be implemented. These include:

- establishing the Murri Court in legislation;
- the development of a set of operating principles or minimum standards to guide the operation of the Murri Court; and
- the development of statewide guidelines that describe the recommended protocols and procedures (in general terms) for different components of the Murri Court program.

There are advantages and disadvantages to each approach. In all likelihood, the development of an overarching framework may require a combination of these approaches, or perhaps all three.

The 2005–06 review concluded that the Murri Court needed to be established in legislation to ensure that existing Murri Courts would continue to operate and to increase the transparency and ensure that all offenders were treated equally within the court (Parker & Pathé 2006). However, it too highlighted the importance of flexibility to respond to local issues in areas such as the number of Elders who assist the Magistrate, the degree of court formality, the application of bail programs and the involvement of Elders in providing post-sentence support to offenders.

Establishing the Murri Court in legislation will help to ensure that it remains a permanent feature of Magistrates and Children's Courts operating across Queensland. Legislation recognising the partnerships operating within Murri Court might address current limitations on information sharing, program definition and resource dissemination. However, on its own, legislation is likely to have limited capacity to prescribe the range of fundamental features described above. Establishing a set of operating principles is likely to be the least prescriptive approach, but would still provide a basis to assist local Magistrates, representatives of the local Indigenous community and court partners in making important decisions on how to run the court. The third option, developing guidelines for the operation of a Murri Court, would assist in providing best practice guidelines to those communities looking to establish a Murri Court. However, these guidelines would also need to be structured in such a way that key features were suitably adaptable to local conditions.

Ultimately, the decision as to which way to proceed will be determined by a number of factors:

- the specific purpose of the framework, such as:
  - ensuring that certain elements are retained and possibly enhanced in Murri Courts operating across Queensland, albeit with some local adaptations;

- improving transparency and accountability; and
- increasing the understanding of the process and how it works among those stakeholders involved in Murri Court and among those stakeholders external to the program;
- a decision regarding which aspects of the Murri Court should be determined centrally and which features of the Murri Court are best left to the discretion of Magistrates, Elders and other local court partners;
- the degree of flexibility that is desired in terms of allowing for local discretion in applying the elements specified in any framework; and
- whether there are funding implications, such as linking future funding for the program to certain components of the overarching framework.

The development of this framework would also help to more clearly articulate the process through which the Murri Court program (in its various forms) is designed to achieve its main objectives and to draw a clear link between the operational components of the program and these objectives. This would, in turn, help to identify what aspects of the program are critical to achieving these objectives. Bail programs delivered as part of Murri Court would, for example, benefit from greater definition of purpose, process and partner participation. This may include the establishment of minimum standards for bail programs to provide greater consistency to these processes. The same is also true for those courts that attempt to provide greater opportunities for participation in relevant programs under post-sentence supervision.

## Stakeholder roles and responsibilities

As part of this process, there is a need to more clearly define the roles and responsibilities of the core group of stakeholders involved in the Murri Court program. This is particularly important for those stakeholders who are not involved, or have limited participation, in mainstream court processes or whose role in Murri Court differs significantly from

other court processes. For example, the role of CJGs in supporting the Murri Court may need to be more clearly defined, particularly in those locations not supported by a dedicated Murri Court coordinator. This is true also of the role of PLOs in supporting the Murri Court program, particularly in those locations with a bail program.

This should occur at two levels. There should be agreement at a state level regarding the contributions of different stakeholders (court partners) to the Murri Court program. Further to this, there should be some form of local agreement in each location which defines the precise nature of each stakeholder's contribution to the Murri Court program, within the parameters of any higher level agreement. This would include local community-based organisations that are not subject to any statewide agreement and could be reflected in local practice and procedure manuals.

## Summary of key recommendations

Based upon the findings presented in this chapter of the report, the AIC recommends that the following actions be considered to improve the operation of the Murri Court program.

### *Recommendation 1: Key features of the Murri Court program*

While allowing for some local flexibility, the key features of the Murri Court program that distinguish the court from mainstream court processes and are regarded by court partners as fundamental to the effectiveness of the court should continue to form the basis of both new and existing Murri Courts across Queensland.

### *Recommendation 2: Modifications to the Murri Court model*

Decisions to modify the operation of a local Murri Court as it relates to fundamental features of the program should be, like the establishment of the



courts themselves, based upon a collaborative agreement between Magistrates, Elders and relevant key court partners, and should take into consideration the impact of the changes in terms of both the efficiency and effectiveness of the court process.

### *Recommendation 3: Practice and procedure manuals*

Practice and procedure manuals for each court should be developed in consultation with key stakeholders involved in the program. Practice and procedure manuals should be endorsed by court partners and consistent with the overarching framework guiding the operation of the court program.

### *Recommendation 4: Documenting changes to the Murri Court process*

Changes to the Murri Court process should be documented in the practice and procedure manual for that court and communicated to various stakeholders involved in the program and potentially affected by the changes.

### *Recommendation 5: Resourcing*

Adequate resources need to be available to support the continued operation of the program, irrespective of what mode of operation the program adopts in the future. This includes funding to support the involvement of the core group of stakeholders involved in the program in each location.

### *Recommendation 6: Training, mentoring and professional development*

Training and induction should be provided to new staff employed by those organisations involved in the Murri Court program. Training for staff involved in the Murri Court should focus on the underlying philosophy of the court program, important aspects of Indigenous culture relevant to the operation of the court program and procedures, guidelines and key

principles relating to the operation of the court. Opportunities for mentoring of new staff should be explored.

### *Recommendation 7: Assessing the eligibility of offenders*

There is a need to consider the viability of a more consultative approach in assessing the eligibility of offenders where it does not currently exist; one that involves Indigenous groups, CJG members and Elders, particularly where they are involved in supporting the offender pre- or post-sentence.

### *Recommendation 8: Pre-sentence assessments*

Protocols surrounding the sharing of information from the various pre-sentence interviews conducted as part of the assessment process should be reviewed and strategies implemented to minimise the time and resources required to complete multiple assessments without limiting the level of information available to Elders, Magistrate and court partners.

### *Recommendation 9: Pre-sentence interviews*

Consistent processes in both Adult and Youth Murri Courts (primarily with more serious juvenile offenders) should be established that provide the opportunity for offenders to meet with Elders, CJGs and/or Indigenous support groups prior to sentencing.

### *Recommendation 10: Murri Court bail programs*

The expansion of bail programs into other locations should be well supported by the various stakeholders likely to have some level of involvement in monitoring offenders' progress while on bail. Where they do operate, bail programs would benefit from greater definition of purpose, process and partner participation. In addition, there must be adequate resources available to support the program.

### *Recommendation 11: Relationship to other court-based diversion programs*

The relationship between the Murri Court program and other court-based diversion programs needs to be strengthened and consideration given to whether Indigenous offenders should be able to access these programs and still be sentenced in a Murri Court. This includes QIADP, which currently operates in a number of jurisdictions in which a Murri Court has been established.

### *Recommendation 12: Contact with offenders post-sentence*

Where they do not already exist, processes should be instituted that allow offenders the opportunity to meet with either ATSILS field officers, Murri Court coordinators, Elders, CJGs or, where applicable, QCS or DoC, immediately after a community-based sentence has been imposed. This provides offenders with the opportunity to 'debrief' and to be made aware of the requirements of their sentence, their obligations and any additional support that may be available.

### *Recommendation 13: Role of CJG and Indigenous community organisations in supporting offenders post-sentence*

The role of CJGs and Indigenous community organisations in supporting offenders post-sentence and in increasing compliance with both bail conditions and community-based orders, should be more clearly defined.

### *Recommendation 14: Culturally-appropriate programs and services in the community*

Strategies to improve the availability of rehabilitative and diversionary programs for Indigenous offenders, targeted at the specific needs of offenders referred to the Murri Court for sentencing, should be implemented. This could include:

- increasing support for Indigenous community organisations and CJGs to develop and implement culturally-appropriate services to meet the needs of local Indigenous communities and to support the Murri Court;
- developing the skills and expertise of local Indigenous people through training and mentoring to contribute to the delivery of services for Murri people and increasing the capacity of communities to deal with local issues; and/or
- increasing the capacity of existing service providers (not limited to those that deal only with Indigenous people), especially those that target substance abuse problems and mental health issues, to cater for Indigenous clients.

### *Recommendation 15: Culturally-appropriate programs in custodial settings*

In addition to ensuring that services are available for offenders serving community-based sentences, there is a need to review the availability and appropriateness of programs for Indigenous offenders delivered in custodial settings and to ensure that programs are accessible to offenders sentenced in Murri Court to a period of imprisonment or detention.

### *Recommendation 16: Overarching framework*

The Murri Court program would benefit from the development of an overarching framework that may be used to provide guidance to new and existing Murri Courts operating across Queensland. It is recommended that this be developed in consultation with court partners and reflect the key elements of the program described in this report.

### *Recommendation 17: Roles and responsibilities of court partners*

There is a need to more clearly define the roles and responsibilities of the core group of stakeholders involved in the Murri Court program.



# Murri Court referrals and profile of participants

This section of the report draws upon several sources of information to provide a profile of the offenders that were referred to a Murri Court in the five evaluation sites during the evaluation period (January 2007 to December 2008). This includes:

- the offender questionnaire developed by the AIC and administered by JAG Murri Court coordinators;
- information on the nature of charges for which offenders appeared in Murri Court during the evaluation period extracted from the Murri Court database;
- offender criminal histories obtained from the QWIC database (and stored in the Murri Court database); and

- case studies relating to Youth Murri Court participants provided by the DoC.

## Program referrals

Within the Murri Court database, a new Murri Court episode is created for an individual when they are referred to the court. Between January 2007 and December 2008 there were a total of 1,918 referrals made to Murri Courts in the five evaluated courts sites, including both the Adult and Youth Murri Courts. Fifty-eight percent of these referrals were to an Adult Murri Court and 42 percent of the total

**Table 8** Referral status of Murri Court participants as at 31 December 2008

	Adult Murri Court		Youth Murri Court		Total referrals	
	n	%	n	%	n	%
Received final sentence	781	71	669	82	1,450	76
Remitted to arrest court	124	11	82	10	206	11
Awaiting sentence	138	12	54	7	192	10
Absconded subject to warrant	59	5	6	1	65	3
Death	3	<1	0	0	3	<1
Post-sentence supervision	0	0	2	<1	2	<1
Total referrals	1,105	100	813	100	1,918	100

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 9** Total number of referrals by court location, January 2007 to December 2008

	Adult Murri Court		Youth Murri Court		Total referrals	
	n	%	n	%	n	%
Brisbane	525	48	60	7	585	31
Caboolture	5	0	51	6	56	3
Mount Isa	144	13	154	19	298	16
Rockhampton	104	9	301	37	405	21
Townsville	327	30	247	30	574	30
Total referrals	1,105	100	813	100	1,918	100

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

referrals were to a Youth Murri Court. As at the end of December 2008, the status of these referrals as recorded by the Murri Court coordinators was as follows:

- 1,450 (76%) had received a final sentence;
- 206 (11%) had been remitted back to arrest court;
- 65 (3%) had absconded subject to warrant (and not returned to court);
- 3 had died;
- 2 were receiving post-sentence supervision; and
- the remainder (n=192, 10%) were awaiting sentence.

These figures should be interpreted with some caution due to issues relating to the recording of offenders' progress through the Murri Court in the CIPES databases.

The number of referrals over the evaluation period varied by court location and between adult and children's court jurisdictions, reflecting the varying caseloads and frequency of sittings in each location (see Table 9). Brisbane Magistrates Court had the highest number of adult referrals over the two year period, accounting for 48 percent of the total Adult Murri Court referrals among the evaluation courts. Rockhampton had the highest number of referrals for Youth Murri Courts (37% of referrals to Youth Murri Courts across the 5 courts), followed by Townsville (30%). Overall, Brisbane and Townsville Murri Courts each accounted for around one-third of referrals to both Adult and Youth Murri Courts during the evaluation period.

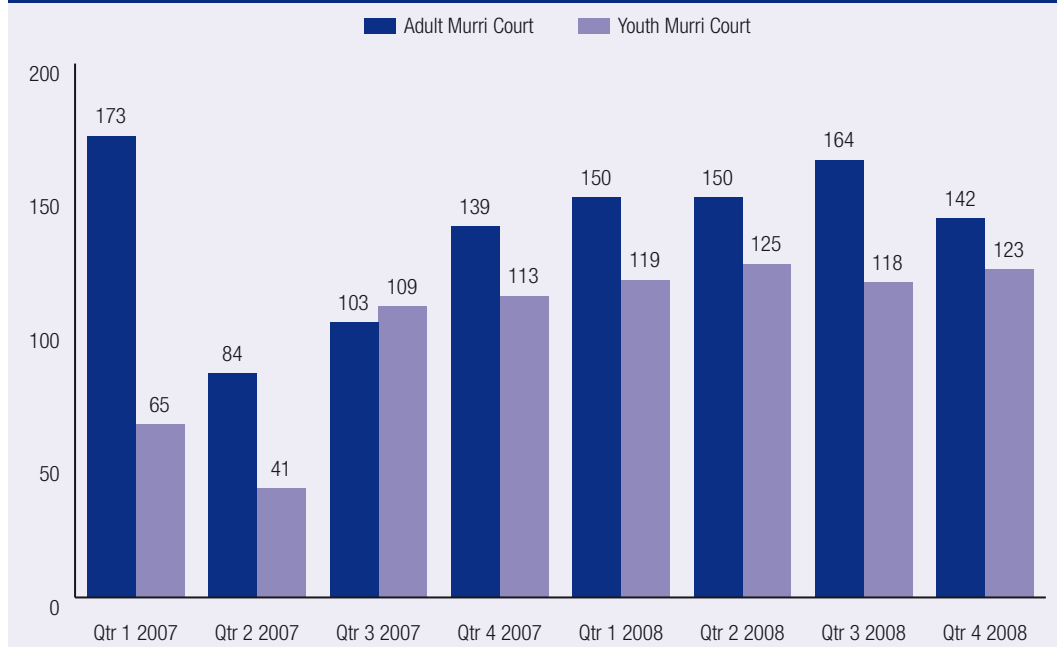
A number of these referrals were for offenders returning to Murri Court for multiple episodes during the evaluation period. There were a total of 1,407 unique individuals appearing before a Murri Court across the five court locations on at least one occasion between January 2007 and December 2008. The majority of offenders (77%) who were referred to Murri Court had a single episode in Murri Court during the evaluation period. Twenty-three percent of offenders returned to Murri Court for at least one subsequent episode during the evaluation period.

**Table 10** Number of episodes per offender, January 2007 to December 2008

	n	%
One	1,089	77
Two	206	15
Three or more	112	8
Total persons	1,407	100

Source: AIC, Queensland Murri Court database [computer file]

The total number of referrals to Murri Court increased gradually over the evaluation period, increasing by 32 percent between 2007 and 2008. The number of referrals to Adult Murri Court increased by 21 percent and in Youth Murri Court, the total number of referrals across the five courts increased by 48 percent. Interviews with Murri Court stakeholders suggest that this is due to a combination of factors, including a growing perception among stakeholders of Murri Court as a more appropriate sentencing option for young

**Figure 2** Total referrals to Murri Court by court jurisdiction (n)

Source: AIC, Queensland Murri Court database [computer file]

Indigenous offenders, as well as the resultant expanded eligibility criteria for Youth Murri Court (to increasingly include those not at risk of a custodial sentence). The number of referrals by quarter in both Adult and Youth Murri Court across the five evaluation courts is presented in Figure 2.

## Demographic profile of Murri Court participants

Basic demographic data is recorded for both Adult and Youth Murri Court participants for all new episodes of referral. Of the 1,407 unique individuals referred to a Murri Court on at least one occasion during the evaluation period, around four in five (79%) were male. The relative ratio of males to females varied across age groups, with the proportion of females appearing before the Murri Court highest among those aged 10 to 16 years (26% of participants) and 31 to 35 year olds (23%). The proportion of offenders appearing in Youth Murri Court who were female was higher (26%) than in Adult Murri Court (18%).

**Table 11** Murri Court participants by gender and age in years at referral

Age (yrs)	Males		Females	
	n	%	n	%
10–16	319	74	113	26
17–20	166	82	37	18
21–25	193	81	46	19
26–30	168	84	33	16
31–35	102	77	30	23
36 & over	165	83	34	17
Total	1,113	79	293	21

Note: Date of birth unknown for 1 offender

Source: AIC, Queensland Murri Court database [computer file]

Juveniles (10–16 years of age at referral) accounted for around one-third (31%) of all unique offenders who appeared before Murri Court; including 29 percent of males and 39 percent of females. Those aged between 17 and 25 years of age accounted for 31 percent of people referred to Murri Court for at least one episode, which means that nearly two-thirds of all offenders dealt with by the Murri

Court were aged 25 years or younger. Offenders aged 36 years and older accounted for 14 percent of people referred to Murri Court. The mean age of juveniles coming before the Youth Murri Court across the five evaluation sites was 15.3 years of age (ranging from 14.8 years of age in Mount Isa to 16.1 years of age in Caboolture). In Adult Murri Court, the mean age of participants was 29.3 years (ranging from 29 years of age in Townsville to 30.2 years of age in Mount Isa).

The proportion of juveniles participating in the Mount Isa Youth Murri Court who were female (14%) was much lower than the average across all courts (26%). Otherwise, the proportion of males and females was relatively stable across the evaluation courts (see Table 12).

## Referring charges

When an offender is referred to Murri Court, the Murri Court case coordinator will enter the case file number corresponding to the charges that have

been referred to Murri Court into the Murri Court database. There may be multiple case file numbers and each case file number can correspond to one or more charges. Not all of these charges may be heard during the offender's first appearance in Murri Court. If there are other charges pending or new charges entered into the system, these may be appended to the existing case file or alternatively a new case file created for that person. Individual charges corresponding to the same case file number may not be dealt with all at the same time. Alternatively, charges that appear on those case files may have already been finalised prior to the offender's first appearance in Murri Court.

Therefore, specific counting rules were developed to identify those charges referred to the Murri Court. For the purposes of this evaluation, referring charges:

- include all charges relating to the case file number entered into the database upon an offender's referral to Murri Court and all subsequent case file numbers entered into the Murri Court database that appear between the start and end date for that person's episode in Murri Court; and

Table 12 Murri Court participants by gender and court location				
	Males		Females	
	n	%	n	%
Adult Murri Courts				
Brisbane	344	81	81	19
Caboolture	2	67	1	33
Mount Isa	103	82	22	18
Rockhampton	68	79	18	21
Townsville	240	85	44	15
Total Adult Murri Courts	757	82	166	18
Youth Murri Courts				
Brisbane	33	67	16	33
Caboolture	28	68	13	32
Mount Isa	73	86	12	14
Rockhampton	108	76	34	24
Townsville	115	69	52	31
Total Youth Murri Courts	357	74	127	26
Total for all courts	1,114	79	293	21

Source: AIC, Queensland Murri Court database [computer file]

- exclude those charges that are finalised prior to appearing in Murri Court.

For the purposes of analysis, this report focuses on the first episode for each offender (the reference court episode). This is true for both the Murri Court participants and those offenders selected within the control group.

Of the 1,407 unique individuals that were referred to a Murri Court during the evaluation period, 1,332

have court appearance data contained within the Murri Court database relating to their first episode. Court appearance data for the remaining 75 offenders was missing from the database, most likely due to the case file number having been incorrectly entered. A summary of an analysis of those offences relating to the reference court episode for each person that appeared during the evaluation period is presented in Table 13.

**Table 13** Referring charges for Murri Court, by court jurisdiction

	Adult Murri Court participants		Youth Murri Court participants (at risk of custodial sentence)		Youth Murri Court participants (not at risk of custodial sentence)	
	n	%	n	%	n	%
Total offenders	879	100	54	100	399	100
<b>MSO</b>						
Violent offence	279	32	25	46	95	24
Property offence	253	29	27	50	192	48
Drug offence	19	2	0	0	3	1
Drink driving offence	80	9	0	0	1	0
Traffic offence	58	7	0	0	20	5
Disorder offence	29	3	1	2	51	13
Breach offence	124	14	0	0	41	10
Other	37	4	1	2	23	6
<b>All offence categories</b>						
Violent offence	282	32	25	46	95	24
Property offence	355	40	45	83	233	58
Drug offence	103	12	6	11	26	7
Drink driving offence	116	13	2	4	2	1
Traffic offence	263	30	9	17	48	12
Disorder offence	194	22	21	39	125	31
Breach offence	362	41	14	26	47	12
Other	228	26	26	48	105	26
<b>Number of offences</b>						
1–5	630	72	20	37	315	79
6–10	153	17	14	26	57	14
11–20	65	7	15	28	19	5
More than 20	31	4	5	9	8	2
Average number of offences (min/max)	5.4 1/147	–	10.8 (1/79)	–	3.9 (1/34)	–

Note: These figures relate to each offender's first episode (reference court episode) in Murri Court during the evaluation period. Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

Offences were classified according to the Australian Bureau of Statistics (ABS) ASOC. This is a hierarchical classificatory framework for criminal offences with eight major categories. The principal offence refers to the MSO according to the NOI, a seriousness ranking contained within ASOC. In Table 13, the principal offence refers to the offence category relating to the highest ranking (ie MSO) for each offender's reference court episode.

Around one-third (32%) of adult offenders were referred to Murri Court with a violent offence as their MSO, followed by property offences (29%) and breach offences (14%). Forty percent of adult offenders were charged with at least one property offence. Fifty percent of juveniles assessed as being at risk of receiving a custodial sentence had a property offence as their MSO and 46 percent had a violent offence as their MSO. For those juveniles not at risk, twice as many offenders were referred to Murri Court with a property offence (48%) as their MSO than with a violent offence (24%). A large proportion of juveniles at risk of a custodial sentence (83%) were charged with at least one property offence, as were more than half (58%) of juveniles not at risk. Breach offences and disorder offences were common among all offender groups and around one-third of adults (30%) were charged with a traffic offence.

Nearly three-quarters of offenders (72%) referred to an Adult Murri Court and 79 percent of juveniles not at risk of a custodial penalty referred to a Youth Murri Court were charged with five offences or fewer, compared to around one-third (37%) of those juveniles at risk of a custodial sentence. More than one-third of serious juvenile offenders (those at risk of receiving a custodial sentence) were charged with more than 10 offences. Overall, the average number of charges was highest among juveniles at risk of a custodial sentence (10.8 charges), compared with 5.4 charges on average among adult offenders and 3.9 charges for less serious juvenile offenders.

## Prior criminal history

Information on prior criminal history for each person referred to Murri Court is also contained within the Murri Court database. Prior criminal histories were regularly extracted from the QWIC database using a process that matched the name and date of birth

of those offenders recorded in CIPES with the equivalent information contained within QWIC (for those offenders who had at least 1 proven offence).

Once a charge has been finalised, the details relating to that offence are recorded as part of an offender's criminal history. If none of the current charges had been finalised, there was no way of determining whether the lack of a criminal history was due to the offender not having previously offended, or because of some error in the matching process (eg an incorrectly entered name or date of birth). The analysis of offenders' criminal histories was therefore limited to those offenders who had at least one of the charges referred to Murri Court as part of their reference court episode finalised since the commencement of their Murri Court episode. As a result, of the 1,332 offenders with court appearance data for their reference court episode, 159 were excluded on the basis that they did not have a finalised charge and a further 39 were excluded because they were found to be missing criminal history data.

A significant proportion of those offenders appearing before the Murri Court have extensive criminal histories, particularly those offenders at risk of receiving a custodial sentence (ie adults and more serious juvenile offenders). This is not surprising, given that the program operates as a jail diversion strategy for adult offenders and some juveniles. Among those offenders appearing before the Adult Murri Court during the evaluation period and who had at least one charge finalised:

- 95 percent had a prior criminal history (1 prior proven offence);
- 20 percent had between one to five prior proven offences, 18 percent had six to 10 and 57 percent had more than 10 prior proven offences;
- 59 percent of those with prior proven offences had a violent offence as their most serious prior offence, followed by property offences (21%); and
- 58 percent had previously received some form of imprisonment order for a prior offence.

Among those offenders appearing before the Youth Murri Court during the evaluation period at risk of a custodial sentence (ie had been ordered to complete a pre-sentence report) and who had at least one finalised charge after the commencement of their episode:

- 96 percent had a prior criminal history;

**Table 14** Prior criminal history of Murri Court participants

	Adult Murri Court participants		Youth Murri Court participants (at risk of custodial sentence)		Youth Murri Court participants (not at risk of custodial sentence)	
	n	%	n	%	n	%
Total offenders	718	100	49	100	367	100
<b>Most serious prior offence<sup>a</sup></b>						
Violent offence	401	59	20	43	108	48
Property offence	140	21	22	47	83	37
Drug offence	22	3	1	2	1	<1
Drink driving offence	47	7	0	0	2	1
Traffic offence	14	2	0	0	1	<1
Disorder offence	13	2	2	4	16	7
Breach offence	26	4	0	0	2	1
Other	16	2	2	4	12	5
<b>Number of prior proven offences</b>						
None	38	5	2	4	142	39
1–5	143	20	15	31	103	28
6–10	131	18	8	16	35	10
11–20	171	24	12	24	43	12
More than 20	235	33	12	24	44	12
Average number of prior proven offences (min/max)	18.7 (0/150)	–	15.5 (0/75)	–	7.6 (0/88)	–
Prior imprisonment order <sup>b</sup>	414	58	10	20	35	10

a: Proportion of those offenders with prior proven offences

b: Prior imprisonment order includes actual custodial order, imprisonment with immediate parole release date, fully- and partly-suspended sentences

Note: Includes only those offenders with at least one finalised charge during their reference court episode. Excludes 19 Adult Murri Court participants and 20 Youth Murri Court participants who were identified as missing criminal history data. Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

- 31 percent had between one to five prior proven offences, 16 percent had six to 10 and 48 percent had more than 10 prior proven offences;
- 47 percent of those with prior proven offences had committed a property offence as their MSO, followed by a violent offence (43%); and
- 20 percent had previously received some form of imprisonment order for a prior offence.
- 48 percent of those with prior proven offences had committed a violent offence as their MSO, followed by a property offence (37%); and
- 10 percent had previously received some form of imprisonment order for a prior offence.

Among those juvenile offenders appearing before the Youth Murri Court that were not at risk of receiving a custodial penalty:

- 61 percent had a prior criminal history;
- 28 percent had between one to five prior proven offences, 10 percent had six to 10 and 24 percent had more than 10 prior proven offences;

## Adult Murri Court participants

Information on a range of variables has been collected for Adult Murri Court participants using the offender profile questionnaire, which was developed by the AIC for the purposes of the evaluation. Profile interviews were conducted with around one-third of all adult offenders appearing for the first time during



the evaluation period. Not all sections of the profile were completed for all participants and, as such, the total number of respondents for each section varies. The response rate also varied across court location, although this needs to be considered alongside the total number of referrals to each court (see Table 15). The most common reason for not completing an interview was due the offender refusing to participate, followed by procedural reasons such as limited time available to speak with an offender prior to court. Given that only one-third of offenders were interviewed, some caution is required with respect to the interpretation of these findings and generalisation across all offenders that appeared before the Adult Murri Court.

The profile includes a series of questions across a broad range of issues that must be asked of Murri Court participants prior to their participation in the Murri Court (at the time of referral) and then again six months after their final sentence. While the profile was designed primarily as an assessment tool by which the longitudinal impact of participation in the Murri Court on Indigenous offenders could be measured, data collected via the profile interview is also useful in:

- helping to explain variance across key outcome measures, such as reoffending and court attendance rates, for Murri Court participants;

- assessing the extent to which the various rehabilitative and diversionary services and programs available to Murri Court participants in each location adequately meet the needs of participants and address priority risk factors for reoffending; and
- establishing an evidence base to support changes to the Murri Court process or to support funding submissions to address identified gaps in service delivery for a specific Murri Court client population.

Taken as a whole, the findings from an analysis of profile data are consistent with previous research into the factors associated with disproportionate rates of offending among Indigenous people, including high rates of drug and alcohol use, high rates of unemployment and financial and other recent stressors. These findings highlight key issues that require careful consideration in determining the most appropriate strategies to redress offending behaviour in Indigenous populations in Queensland. The data provided by the profile also further strengthens the evidence base for supporting attempts to address underlying problems associated with the offending behaviour among offenders appearing before the Murri Court.

Table 15 Profiles completed at referral by court location (%)					
	Brisbane	Townsville	Mount Isa	Rockhampton	All courts
Education and employment	24	34	54	71	36
Living arrangements	24	33	54	74	35
Family circumstances	24	33	54	74	35
Community involvement	24	34	54	66	35
Drug and alcohol use	24	33	54	71	35
Recent stressors	24	34	54	64	35
Health	23	32	54	70	34
Attitudes towards the criminal justice system	23	32	54	69	34
Income and expenditure	23	32	54	66	34
Total (n)	425	284	125	86	923

Note: Excludes Caboolture (n=3). Only includes those profiles completed for an individual's first episode during the evaluation period

### Family circumstances

Around two-thirds (65%) of female participants and half (48%) of male participants reported being single at the time of being referred to Murri Court. Forty-five percent of males and one-quarter of females (26%) were married or in a de facto relationship. A significant proportion of participants reported having children and were responsible for supporting them financially (see Table 16). Nearly half of all males (45%) and females (44%) had children that lived elsewhere. One-third of all male and female participants reported caring for at least one child at the time they were referred to the Murri Court.

### Living arrangements

Murri Court participants were also asked a number of questions regarding their living arrangements at the time of referral to the Murri Court. The majority

of respondents were living in a house or unit they rented or owned (71%), followed by living in someone else's house or unit (18%). Participants were also asked how long they had resided at this location, to provide some sense of residential stability or mobility. Around half (48%) indicated that they had been living in their current place of residence for more than six months, one in three (38%) said less than three months and one in five (19%) had been living there for less than four weeks. These findings suggest a high level of residential mobility and instability in living arrangements.

The level of residential mobility also varied by court location. Sixty-one percent of respondents in Mount Isa indicated that they had lived in their current place of residence for less than six months, compared to 47 percent in Brisbane and Rockhampton, and 43 percent in Townsville.

Table 16 Relationship status and contact with children at the time of referral to Murri Court				
	Male		Female	
	n	%	n	%
Relationship status				
Single	124	48	43	65
Defacto or married	118	45	17	26
Separate/no longer married	15	6	6	9
No response	3	1	0	0
Dependent children				
Have children living with them	67	26	29	44
Have children but living elsewhere	118	45	29	44
Support children living with them financially	66	25	28	42
Support children living elsewhere financially	85	33	9	14
Currently caring for at least one child	82	32	22	33
Total respondents	260	—	66	—
Mean number of children currently care for <sup>a</sup>	2.3 (1/7)		2.5 (1/5)	

a: Includes those respondents who reported caring for at least 1 child

Notes: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 17** Living arrangements at the time of referral to Murri Court

	n	%
Type of residence		
A house or unit they or their family rent or own	230	71
Someone else's house or unit	60	18
Shelter or emergency housing	10	3
Drug or alcohol treatment program	8	2
Another household location (caravan park, boarding house)	6	2
On the street, town camp or no fixed address	6	2
No response	6	2
Length of time at this location		
Less than 2 weeks	29	9
2–4 weeks	34	10
1–3 months	60	18
3–6 months	36	11
6–12 months	47	14
More than 12 months	108	33
No response	12	4
Total respondents	326	100

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 18** Time at current place of residence prior to referral to Murri Court, by court location (%)

	Brisbane	Mount Isa	Rockhampton	Townsville
Less than 2 weeks	8	10	11	7
2–4 weeks	10	13	11	8
1–3 months	18	22	17	17
3–6 months	11	15	8	11
6–12 months	14	12	19	14
More than 12 months	30	25	31	43
No response	9	1	3	0
Total respondents (n)	100	67	64	95

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

## Education

Offenders profiled at referral were asked questions relating to their participation in formal education, including their highest level of schooling. Forty-two percent of respondents reported that they had left school prior to the completion of Year 10 and nearly one in five (18%) left school prior to Year 9. One in 10 respondents had completed Year 12. The highest level of schooling completed varied across court locations. Among those offenders who participated in a profile interview, more than half (52%) in Brisbane had left school prior to the completion of Year 10. This was higher than respondents in Mount Isa (43%), Rockhampton (38%) and Townsville (34%).

Education and training is an important factor in increasing the opportunities for Indigenous offenders to gain employment, which can help to reduce the risk that an individual will engage in criminal behaviour (Snowball & Weatherburn 2006).

Therefore, questions were also included in the profile in relation to participation in tertiary and vocational training courses. Responses to those questions indicated that 57 percent of those profiled had either completed or were enrolled in some form of tertiary or training course and 12 percent specified multiple courses. However, this means that 43 percent were neither enrolled in, nor had completed, further training courses.

**Table 19** Highest level of schooling, by court location (%)

	Brisbane	Mount Isa	Rockhampton	Townsville
Year 6 or lower	4	0	3	2
Year 7	12	1	3	4
Year 8	10	15	8	7
Year 9	27	27	23	21
Year 10	32	31	39	33
Year 11	9	10	13	19
Year 12	8	13	8	14
No response	0	1	2	0
Total respondents (n)	104	67	61	97

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 20** Participation in tertiary and training courses (completed or enrolled)

	n	%
TAFE certificate	122	37
Traineeship or CDEP	62	19
Trade certificate or apprenticeship	37	11
TAFE diploma	8	2
University degree or higher degree	6	2
None of these	140	43
Total respondents <sup>a</sup>	329	—
More than one of the above	40	12

a: Respondents could select multiple responses

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

## Employment status

Low levels of employment are important risk factors for offending among Indigenous people (Snowball & Weatherburn 2006). Responses to questions in the profile on employment status indicated that prior to referral to Murri Court, two in five participants (39%) were not working or had been laid off and were looking for work at the time of referral, one in three (35%) were currently working (full time, part time or casual), one in five (18%) were not working, not

studying and not looking for work and one in 10 reported never having had a job. Overall, 57 percent of adult offenders interviewed reported not being employed or studying at the time of being referred to Murri Court.

Respondents identified a range of factors that impacted upon their ability to find or attend employment (see Table 22 and 23). The most common difficulties reported when trying to find or attend a job in the previous six months were:

**Table 21** Employment status at the time of referral to Murri Court

	n	%
Not working or laid off and looking for work	127	39
Working full time	67	20
Not working and not studying and not looking for work	60	18
Working part time or casual	47	14
Not working, but studying	18	5
Unknown	10	3
Total respondents	329	100
Never had a job <sup>a</sup>	37	11

a: 42 respondents did not provide a response to this question

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 22** Reported difficulties experienced finding or attending job in the previous six months, by employment status

	Employed		Looking for work	
	n	%	n	%
In prison	13	11	37	29
Transport problems or too far to travel	11	10	28	22
Insufficient education, training or skills	3	3	10	8
No job in local area or line of work	1	1	6	5
No jobs at all	0	0	5	4
Own ill health or disability	4	4	4	3
Language difficulties	1	1	1	1
Racial discrimination	0	0	1	1
Caring for family members	2	2	1	1
Other reason	17	15	25	20
Not stated	66	58	32	25
Total respondents <sup>a</sup>	114	—	127	—

a: Respondents could select multiple responses

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

- spending time in prison (29% of those looking for work and 11% of those currently employed), common among both males (24%) and females (18%);
- transport problems (22% of those looking for work and 10% of those currently employed), which were also common among males (14%) and females (16%); and
- one in five females (18%) reported issues relating to caring for families as preventing them from accessing or attending employment.

The rate of employment varied across the court locations. Most notably, the proportion of respondents who were currently unemployed was higher in Brisbane (64%) and Mount Isa (63%) than in Townsville (53%) and Rockhampton (44%). The proportion of offenders who had full-time employment was much higher among those interviewed in Rockhampton (33%) and Townsville (28%) than in Brisbane and Mount Isa (both with 12%).

**Table 23** Reported difficulties experienced finding or attending job in the previous six months, by gender

	Males		Females	
	n	%	n	%
In prison	62	24	12	18
Transport problems or too far to travel	37	14	11	16
Insufficient education, training or skills	13	5	7	10
No job in local area or line of work	7	3	1	1
No jobs at all	3	1	3	4
Own ill health or disability	7	3	5	7
Language difficulties	2	1	0	0
Racial discrimination	2	1	1	1
Caring for family members	6	2	12	18
Not interested in finding work	2	1	1	1
Other reason	49	19	12	18
Not stated	102	39	20	29
Total respondents <sup>a</sup>	261	—	68	—

a: Respondents could select multiple responses

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 24** Employment status at the time of referral to Murri Court, by court location (%)

	Brisbane	Mount Isa	Rockhampton	Townsville
Not working or laid off and looking for work	46	42	31	33
Working full time	12	12	33	28
Not working and not studying and not looking for work	18	21	13	20
Working part time or casual	13	22	11	12
Not working, but studying	9	1	5	5
Unknown	3	1	7	2
Total respondents (n)	104	67	61	97
Never had a job <sup>a</sup>	18	4	5	12

a: 42 respondents did not provide a response to this question

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 25** Number and proportion of participants to have completed or be enrolled in at least one tertiary or training course, by employment status

	Total respondents (n)	Completed or enrolled in training (n)	Completed or enrolled in training (%)
Working full time	67	44	66
Working part time or casual	47	29	62
Not working or laid off and looking for work	127	71	56
Not working and not studying and not looking for work	60	28	47
Unknown	10	3	30
Total respondents <sup>a</sup>	311	175	56
Never had a job <sup>b</sup>	37	15	41

a: Excludes those respondents who reported that they were not working, but studying

b: 42 respondents did not provide a response to this question

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

The benefits of having participated in some form of training after leaving school when it comes to gaining and retaining employment is highlighted in Table 25. The proportion of participants that had completed or were enrolled in tertiary education or training courses was higher among those offenders who were employed (66% of offenders employed full time and 62% of those with part-time employment) than those offenders who reported being currently unemployed. Two-fifths of those offenders interviewed who reported having never had a job had engaged in some form of tertiary or training course.

### *Community participation and activity*

Another area that was highlighted by the Elders and other stakeholders was the importance of community participation and involvement. Social isolation has been identified as a contributing factor to offending among Indigenous people. In order to gauge the level of community participation prior to referral, participants were asked a number of questions regarding their contact with other members of the local Indigenous community and their participation in community activities and events.

The majority of those offenders interviewed reported knowing who their people were or where their people were from, however, only half (52%) reported having had any contact with the Elders from their community in the previous six months. Generally speaking, the rate of involvement in community

activities was low—38 percent of respondents had not attended any community events in the previous six months and nearly two-thirds reported infrequent (less than once per month) involvement in activities within the local Indigenous community.

### *Recent stressors*

While attention is often directed at factors such as employment, education and substance use in explaining offending behaviour, it was recognised that various recent events or stressors can also be influential in determining whether a person offends or not. For example, during a number of interviews with Elders and Magistrates, the significance of recent deaths among offender's families and friends (and for some multiple deaths), was raised as having an impact on offending behaviour.

Participants were asked to identify whether they or people close to them had experienced a range of stressful events in the six months prior to their referral to Murri Court. A significant number of respondents identified contact with the criminal justice system as a recent issue, with 57 percent of those profiled indicating that they had experienced trouble with the police and 34 percent indicated that a member of their family had spent time in jail. Forty-one percent of those profiled reported that a family member or close friend had died in the last six months, 36 percent had experienced trouble with



**Table 26** Self reported community involvement in the previous six months<sup>a</sup>

	n	%
Know who their people are	271	84
Know where their people are from	291	90
Had contact with community Elders in the past six months	168	52
Agree or strongly agree with the statement that they are a known member of the local Indigenous community in which they live	296	92
<b>Attendance at community events in previous six months</b>		
Funerals/tombstone openings	87	27
Sports carnivals	71	22
Festivals or carnivals involving music or dance	66	20
Ceremonies	37	11
Arts/crafts activities	29	9
Involvement with community organisations	26	8
None of these	124	38
<b>Frequency of involvement in these activities with local Indigenous community in previous six months</b>		
Once a day or more	3	1
Two or three times a week	12	4
About once a week	20	6
About once a month	47	15
Less than once a month	106	33
Never	80	25
No response	55	17

a: total respondents n=323

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

their partner and 29 percent indicated trouble with their family or family pressures were a recent problem. Around one-third (37%) had experienced problems with alcohol and a further one-quarter (25%) problems with drugs. Three-quarters of those interviewed (77%) identified two or more recent stressors. The full range of stressors identified by respondents is outlined in Table 27.

### *Alcohol and other drug use*

Stakeholders involved in the Murri Court highlighted alcohol and illicit drug use as a significant issue among both adult and juvenile offenders. The adult profile includes questions on the nature and frequency of drug and alcohol use in the six months prior to referral, along with questions relating to drug dependence and treatment. These questions were based on the AIC's Drug Use Monitoring Australia

(DUMA) questionnaire, which has been used extensively to survey police detainees.

An analysis of participants' responses to these questions support stakeholders views that drug and alcohol use is an important risk factor for Indigenous offending. More than half (55%) of all males and 39 percent of females interviewed reported having used alcohol at least weekly in the previous six months. Similar proportions of males (21%) and females (24%) reported feeling dependent on alcohol and one-quarter (24%) of all respondents had sought or had been in treatment for the use of alcohol in the previous six months. There were also high rates of self reported illicit drug use. Thirty-four percent of males and 29 percent of females reported having used at least one type of illicit substance on a weekly basis over the previous six months, with similar rates of dependence on and treatment for alcohol.

**Table 27** Recent stressors experienced by offenders, their family or friends in the previous six months<sup>a</sup>

	n	%
Trouble with the police	184	57
Death of a family member or close friend	131	41
Alcohol problems	118	37
Trouble with partner	116	36
Member of family sent to jail or in jail	111	34
Trouble with family or family pressures	94	29
Drug problems	79	25
Seeing fights, or seeing people beaten up	75	23
Trouble at school	73	23
Somebody very sick or disabled	69	21
Treated badly because they are Indigenous	46	14
Divorce or separation	42	13
Abuse or violent crime	41	13
Gambling problem	37	11
Too many people living in one house	36	11
A bad accident	36	11
Not able to get job	13	4
Lost their job	9	3
Other	35	11
None of these	17	5
Two or more stressors	249	77

a: Total respondents n=322

Note: Respondents could select multiple responses

Source: AIC, Queensland Murri Court database [computer file]

**Table 28** Self reported alcohol and other drug use in the previous six months, by gender

	Males <sup>a</sup>		Females <sup>b</sup>	
	n	%	n	%
<b>Alcohol</b>				
Ever used	256	100	64	97
Used at least weekly	141	55	26	39
Felt that they needed or were dependent on alcohol	53	21	16	24
Tried to get in or been in treatment for use of alcohol	61	24	16	24
<b>Other drugs<sup>c</sup></b>				
Ever used	213	83	51	77
Used at least weekly	88	34	19	29
Felt that they needed or were dependent on drugs	44	17	17	26
Tried to get into or had been in treatment for use of drugs	46	18	14	21

a: total male respondents n=257

b: total female respondents n=66

c: Includes cannabis, inhalants, heroin, amphetamines, illegal morphine or other opiates and other drugs

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 29** Self reported alcohol and other drug use in the previous six months (%)<sup>a</sup>

	Alcohol	Cannabis	Amphetamines	Inhalants	Heroin	Illegal Morphine or other opiates	Other drug
Ever used	99	80	33	18	18	16	13
Mean age when first used (min/max)	15.0 (5/30)	15.6 (5/36)	18.2 (12/36)	15.1 (7/36)	19.5 (10/36)	21.3 (13/36)	19.8 (13/37)
<b>Frequency of drug use in the previous six months</b>							
Almost every day	15	16	3	1	3	2	1
About once or twice a week	37	13	3	1	2	1	1
About once or twice a month	25	13	6	2	1	4	2
Not at all	18	53	83	86	93	91	95
No response	5	5	5	10	1	2	1
<b>Dependence and treatment</b>							
Felt that they needed or were dependent on drugs	21	14	6	1	3	4	0
Tried to get into or had been in treatment for use of drugs	24	14	8	2	4	5	3

a: Percentages are calculated based on total number of respondents to questions on drug and alcohol use (n=323)

Source: AIC, Queensland Murri Court database [computer file]

**Table 30** Self report alcohol and other drug use in the previous six months (%)

	Brisbane	Mount Isa	Rockhampton	Townsville
<b>Alcohol</b>				
Ever used	100	100	95	100
Used at least weekly	46	61	44	56
Felt that they needed or were dependent on alcohol	22	31	7	23
Tried to get into or had been in treatment for use of alcohol	27	34	10	22
<b>Other drugs</b>				
Ever used	97	70	67	83
Used at least weekly	51	15	21	34
Felt that they needed or were dependent on drugs	36	15	8	11
Tried to get in or been in treatment for use of drugs	32	13	8	15
Total respondents (n)	101	67	61	94

Source: AIC, Queensland Murri Court database [computer file]

A more detailed breakdown of responses to alcohol and drug use questions is provided in Table 29. This highlights the fact that among the illicit drugs, cannabis was the most common type of drug used on a regular basis by offenders, followed by amphetamines.

There was some variation in self-reported alcohol and drug use across the different evaluation courts. Weekly alcohol use was most common among offenders in Mount Isa (61%) and Townsville (56%). Around one-third of respondents in Mount Isa reported having felt dependent on alcohol in the previous six months, which was the highest of any court. They also had the highest proportion of offenders who reported having sought or been in treatment for their alcohol use. Brisbane had by far the highest rate of regular substance use, with half of all offenders reporting having used at least one type of illicit substance on a weekly basis in the previous six months.

Self-reported dependence and treatment rates were also highest in Brisbane. The fact that the rates of

self-reported dependence and treatment are similar across locations, gender and drug type suggests one of two possibilities—that offenders referred into treatment to address their substance use are more likely to consider themselves as being dependent on that substance, or that offenders who have assessed themselves as being dependent are more likely to seek and consent to treatment.

Health and wellbeing

Poor health and access to health services is another area where Indigenous offenders experience disadvantage. The majority of both males and females rated their health as being good or better, however, approximately one in five (18% of males and 21% of females) self-assessed their health as being only fair or poor. One in 10 (9% of males and 12% of females) had not been to the doctor, hospital or other health service on at least one occasion in the previous six months when they felt they needed attention.

Table 31 Self reported health status and access to health services in the previous six months				
	Males		Females	
	n	%	n	%
Didn't go to doctor, hospital or other health service in the previous six months on at least one occasion when needed attention	23	9	8	12
Self assessment of health				
Excellent	35	14	7	11
Very good	53	21	14	22
Good	118	47	30	46
Fair	33	13	10	15
Poor	13	5	4	6
Self assessment of health compared to six months ago				
Better now	119	47	34	52
About the same	101	40	24	37
Worse now	29	12	7	11
No response	3	1	0	0
Total respondents	252	100	65	100

Note: Percentages may not add to 100 due to rounding  
Source: AIC, Queensland Murri Court database [computer file]

Income and expenditure

Participants were also asked questions regarding their main source of income. Both males and females most frequently reported Newstart allowance as their main source of income (40% and 42% respectively). One-third of males (32%) identified their main source of income as being from wages or a salary and 38 percent of females reported family and parenting payments as their main source of income.

Participants were also asked what additional action they took when needed money. Female respondents were more likely to report having asked for money from friends or family (51% compare to 41% of males), having asked for help from welfare or community organisations (31% compared to 14% of males) and pawn or sell something to get money (25% compared to 14% of males). Males were less likely than females to report having done anything to obtain alternative sources of income in the previous six months. Nearly two-thirds of males (64%) and 71 percent of females reported having outstanding debts. Around one in five males (18%) and 13 percent of females reported gambling on at least a weekly basis; although 57 percent of males and 43 of females reported never gambling in the previous six months.

Youth Murri Court participants

Midway through the evaluation, concerns were raised regarding the cultural appropriateness of the youth profile and the capacity of coordinators to continue to administer a revised profile with youths. After a series of consultations between the AIC, JAG, coordinators and Murri Court Magistrates, it was decided by JAG that the administration of the youth profile questionnaire would be discontinued and that AIC would pursue alternative options for data collection aimed at Indigenous youth. The decision to discontinue the profiling of juveniles appearing before Youth Murri Court and the relatively small number of profiles completed up until this decision was made, means that there is less information available to describe the profile of youth offenders coming before the Youth Murri Court than there are for adults.

However, to overcome the limitations associated with the abandonment of the offender profile questionnaire, the AIC identified two alternative sources of information to provide insights into the characteristics of offenders coming before Youth Murri Court:

Table 32 Main source of income at the time of referral to Murri Court, by gender				
	Males		Females	
	n	%	n	%
Newstart allowance	99	40	27	42
Wages or salary	79	32	1	2
CDEP	16	6	0	0
Disability support pension	16	6	5	8
Other source	13	5	0	0
Studies assistance	11	4	6	9
Family or parenting payment	10	4	25	38
No response	4	2	0	0
Other government pension	2	1	1	2
Total respondents	250	100	65	100

Note: Percentages may not add to 100 due to rounding  
Source: AIC, Queensland Murri Court database [computer file]

**Table 33** Alternative sources of income in the previous six months, by gender

	Males		Females	
	n	%	n	%
Outstanding debts	161	64	46	71
Alternative sources of income <sup>a</sup>				
Asked for money from friends or family	103	41	33	51
Asked for help from welfare or community organisations	36	14	20	31
Pawned or sold something to get money	35	14	16	25
Stole money or something they could sell	31	12	6	9
Use short-term loans	21	8	8	12
Gave somebody else access to their keycard	18	7	6	9
Run up a tab (book up) at the local store	14	6	6	9
Didn't have food	15	6	5	8
Anything else	0	0	1	2
None of these	106	42	13	20
Don't know	4	2	0	0
Frequency of gambling				
Once a day or more	4	2	0	0
Two or three times a week	8	3	3	5
About once a week	32	13	5	8
About once a month	23	9	10	15
Less than once a month	22	9	12	18
Never	142	57	28	43
No response	19	8	7	11
Total respondents	250	100	65	100

a: Respondents could select multiple responses

Note: Percentages may not add to 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

- case studies provided by DoC; and
- interviews with stakeholders involved in Murri Court.

The AIC therefore worked with JAG and the DoC to provide case studies for Youth Murri Court participants in place of the offender profile and to supplement the qualitative data collected during interviews with Murri Court stakeholders. DoC supplied eight de-identified case studies of Youth Murri Court participants including:

- four individual cases with a high level of complexity in terms of offending history and number and severity of current offences; and
- four individual cases with a lower level of complexity in terms of offending history and number and severity of current offences.

The case studies provided by DoC provided only very limited background information on the various factors that may have been related to the young person's involvement in crime, such as living circumstances, education or employment status, prior criminal history and alcohol or drug use. The case studies suggested that more serious juvenile offenders appearing before Murri Court are characterised by:

- early and prolonged contact with DoC and the criminal justice system;
- longer and more serious criminal histories, including violent offences;
- previous time spent in detention (sentenced or on remand);
- drug and/or alcohol abuse problems;
- family instability and previous contact with child safety services; and
- low levels of school attendance or, where they have left school, employment.

These factors were identified by DoC staff as being related to the young person's most recent offending behaviour and reveal the severity and complexity of issues faced by Murri Court in attempting to address the factors related to offending behaviour among more serious juvenile Indigenous offenders. Analysis of the cases described by DoC as being less serious or complex suggests that these offenders are characterised by:

- limited prior contact with the criminal justice system;
- fewer and less serious offences;
- evidence of having been enrolled in school or an interest in returning to school; and
- problems relating to peer pressure impacting upon their behaviour.

These conclusions regarding the issues associated with offending among Youth Murri Court participants were supported by interviews with key stakeholders involved in the court. A common risk factor for offending among young people appearing before Youth Murri Court is drug and alcohol abuse. Elders identified inhalants as a particular area of concern and as a contributing factor to offending behaviour. Stakeholders recognised that drug and alcohol problems were pervasive but were concerned by the lack of dedicated drug and alcohol rehabilitation facilities available to young people.

They come to me, the young ones they come to my house and I try to look after them, I try to get them off the inhalants, the sniffing of glue or paint or petrol; and they want to stop too. But it's hard, it's very hard because they are sick and hungry and their parents aren't providing the care they should be (Elder personal communication 2008).

Another area of concern among stakeholders, particularly Elders, is the low rate of school attendance or employment among Indigenous young people. Consultations with Youth Murri Court stakeholders suggested that offending among young people and contact with the court is largely related to the lack of alternative activities or 'things to do'. Many do not attend school or are regularly absent and therefore spend a significant amount of time unsupervised. Stakeholders indicated that as a result of a lack of activities and boredom, youths were 'getting into trouble and making mischief' and that this was playing a role in their offending behaviour. Elders expressed the desire to offer programs to youths that would offer them a connection to their land and the opportunity to reconnect them to their culture. Court partners stated that

[t]here are significant holes in the services provided to young people. There is a significant need for more diversionary programs and activities to be provided through non government organisations and/or government services. Mentoring programs, recreational activities that encourage a reconnection with culture would benefit the youth and the court process enormously. (DoC Youth Services personal communication 2008)

This section has provided a profile of offenders coming before the Adult and Youth Murri Courts and highlighted many of the issues confronting those involved in the delivery of the Murri Court program. Interviews with key Murri Court stakeholders suggested that for the Murri Court to reduce reoffending, appropriate mechanisms to address these underlying factors must be implemented or enhanced.





# Murri Court activity

This study has examined the relative efficiency of the Murri Court as an alternative justice process for Indigenous offenders compared with mainstream Magistrates and Children's Courts. Assessing the relative efficiency of the Murri Court has involved comparing the total duration and number of court appearance events for Murri Court participants with a comparable group of offenders in the control group. The analysis has also drawn upon findings from the assessment of operational components regarding how the Murri Court operates in each court location.

## Court appearance events and episode phases

One of the common complexities when evaluating criminal justice processes is that they rarely progress in a linear function. For example, offenders appearing in a Murri Court may or may not appear in a mainstream Magistrates or Children's court prior to being referred to a Murri Court. They may appear several times in a mainstream court for charges that eventually appear for sentencing in a Murri Court. Alternatively, their first and possibly only court appearance may be in Murri Court—particularly for less serious juvenile offenders. Those offenders who

fail to abide by the conditions required for participation in the Murri Court, such as not abiding by their bail conditions, failing to appear for or engage in a pre-sentence interview with Elders, failing to appear for scheduled court dates or not showing any willingness to address their offending behaviour, may be remitted back to a mainstream court for sentencing.

Just because a person is referred to Murri Court does not guarantee that they will be sentenced in a Murri Court. Nor does it mean that all court appearances will take place in a Murri Court. For the purposes of this evaluation, it was necessary to distinguish between court appearance events according to when and where they took place and to distinguish between when and where charges were finalised. This has implications beyond an analysis and understanding of court processes. A person who fails to comply with their conditions while in Murri Court and is subsequently remitted back to arrest court may not be subjected to the same level of intervention as those who appear and are sentenced in a Murri Court. This may also have an impact upon the sentence they eventually receive.

One of the primary reasons for establishing a dedicated database for recording information pertaining to the Murri Court program was to

overcome the lack of a routinely recorded and therefore reliable identifier within QWIC for court appearances that take place in a Murri Court. The CIPES database allows for each Murri Court coordinator to enter personal details and basic demographic data for each offender referred to the Murri Court program. More importantly, it allows coordinators to create new episodes that commence on the date of referral to Murri Court, record an offender's progress through the Murri Court and enter the relevant case file number(s) that enables court appearance data to be migrated across from QWIC.

A new Murri Court episode is created for an individual when they are referred to the court and the coordinator is notified. The Murri Court coordinator enters a start and end date for each episode in Murri Court and for each phase within that episode. When a matter is referred from an arrest court to a Murri Court, or when a person appears for the first time in a Murri Court, the coordinator enters the episode start date and the offender enters the pre-sentence phase (the start date for which coincides with the episode start date). The pre-sentence phase ends and the final sentence phase begins on the date on which the offender is sentenced in Murri Court. The final sentence phase starts and ends on the same date and coincides with the end date for the episode. In the event that an offender absconds subject to warrant (typically for long periods), or is remitted to arrest court or dies, then the relevant phase can be entered in place of the final sentence phase. When an offender has left Murri Court for any of these reasons, the episode is completed and an episode end date is recorded.

The episode start and end dates recorded in CIPES are important in that they provide the parameters to determine which of the court appearance events recorded in QWIC took place within Murri Court. In other words, these episode start and end dates replace the need for a unique identifier for Murri Court events within QWIC.

When coordinators enter the relevant case file numbers that enable court appearance data to be migrated across from QWIC, event details for the charges linked to these case files are stored in CIPES. Court appearance events are identified from the unique court appearance dates recorded in QWIC for those case files comprising charges that were referred to the Murri Court. Where the court

appearance date falls on or between the episode start and end date for the Murri Court episode, the court appearance event was identified as an appearance in Murri Court. All other court appearance events were deemed to have taken place in a Magistrate or Children's Court. Court appearance events were then categorised into three distinct phases, specifically:

- *court appearance events pre-Murri Court*—refers to those appearance events that take place in a Magistrate or Children's Court prior to the Murri Court episode start date which denotes the date of referral to Murri Court for sentencing;
- *court appearances in Murri Court*—includes those court appearances that take place after (or on) the Murri Court episode start date and prior to (or on) the episode end date;
- *court appearance events post Murri Court*—includes those court appearances that take place after the Murri Court episode end date and may include charges that for whatever reason are not finalised in Murri Court or charges relating to offenders who are remitted back to arrest court.

Furthermore, this evaluation has also distinguished between those charges that were finalised in Murri Court and those that were finalised outside of Murri Court. Where charges were finalised was determined from the orders relating to each charge. JAG provided the AIC with a list of finalised orders. Where the order relating to a charge indicated that the charge had been finalised, the court appearance event at which time the order was imposed was identified. Finalised charges were categorised according to whether they were finalised during a court appearance pre-, during, or post-Murri Court. Whether the reference court episode was fully finalised (ie all charges referred to the Murri Court had resulted in some form of order indicating finalisation), or partly finalised was determined on the basis of whether all charges associated with that episode had been finalised. Seven categories were subsequently identified to specify when and where a reference court episode had been finalised:

- all charges finalised and all charges finalised in an Adult or Youth Murri Court;
- all charges finalised, some finalised in an Adult or Youth Murri Court and the remainder in a Magistrates or Children's Court (either before or after the Murri Court episode);

- all charges finalised and all charges finalised in a Magistrates or Children's Court;
- some charges finalised, of which all were finalised in an Adult or Youth Murri Court;
- some charges finalised, of which some were finalised in an Adult or Youth Murri Court and the remainder in a Magistrates or Children's Court (either before or after the Murri Court episode);
- some charges finalised, of which all were finalised in a Magistrates or Children's Court; and
- no charges finalised by the end of the evaluation period.

This, too, has important implications for measuring the impact of the program, insofar as those people who are sentenced (finalised) outside of Murri Court will most likely not receive the same level of intervention from representatives of their community and given that they have likely failed to abide by the conditions of their participation in the Murri Court, may not be given the same consideration with respect to non-custodial sanctions.

Figure 3 provides an overview of the total number of first-time referrals to Adult and Youth Murri Court duration the evaluation period and the status of these referrals.

- Of the 879 first time referrals (reference court episodes for each unique offender) to an Adult Murri Court between January 2007 and December 2008, two-thirds (66%) were fully finalised, 18 percent were partially finalised (some charges finalised) and the remainder had not had any of the referring charges finalised by the end of the evaluation period.
- Of the 581 adult offenders whose reference court episode had been fully finalised, 87 percent were fully finalised in an Adult Murri Court.
- Of the 453 first time referrals to a Youth Murri Court, 12 percent were for offenders who were at risk of a custodial sentence. Of these, around one-third (35%) had been fully finalised by the end of the evaluation period, three-quarters of whom were fully finalised in a Youth Murri Court.
- Of the remaining 399 juveniles assessed as not being at risk of receiving a custodial sentence, two-thirds (67%) had been fully finalised by the end of the evaluation period, the majority (93%) of which were finalised in a Youth Murri Court.

For reference court episodes that were fully finalised, the last date on which any of the charges were finalised was compared against the episode end date to identify any discrepancies. Issues were subsequently identified with respect to the reliability of the episode start and end dates.

Initially, the end date in CIPES was recorded using a time stamp. As a result, the date at which the episode was actually closed by the coordinator was recorded as the end date for the episode. In some instances, this was some months after the actual end date of the episode. The use of a time stamp was rectified during the evaluation period and replaced by the capacity to manually enter an episode end date. The episode dates for some (but not all) Murri Court participants were subsequently corrected by coordinators. In addition to the problem of time stamps, some episodes did not have an end date specified, despite the fact that all charges referred to the Murri Court had been finalised. A small number of episode end dates were also entered incorrectly.

This issue presents a number of problems with respect to analysing the efficiency of court processes. For example, where the episode end date was record incorrectly and all charges had been finalised prior to that date, the total length of the episode is inflated. To rectify this problem, a revised episode end date was calculated based on the final date for which any of the charges had been finalised, where this date was prior to the original episode end date. This revised date could only be calculated for two categories of offenders—those whose matter was fully finalised in a Murri Court and those who had some charges finalised in Murri Court and the remainder in a Magistrates or Children's Court. For the second group, some charges may have been finalised prior to Murri Court and the remainder within Murri Court, or alternatively some charges finalised in Murri Court and the remainder remitted back to a mainstream Magistrates or Children's Court. The episode end date was corrected only in those cases where the episode end date for the Murri Court episode did not fall on the same day as the court appearance event immediately preceding it. For all other categories of offenders (based on finalisation status), revised episode end dates could not be calculated.

**Figure 3** Referrals to Murri Court and finalisation status of Murri Court matters (reference court episode)



Source: AIC, Queensland Murri Court database [computer file]

Unfortunately, this problem was also affected a number of offenders who had been remitted back to arrest court after having none or some of their charges finalised in Murri Court. If the coordinator incorrectly enters the episode end date (or fails to enter an episode end date), the offender is remitted back to a Magistrates or Children’s Court and charges that should have been recorded as having been finalised outside of Murri Court are recorded as having been finalised. This issue can only be corrected manually by coordinators and as a result, while some errors were corrected prior to the final data extraction for the evaluation report, some offenders will have been incorrectly classified as having been finalised in Murri Court rather than in a mainstream Magistrates or Children’s Court.

## Court appearance events and time to finalisation

The total number of court appearance events and number of days taken to finalise the reference court episode (and each phase within this episode) was calculated for each offender referred to Murri Court. For the purposes of consistency, revised estimates of the time taken to finalise the reference court episode, based on the modified episode end date, are presented in the summary of key findings. Both estimates are included in the Tables.

Adult offenders and juveniles at risk of receiving a custodial sentence required a similar number of court appearance events and length of time for their reference court episode to be finalised. The average number of events and days to finalisation for

offenders finalised in a Youth Murri Court who were not at risk of receiving a custodial sentence was substantially lower than the other two categories. These findings are consistent with the advice provided by stakeholders during the consultation phase and reflect the different modes of operation in Adult and Youth Murri Courts such that:

- adult offenders required an average of 6.9 court appearance events and 177 days to finalise their reference court episode;
- juveniles at risk of a custodial sentence required an average of 6.1 court appearance events and 163 days to finalise their reference court episode; and
- juveniles who were not at risk of receiving a custodial sentence required an average of 2.6 court appearance events and 56 days to finalise their reference court episode.

Table 35 outlines the average number of court appearance events and the average time to finalise matters for both Adult and Youth Murri Courts, disaggregated by finalisation status. This shows that for both adults and juveniles, those matters that are referred to and then finalised in a Murri Court took, on average, fewer court appearances and less time to finalise than those matters finalised outside of Murri Court. There are several possible reasons for this difference. Those matters finalised outside of Murri Court include those offenders who have failed to abide by the conditions of their participation in Murri Court, such as having failed to appear at scheduled court dates. They may, as a result, have been remitted back to Arrest Court for having breached their bail conditions. They may also represent more complex cases, or include charges

Table 34 Average number of court appearance events and days to finalisation for offenders whose matters were fully finalised, by jurisdiction				
	n	Events	Days <sup>a</sup>	Days <sup>b</sup>
Adult offenders	578	6.9	193	177
Juvenile offenders not at risk of custodial sentence	264	2.6	68	56
Juvenile offenders at risk of custodial sentence	19	6.1	176	163

a: Average number of days from first court appearance until all charges are fully finalised

b: Revised estimate of average number of days based on modified episode end date for those offenders who are fully finalised in Murri Court

Note: These figures relate to each offender’s first episode (reference court episode) in Murri Court during the evaluation period. Limited to those offenders whose matter was fully finalised (ie all referring charges fully finalised)

Source: AIC, Queensland Murri Court database [computer file]

**Table 35** Court appearance events for Murri Court participants, by finalisation status and jurisdiction

	Adults				Juveniles at risk of custodial sentence				Juveniles not at risk of custodial sentence			
	n	Events	Days <sup>a</sup>	Days <sup>b</sup>	n	Events	Days <sup>a</sup>	Days <sup>b</sup>	n	Events	Days <sup>a</sup>	Days <sup>b</sup>
All charges finalised— —Murri Court only	504	6.2	168	151	14	4.6	139	122	249	2.4	63	50
All charges finalised— —Murri Court and Magistrates Court	20	12.0	476	466	1	4.0	319	319	6	4.0	122	122
All charges finalised— Magistrates Court only	54	10.9	319	319	4	11.8	268	268	9	5.9	165	165
Some charges finalised— —Murri Court only	113	8.6	297	297	24	9.2	213	213	91	7.6	199	199
Some charges finalised— —Murri Court and Magistrates Court	17	16.6	474	474	4	16.3	307	307	9	12.9	383	383
Some charges finalised— —Magistrates Court only	26	14.3	432	432	4	15.3	304	304	15	6.7	214	214
No charges finalised	142	9.3	357	357	3	19.0	400	400	12	6.9	169	169
Total	876	7.9	246	235	54	9.6	224	220	391	4.3	114	106

a. Average number of days from first court appearance until all charges are fully finalised (or in the case of matters not fully finalised the end of the evaluation period)

b. Revised estimate of average number of days based on modified episode end date for those offenders who are fully finalised in Murri Court

Note: These figures relate to each offender's first episode (reference court episode) in Murri Court during the evaluation period. Excludes offenders with missing court appearance data

Source: AIC, Queensland Murri Court database [computer file]

that for some reason could not be finalised within a Murri Court. Similarly, the high number of average court appearance events and days for those matters that are not yet fully finalised suggests that many of these matters may also involve offenders who have absconded for long periods.

Table 36 presents the results from an analysis of court appearance data for adult offenders in Murri Court, including a summary of court appearance events for each phase. This only includes those offenders whose reference court episode was fully finalised before the completion of the evaluation period.

There was considerable variation between the different court locations in terms of the average number of court appearance events and time taken to finalise matters. Townsville (8.3 events) and Mount Isa (8.0 events) recorded the highest number of court appearance events per offender, considerably higher than both Brisbane (5.8 events) and Rockhampton (4.8 events). The average number of days required to finalise court episodes varied from 106 days in Rockhampton to 287 days in Mount Isa. The fact that Mount Isa recorded the highest number of average episode duration and a high number of court appearance events reflects the operation of the bail program in that jurisdiction for the duration of the evaluation period.

Eighty percent of Adult Murri Court participants appeared in a Magistrates Court on at least one occasion prior to their referral to Murri Court and 11 percent of offenders returned to a Magistrates Court after having appeared in an Adult Murri Court. Townsville Adult Murri Court recorded the highest proportion of offenders (98%) who appeared in a Magistrates Court on at least one occasion prior to referral to Murri Court, as well as the highest average number of court appearance events prior to referral (5.2 events). This is due to the inclusion of an assessment mention for all adult offenders to consider their eligibility for the Murri Court prior

to referral, which is unique to the Townsville Murri Court. Mount Isa Murri Court had the highest proportion of offenders who recorded court appearance events post Murri Court, with nearly one-third (31%) of offenders remitted back to Magistrates Court.

The results from an analysis of court appearance data for juveniles in a Youth Murri Court are presented in Table 37. Forty-three percent of Youth Murri Court participants appeared in a Children's Court on at least one occasion prior to their referral to Murri Court. This is consistent with the information provided by stakeholders, who suggested that many juveniles who appeared for less serious offences are referred directly to a Youth Murri Court without having to appear in an arrest court. Among the 122 juveniles who appeared in a Children's Court prior to Murri Court, there were an average of 2.7 court appearance events and 85 days prior to being referred to Murri Court. Offenders required, on average, 1.5 court appearance events in Youth Murri Court. The average length of the Murri Court episode was 19 days. Six percent of offenders returned to a Children's Court after having appeared in a Youth Murri Court.

There was considerable variation between the different court locations in terms of the average number of court appearance events and time taken to finalise matters. Brisbane (6.1 events) and Caboolture (4.5 events) recorded the highest number of court appearance events per offender, compared with 3.6 events in Mount Isa, 2.4 in Rockhampton and 2.2 in Townsville. The average number of days required to finalise court episodes varied from 38 days in Townsville to 184 days in Brisbane. The proportion of juveniles who appeared in a Children's Court prior to Murri Court was highest in Caboolture (81%) and Brisbane (78%), although these courts also accounted for a relatively low proportion of the total number of Youth Murri Court participants (9%).



**Table 36** Court appearance events for offenders appearing in an Adult Murri Court

Court location	Court appearance events pre Murri Court				Court appearance events in Murri Court				Court appearance events post Murri Court				All court appearance events			
	n	Events	Days <sup>a</sup>		n	Events	Days <sup>a</sup>	Days <sup>b</sup>	n	Events	Days <sup>a</sup>		n	Events	Days <sup>a</sup>	Days <sup>b</sup>
Brisbane	170	4.0	119		251	2.9	93	44	18	3.7	126		251	5.8	143	133
Caboolture	1	3.0	85		1	1.0	1	1	0	0.0	0		1	4.0	86	86
Mount Isa	69	4.1	125		85	3.6	156	146	26	3.3	128		85	8.0	306	287
Rockhampton	38	3.7	99		55	2.1	43	30	4	2.0	104		55	4.8	131	106
Townsville	182	5.2	132		186	2.8	74	68	14	6.1	144		186	8.3	227	209
<b>Finalisation status</b>																
All charges finalised—Murri Court only	395	4.3	115		504	2.8	89	61	0	0.0	0		504	6.2	168	151
All charges finalised—Murri Court and Magistrates Court	19	7.9	352		20	3.3	101	75	8	3.0	140		20	12.0	476	466
All charges finalised—Magistrates Court only	46	4.1	101		54	3.3	105	105	54	4.1	128		54	10.9	319	319
Total	460	4.5	123		578	2.9	91	65	62	4.0	129		578	6.9	193	177

a: Average number of days from first court appearance until all charges are fully finalised (or in the case of matters not fully finalised the end of the evaluation period)

b: Revised estimate of average number of days based on modified episode end date for those offenders who are fully finalised in Murri Court

Note: n=number of offenders with court appearance events. These figures relate to each offender's first episode (reference court episode) in Murri Court during the evaluation period. Limited to those offenders whose matter was fully finalised (ie all referring charges fully finalised)

Source: AIC, Queensland Murri Court database [computer file]

**Table 37** Court appearance events for offenders appearing in a Youth Murri Court

Court location	Court appearance events pre Murri Court				Court appearance events in Murri Court				Court appearance events post Murri Court				All court appearance events			
	n	Events	Days		n	Events	Days	Days <sup>b</sup>	n	Events	Days	Days	n	Events	Days	Days <sup>b</sup>
Brisbane	11	4.1	163		15	2.9	84	59	2	1.0	41		15	6.1	184	184
Caboolture	9	2.3	132		11	2.5	94	60	0	0.0	0		11	4.5	193	169
Mount Isa	21	4.0	127		60	1.7	22	21	6	4.8	139		60	3.6	92	80
Rockhampton	34	1.9	57		86	1.5	18	14	9	1.8	123		86	2.4	67	49
Townsville	47	2.4	60		111	1.2	11	11	1	5.0	126		111	2.2	46	38
<b>Risk of custodial sentence</b>																
Not at risk of custodial sentence	107	2.6	84		264	1.4	21	17	13	2.4	96		264	2.6	68	56
At risk of custodial sentence	15	3.3	95		19	2.4	41	41	5	4.2	182		19	6.1	176	163
<b>Finalisation status</b>																
All charges finalised—Murri Court only	110	2.6	87		263	1.5	22	18	0	0.0	0		263	2.6	67	54
All charges finalised—Murri Court and Children's Court	5	1.6	100		7	2.1	10	10	5	1.0	97		7	4.0	150	150
All charges finalised—Children's Court only	7	3.6	58		13	2.2	37	37	13	3.6	129		13	7.7	197	197
Total	122	2.7	85		283	1.5	23	19	18	2.9	120		283	2.8	75	63

a. Average number of days from first court appearance until all charges are fully finalised

b. Revised estimate of average number of days based on modified episode end date for those offenders who are fully finalised in Murri Court

Note: n=number of offenders with court appearance events. These figures relate to each offender's first episode (reference court episode) in Murri Court during the evaluation period. Limited to those offenders whose matter was fully finalised (ie all referring charges fully finalised)

Source: AIC, Queensland Murri Court database [computer file]

# Comparison between Murri Court and the control group

The total number of court appearance events and number of days taken to finalise the reference court episode for each offender referred to Murri Court was compared with those offenders in the control group. The findings from a comparison between episodes in Murri Court and Magistrates Courts for adult offenders within the group of matched offenders are presented in Table 38. These results demonstrate that, on average, matters relating to offenders in an Adult Murri Court took nearly twice as many court appearances (6.2 events) than those matters heard in a mainstream Magistrates Court (3.3 events). They also took longer to be finalised, with the average number of days from the first appearance until the date of finalisation (153 days) higher than for the control group (138 days).

The average number of events and days taken to finalise matters in Murri and Magistrates Court for the group of matched offenders, by region and MSO, is also presented in Table 38. Care is required in interpreting these findings since region was not one of the selection criteria for the comparison group and, as such, there may be differences between offenders in the two groups in terms of

their offending characteristics which may influence the time taken to be finalised. Nevertheless, the average number of court appearance events and the time required to finalise each matter was higher among the Murri Court participants than among the control group across in both regional and remote court locations. In metropolitan courts, the length of time taken to finalise matters in the Murri Court was, on average, slightly lower than offenders sentenced in metropolitan court in the control group.

The average number of court appearance events for juveniles at risk of a custodial sentence who were referred to a Youth Murri Court was lower than the average number of events for the control group (4.7 events compared to 5.5 events). There was little difference between Murri Court and Children’s Court in terms of the average number of days taken to finalise the reference court episode for these more serious offenders. Using the revised estimate, offenders referred to the Youth Murri Court took slightly fewer days (128 days) on average to complete their matter than their counterparts in the control group (135 days).

For those juveniles who were not at risk of receiving a custodial penalty and whose matter had been fully finalised, the average number of court appearance events in Youth Murri Court (2.3 events) was the

Table 38 Average number of court appearance events and days to finalisation for offenders in an Adult Murri Court and control group							
	Murri Court				Control group		
	n	Events	Days <sup>a</sup>	Days <sup>b</sup>	n	Events	Days <sup>a</sup>
Region							
Metropolitan	166	5.5	133	117	46	3.6	121
Regional	169	6.6	176	152	243	3.2	142
Remote	55	7.1	288	260	101	3.5	135
MSO							
Violent offence	118	8.0	211	198	118	4.4	213
Property offence	80	6.0	153	132	80	3.8	189
Other offence	192	5.2	158	132	192	2.5	70
Total	390	6.2	173	153	390	3.3	138

a: Average number of days from first court appearance until all charges are fully finalised

b: Revised estimate of average number of days based on modified episode end date for those offenders who are fully finalised in Murri Court

Note: These figures relate to each offender's first episode (reference court episode) in Murri Court during the evaluation period. Limited to those offenders whose matter was fully finalised (ie all referring charges fully finalised)

Source: AIC, Queensland Murri Court database [computer file]

same as the control group. The average number of days from the first to final appearance for all referring charges was lower among Murri Court participants (49 days) than for offenders in the control group who appeared in Children’s Court (69 days).

For juveniles, the average number of court appearance events was higher among the Murri Court participants than among the control group in both metropolitan and remote courts. However, Youth Murri Court participants in regional locations, which accounted for 75 percent of juveniles across the five evaluation courts and 69 percent of juveniles in the comparison group, required on average a

lower number of court appearance events than the offenders in regional courts in the control group. The time required to finalise each matter was substantially higher among metropolitan Murri Court participants (217 days) than for the equivalent control group (68 days), although this relates to a relatively small number of offenders (n=17 and 20 in each court). It was lower among both regional (33 days) and remote (57 days) Murri Court participants compared with the respective group of offenders in regional (78 days) and remote (62 days) courts in the control group.

**Table 39** Average number of court appearance events and days to finalisation for offenders in a Youth Murri Court and control group

	Youth Murri Court				Control group		
	n	Events	Days <sup>a</sup>	Days <sup>b</sup>	n	Events	Days
<b>Region</b>							
Metropolitan	17	5.6	232	217	20	2.1	68
Regional	145	2.0	43	33	137	2.7	78
Remote	48	2.6	69	57	53	2.3	62
<b>MSO</b>							
Violent offence	48	4.1	138	129	48	3.6	125
Property offence	93	2.0	52	31	93	2.3	66
Other offence	69	1.9	30	31	69	2.0	46
<b>Risk of custodial sentence</b>							
Not at risk of custodial sentence	197	2.3	59	49	197	2.3	69
At risk of custodial sentence	13	4.7	147	128	13	5.5	135
Total	210	2.4	65	54	210	2.5	73

a: Average number of days from first court appearance until all charges are fully finalised

b: Revised estimate of average number of days based on modified episode end date for those offenders who are fully finalised in Murri Court

Note: These figures relate to each offender's first episode (reference court episode) in Murri Court during the evaluation period

Source: AIC, Queensland Murri Court database [computer file]



# Impact of the Murri Court on offenders and the criminal justice system

One of the goals of this evaluation has been to determine the impact of the Murri Court program on offenders and the criminal justice system. This includes whether the Murri Court is having a measurable impact on:

- court appearance rates and the rate at which offenders fail to appear on scheduled court dates;
- rates of imprisonment and the over-representation of Indigenous offenders in prison; and
- recidivism rates among Indigenous offenders.

Interviews with those individuals involved in the management and delivery of the Murri Court program suggest that stakeholders are largely supportive of the Murri Court as an innovative strategy to address offending by Indigenous people, which seeks to overcome the limitations of traditional approaches and mainstream court processes. Stakeholders cited anecdotal evidence which suggested that fewer Indigenous offenders were receiving custodial sentences. Similarly, many stakeholders felt that the rate of reoffending had declined, although it remained high compared with non-Indigenous offenders. Many of the offenders appearing in the Murri Court were known to those involved in the process. Some argued that the seriousness of offences for which offenders returned to the Murri Court had decreased and that offenders were less likely to breach community-based orders

due to the increased level of support offered to them post-sentence.

The review recognised the limited nature of the data collection processes as a key problem in properly assessing the effectiveness of the Murri Court program. While there was anecdotal evidence to suggest that the Murri Court had been successful in terms of achieving its objectives, it was not possible to determine the full extent of the impact of the Murri Court on reducing imprisonment rates, reducing the rate of reoffending among Indigenous offenders or reducing the number of Indigenous offenders who fail to appear in court. As such, it was not possible to determine the extent to which the Murri Court was meeting its objectives. This section of the report therefore presents the findings from a quantitative assessment of key outcomes from the Murri Court in comparison with other court jurisdictions and mainstream court processes. This includes an analysis of data recorded in the Murri Court database (drawn across from QWIC) and additional data provided by QCS and DoC.

## Court appearance rates

The first objective of the Murri Court program is to reduce the rate at which Indigenous offenders fail to appear in court. This is an important goal, as

non-appearance at court creates additional work for criminal justice agencies in determining the whereabouts and apprehension of offenders who have failed to abide by their bail conditions (Sarre & Sparrow 2004). It also results in offenders being more likely to be arrested on warrant and increases the likelihood that bail will be refused and the offender remanded in custody (Sarre & Sparrow 2004). Neither of these are desirable outcomes for a process that aims to reduce the incarceration rates for Indigenous offenders.

The 2005–06 review was relatively circumspect with regards to whether the Murri Court was achieving this objective. As with the review, many stakeholders spoken to as part of the AIC's evaluation suggested that the Murri Court has a marked impact on the rate of court attendance. However, determining the extent to which the Murri Court had achieved this objective required that the rate of non-attendance of offenders appearing in the Murri Court be compared with the rate for a comparable group of offenders in mainstream Magistrate and Children's Courts. This component of the evaluation therefore addresses the following key research question:

- Are Murri Court participants less likely than Indigenous offenders in mainstream courts to fail to appear at their scheduled court dates?

There are two possible indicators of failure to appear in the Murri Court:

- *failure to appear*—the matter is adjourned and the adjournment reason is listed as the offender having failed to appear; and
- *warrant issued*—the Magistrate issues a warrant for the arrest of the offender for having breached bail conditions and failing to appear before the court on their scheduled court date (includes those warrants ordered to lie on the file).

Measuring the rate with which offenders fail to appear involves calculating the number and proportion of all court appearance events that have been adjourned, where the reason listed for that adjournment is given as the offender having failed to appear before the court. The second indicator is measured by calculating the number and proportion of court appearance events that result in a warrant being issued or ordered to lie on the file, due to the reason of the offender having failed to appear before the court with no reasonable excuse.

Both indicators present issues with respect to measurement. In the case of failure to appear, an adjournment reason is not listed for all matters that are adjourned. A matter may be adjourned for a whole range of reasons, including:

- the offender not being able to obtain legal representation in time for their scheduled court appearance;
- pre-sentence interviews and reports not having been completed, or the need for additional assessments identified;
- Magistrate seeking to allow the offender additional time to complete existing orders to demonstrate their suitability for a community-based order;
- an offender having a reasonable excuse for failing to appear and their legal representative appearing on their behalf to request that the matter be adjourned; and
- insufficient time to deal with the matter.

Interrogation of the data provided by JAG revealed that instances of failure to appear which did not result in a warrant being issued were not routinely recorded in QWIC by court staff. Of all Murri Court participants to appear during the evaluation period, only four offenders had a court appearance event that had been adjourned, where the adjournment reason recorded indicated that they had failed to appear.

While the capacity exists to record this information, it appears as though it is not currently being recorded and entered into the database by court staff responsible for entering data into QWIC. As a result, it was not possible to assess how frequently offenders who are referred to Murri Court failed to appear where the Magistrate, as a result of advice from the Elders that there is a reasonable excuse, decided not to issue a warrant. This issue is not limited to Murri Court and in the absence of an alternative measure, will require that all court staff using QWIC commence recording failure to appear events on a consistent and routine basis.

The alternative measure, the number of warrants issued by the Magistrate in Murri Court compared with other courts, is recorded on a routine basis, but still requires careful interpretation. In those instances where the participant absconds from the Murri Court program (such as by failing to abide by the conditions

of the bail program) or fails to appear in court as scheduled, the Magistrate may order a warrant to lie on the file until a future scheduled court appearance to see whether the offender reappears, or they may issue a warrant for their arrest.

However, it was a key finding of the 2005–06 review that, while suggesting that failure to appear rates were lower in the Murri Court, Murri Court Magistrates tended to exercise some flexibility in instances where Indigenous offenders failed to appear before court and a suitable explanation could be provided and, as a result, issued fewer warrants (Parker & Pathé 2006). Therefore, any comparison with other Magistrates or Children's Courts would need to take this into consideration. The number of warrants issued in the Murri Court may underestimate the rate at which offenders actually fail to appear in court. Differences in the proportion of offenders issued with a warrant or court appearance events resulting in a warrant being issued may reflect, at least in part, procedural differences rather than actual differences in the rate at which offenders fail to appear in court.

Nevertheless, in the absence of reliable data to determine those instances in which the offender has failed to appear before court and the matter is adjourned without a warrant being issued, the present study used the issuing of warrants as the primary indicator of court appearance rates. This included:

- the number and proportion of offenders who abscond on at least one occasion during their reference court episode and where a warrant has been issued for their arrest (or ordered to lie on file) for failing to appear in court; and
- the number and proportion of court appearance events during the reference court episode which result in a warrant being ordered due to the offender having failed to appear in court.

This second measure helps take into account the differences between groups in the number of court appearances; the higher the number of court

appearance events, the greater the opportunity for an offender to abscond. This analysis was limited to those offenders whose reference court episode had been finalised during the evaluation period.

### *Warrants ordered in Adult and Youth Murri Courts*

The results from an analysis of the number of offenders who abscond subject to warrant and the number of court appearance events that resulted in a warrant being ordered, are presented for Adult Murri Court participants in Table 40. Overall, 40 percent of Adult Murri Court participants absconded on at least one occasion during their reference court episode.

However, a significant proportion of offenders referred to a Murri Court appear numerous times in a Magistrates or Children's Court prior to referral to Murri Court, while a smaller proportion are remitted back to a mainstream Court for sentencing after their Murri Court episode. Therefore, it was necessary to distinguish between those warrants that were issued within Murri Court and those issued to Murri Court participants appearing in a mainstream Magistrates or Children's Court.

The proportion of offenders who absconded subject to warrant on at least one occasion while in Murri Court (12%) was substantially lower than the proportion who absconded from court appearances prior to referral to the Murri Court (40%). The proportion of court appearance events in Murri Court that result in a warrant being issued was also substantially lower than for court appearance events prior to referral.

This finding is consistent across all court locations and regions, although there is some variation between courts. The proportion of offenders in Mount Isa Murri Court (34%) who have a warrant issued for their arrest for failing to appear in Murri Court was higher than any other court. However,

**Table 40** Warrants ordered for Adult Murri Court participants, by episode phase (%)

	Court appearance events pre-Murri Court		Court appearance events in Murri Court		Court appearance events post Murri Court		All court appearance events	
	Offenders	Events	Offenders	Events	Offenders	Events	Offenders	Events
<b>Court location</b>								
Brisbane	41	15	11	5	11	3	35	10
Caboolture	100	33	0	0	0	0	100	25
Mount Isa	46	16	34	11	23	8	62	13
Rockhampton	29	11	11	5	0	0	27	8
Townsville	38	14	5	3	43	12	41	10
<b>Finalisation status</b>								
Finalised in Murri Court only	38	14	10	4	n/a	n/a	37	10
Finalised in Murri Court and Magistrates Court	63	15	5	2	0	0	60	10
Finalised in Magistrates Court only	41	12	39	16	26	9	63	12
<b>Total</b>	<b>40</b>	<b>14</b>	<b>12</b>	<b>6</b>	<b>23</b>	<b>8</b>	<b>40</b>	<b>10</b>

Note: n/a=not applicable. Limited to those offenders whose reference court episode was finalised between January 2007 and December 2008

Source: AIC, Queensland Murri Court database [computer file]

Mount Isa also had the highest proportion of warrants issued for court appearance events pre-Murri Court (other than Caboolture, in which there was only 1 offender). Mount Isa also recorded the highest average number of court appearance events in Murri Court and the highest average number of days in Murri Court, due to the operation of a bail program. Nevertheless, the fact that the proportion of court appearance events in Mount Isa Murri Court that result in a warrant being issued is also higher than other courts suggests that, taking into account the number of court appearance events (and opportunity to abscond), the rate with which offenders have warrants issued for their arrest for failing to appear in Murri Court is higher.

The decline in the proportion of warrants being issued also appears to continue into the period post-Murri Court for offenders remitted back to a mainstream Magistrates Court. The overall proportion of offenders who absconded on at least one occasion during this phase and the proportion of court appearance events for which a warrant was issued, was higher than for court appearance events

within Murri Court. However, it was lower than the equivalent rate for the period prior to Murri Court.

Adult Murri Court participants who had at least some (60%) or all (63%) of their charges finalised outside of the Murri Court were more likely than those offenders who were fully finalised within the Murri Court (37%) to abscond subject to warrant on at least one occasion. This is consistent with the perception among those involved in the Murri Court that offenders who fail to abide by the conditions of participation in the Murri Court, including their bail conditions, are remitted back to arrest court for sentencing rather than being sentenced in the Murri Court.

Further, offenders who were fully finalised outside of Murri Court were no less likely to be issued with a warrant for failing to appear while in Murri Court than they were prior to their referral to Murri Court. This suggests that they were no more likely to appear for scheduled court appearances in Murri Court than they were in a mainstream Magistrates Court.



Table 41 presents the results from an analysis of warrants that were ordered for Youth Murri Court participants, including the proportion of offenders who absconded subject to warrant and proportion of events that resulted in a warrant being ordered in each phase of their reference court episode. The proportion of offenders who had a warrant ordered on at least one occasion for failing to appear for a Murri Court appearance (4%) was lower than the proportion of those Murri Court participants who had court appearance events prior to Murri Court in a mainstream Children's Court (28%). Of the 18 offenders who were remitted back to Children's Court after their appearance in Murri Court, four absconded on at least one occasion.

These results were driven largely by the trends in regional courts, which accounted for around three-quarters of all juvenile offenders included in this study. Townsville Youth Murri Court did not

record any warrants being issued for the 111 offenders who appeared in the Murri Court on at least one occasion. Rockhampton also had a low proportion of offenders who had absconded subject to warrant on at least one occasion within the Murri Court phase and (other than Townsville) the lowest proportion of court appearance events in Murri Court that resulted in a warrant being issued. It also recorded a very low rate of warrants for court appearance events for Murri Court participants appearing outside of Murri Court, suggesting that the low rate may reflect a wider practice in the region of not issuing warrants for juvenile offenders. Together, these findings suggest that there is a practice in place in regional courts of not issuing warrants for juvenile offenders who fail to appear in court, particularly for Youth Murri Court appearance events. Caboolture Youth Murri Court recorded the highest proportion of offenders who had absconded on at least one occasion (18%).

**Table 41** Warrants ordered for Youth Murri Court participants, by episode phase (%)

	Court appearance events pre-Murri Court		Court appearance events in Murri Court		Court appearance events post Murri Court		All court appearance events	
	Offenders	Events	Offenders	Events	Offenders	Events	Offenders	Events
<b>Court location</b>								
Brisbane	36	11	13	5	0	0	27	1
Caboolture	22	14	18	7	0	0	36	10
Mount Isa	29	8	7	4	33	10	20	7
Rockhampton	3	2	2	2	22	13	5	2
Townsville	45	25	0	0	0	0	19	11
<b>Risk of custodial sentence</b>								
Not at risk of custodial sentence	29	14	4	3	23	13	16	8
At risk of custodial sentence	20	10	0	0	20	5	21	5
<b>Finalisation status</b>								
All charges finalised —Murri Court only	31	15	3	2	n/a	n/a	15	8
All charges finalised —Murri Court and Children's Court	0	0	14	7	0	0	14	4
All charges finalised—Children's Court only	0	0	8	4	31	11	31	6
Total	28	14	4	2	22	10	16	7

n/a=not applicable

Note: Limited to those offenders whose reference court episode was finalised between January 2007 and December 2008

Source: AIC, Queensland Murri Court database [computer file]

## Comparison between Murri Court and the control group

The findings from a comparison of Adult Murri Court participants with adult offenders in the control group are presented in Table 42. Overall, the total proportion of adult offenders who have absconded subject to warrant was higher among Adult Murri Court participants (38%) than among those offenders whose matter is heard and finalised in a mainstream Magistrates Court (26%). This finding is consistent across metropolitan, regional and remote courts.

However, this report has already shown that, on average, reference court episodes for Adult Murri Court participants take longer and involve a greater number of court appearances than the control group. The opportunity to abscond is therefore greater among the Murri Court participants. The proportion of events resulting in a warrant being issued was slightly lower among Murri (10%) than non-Murri Court participants (12%). This suggests that the overall rate with which warrants are issued is relatively similar across the two groups, taking into consideration the number of court appearance events.

Furthermore, these figures refer to Adult Murri Court participants' entire reference court episodes, not just their time in Murri Court. For court appearance events within Murri Court, the proportion of offenders

for whom a warrant was ordered (9%) and the proportion of events resulting in a warrant being ordered (4%) are substantially lower than both the period prior to Murri Court and the control group. This pattern was consistent across all regions and each offence type. These figures also suggest that the propensity to abscond subject to warrant was greater among Murri Court participants prior to referral than among the control group.

The findings from a comparison of Youth Murri Court participants with juvenile offenders in the control group are presented in Table 43. For juvenile offenders, there was no difference in the overall proportion of Youth Murri Court participants (16%) and offenders whose matter is dealt with in a mainstream Children's Court (14%) that absconded subject to warrant on at least one occasion during their reference court episode. The proportion of court appearance events for Youth Murri Court participants (8%) and for non Murri Court participants in the control group (7%) that resulted in a warrant being issued was about the same.

However, disaggregating these results by region shows that in metropolitan courts (which account for a small proportion of the total proportion of juvenile offenders included in the study), the proportion of offenders who abscond subject to warrant (12%) and the proportion of court appearance events that result in a warrant being issued (4%) was slightly

**Table 42** Warrants ordered for Adult Murri Court participants and control group, by episode phase (%)

	Murri Court						Control group	
	Court appearance events pre-Murri Court		Court appearance events in Murri Court		All court appearance events			
	Offenders	Events	Offenders	Events	Offenders	Events	Offenders	Events
<b>Region</b>								
Metropolitan	42	16	10	5	34	11	26	12
Regional	37	14	4	2	36	10	13	11
Remote	47	17	24	8	56	12	28	13
<b>MSO</b>								
Violent	45	13	8	4	43	9	33	11
Property	46	19	14	6	40	13	39	15
Other	35	16	9	4	33	10	16	11
Total	40	15	9	4	38	10	26	12

Note: Limited to those offenders whose reference court episode was finalised between January 2007 and December 2008

Source: AIC, Queensland Murri Court database [computer file]

**Table 43** Warrants ordered for Youth Murri Court participants and control group, by episode phase (%)

	Murri Court						Control group	
	Court appearance events pre Murri Court		Court appearance events in Murri Court		All court appearance events		Offenders	Events
	Offenders	Events	Offenders	Events	Offenders	Events		
Region								
Metropolitan	38	15	12	4	35	9	5	2
Regional	32	22	1	1	14	9	15	8
Remote	36	13	4	3	15	6	15	7
MSO								
Violent	33	11	4	2	23	8	13	4
Property	31	30	1	1	13	10	15	8
Other	38	20	3	2	14	8	13	11
Risk of custodial sentence								
Not at risk of custodial sentence	34	18	3	2	15	8	14	8
At risk of custodial sentence	30	16	0	0	23	8	15	3
Total	34	18	2	2	16	8	14	7

Note: Limited to those offenders whose reference court episode was finalised between January 2007 and December 2008

Source: AIC, Queensland Murri Court database [computer file]

higher among the Murri Court participants than in the metropolitan control (5% of offenders and 2% of events).

## Imprisonment of Indigenous offenders

The second objective of the Murri Court program examined in this component of the evaluation was the goal of reducing the rate of over-representation of Indigenous offenders in prison and juvenile detention in Queensland. The Murri Court was originally established as a jail diversion strategy for those offenders who pleaded or intend to plead guilty and who can demonstrate, with the appropriate support mechanisms, that they are suitable, willing and capable of complying with the requirements and conditions of alternative non-custodial sentencing options. An important measure of the effectiveness of the program is therefore whether the rate of imprisonment or detention of offenders sentenced in the Murri Court is lower than the rate among a comparable group of Indigenous

offenders sentenced in mainstream Magistrates or Children's Courts.

The 2005–06 review reported anecdotal evidence that suggested that the Murri Court had been successful in reducing the number of offenders sentenced to imprisonment, with offenders instead receiving rehabilitative orders which aimed to address the underlying reasons for their offending behaviour (Parker & Pathé 2006). The offender is encouraged to change their behaviour and to reintegrate back into the community, reducing the risk of future offending.

However, there was limited quantitative evidence to support this conclusion. Therefore, this component of the evaluation sought to address the following key research questions:

- Are Murri Court participants less likely than Indigenous offenders in mainstream courts to be sentenced to a term of imprisonment?
- Are Murri Court participants more likely than Indigenous offenders in mainstream courts to receive rehabilitative orders as part of their final sentence?

To answer the first research question it was necessary to examine the rate of imprisonment among Murri Court and mainstream court participants. The proportion of Indigenous offenders who receive a term of imprisonment for charges finalised in the Murri Court and the proportion of offenders sentenced in mainstream Magistrates and Children's Courts were compared to determine whether Murri Court participants were less likely to be sentenced to a period of imprisonment or detention. Two different measures of imprisonment were used. The first compared the relative proportions of offenders in each group who had received a custodial sentence. The second compared the groups on the basis of whether offenders were incarcerated post-sentence. The results and a more detailed description of both analyses are presented in this section of the report.

In addition to comparing sentence outcomes between offenders sentenced in Adult and Youth Murri Court and those sentenced in a mainstream Magistrates or Children's Court, the AIC sought to examine whether there was any difference in terms of the severity of custodial penalties imposed in

Murri Court. However, reliable estimates of sentence length could not be determined from the data recorded in QWIC (and migrated across into CIPES) and this component of the evaluation could not be addressed.

The second research question could not be answered using the data available at the time of evaluation. Limited information is recorded in the CIPES database relating to referrals to services for a small proportion of offenders participating in the Murri Court. This information has not been recorded consistently, either over the course of the evaluation, or across the different court locations. The capacity does not exist within QWIC to record information on rehabilitative orders imposed as part of an offender's sentence in court.

## Sentence outcomes

Using data extracted from the QWIC database, it is possible to determine the sentence orders imposed on offenders sentenced in Murri Court for charges finalised within the reference court episode and compare this with the orders imposed upon a

**Table 44** Principal sentence for offenders sentenced in Murri Court, by jurisdiction

	Adults		Juveniles at risk of custodial sentence		Juveniles not at risk of custodial sentence	
	n	%	n	%	n	%
<b>Custodial orders</b>						
Custody in correctional institution	122	24	3	21	1	<1
Immediate parole release date	46	9	0	0	1	<1
Custody in the community	6	1	0	0	0	0
Fully-suspended sentence	143	29	0	0	1	<1
Total custodial orders	317	63	3	21	3	1
<b>Non-custodial orders</b>						
Community supervision or work orders	85	17	9	64	111	45
Monetary orders	63	13	2	14	9	4
Other non-custodial orders	35	7	0	0	125	50
Total non-custodial orders	183	37	11	79	245	99
Total	500	100	14	100	248	100

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were resentenced for a matter finalised during a previous court episode. Limited to those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

comparable group of offenders in the control group. Sentence types were classified according to the ABS (2009) Sentence Type Classification used in the Criminal Courts collection. The principal sentence refers to the main sentence type for an offender based upon the hierarchy used in this classification.

Table 44 presents the findings of an analysis of sentencing outcomes for those offenders finalised in an Adult or Youth Murri Court. Nearly two-thirds (63%) of all adult offenders sentenced in an Adult Murri Court received some form of custodial order as their principal sentence, of which around one-third (24%) resulted in an actual period of imprisonment. Juveniles, whether they were at risk of custodial sentence or not, were far more likely to receive a non-custodial order as their principal sentence. This is not surprising given that one of the eligibility criteria for being sentenced in an Adult Murri Court is that the offender must be at risk of receiving a custodial penalty.

Table 45 provides a comparison of principal sentence types for Murri Court participants sentenced in a Murri Court and the matched group of offenders sentenced in a mainstream Magistrates

or Children's Court. These results suggest that there were a number of differences in the principal sentence orders imposed in Adult Murri Court compared with those imposed in a mainstream Magistrates Court.

- Fifty-nine percent of offenders sentenced in an Adult Murri Court received some form of custodial order as their head sentence, compared with 28 percent of adult offenders sentenced in a mainstream Magistrates Court.
- Twenty-one percent of adults sentenced in a Murri Court received a custodial sentence (ie an imprisonment order for which the offender was required to spend time in a correctional institution) compared with 10 percent of adults in the control group.
- Offenders sentenced in an Adult Murri Court (9%) were two times more likely to receive an imprisonment order with an immediate parole release date than adult offenders in the control group (5%).
- Nearly one-third of offenders (28%) sentenced in an Adult Murri Court received a fully-suspended sentence as their principal sentence, compared with one in 10 offenders in the control group.

**Table 45** Principal sentence for offenders sentenced in Murri Court, by jurisdiction (%)

	Adults		Juveniles at risk of custodial sentence		Juveniles not at risk of custodial sentence	
	Murri Court	Control	Murri Court	Control	Murri Court	Control
<b>Custodial orders</b>						
Custody in correctional institution	21	10	23	46	1	0
Immediate parole release date	9	5	0	0	0	0
Custody in the community	1	1	0	0	0	1
Fully-suspended sentence	28	12	0	0	0	0
Total custodial orders	59	28	23	46	1	1
<b>Non-custodial orders</b>						
Community supervision or work orders	19	11	69	54	49	48
Monetary orders	14	55	8	0	2	3
Other non-custodial orders	7	5	0	0	48	48
Total non-custodial orders	41	72	77	54	99	99
Total (n)	387	384	13	13	196	190

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Limited to those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

- Monetary orders were the most common principal sentence type among non-Murri Court offenders (55%) and adults sentenced in a mainstream Magistrates Court were far more likely to have received a non-custodial order (72%) as their principal sentence than the Murri Court participants (41%).

Of the 13 juveniles in each group who were assessed as being at risk of receiving a custodial sentence and therefore were ordered to complete a pre-sentence report:

- offenders sentenced in a Children's Court (46%) were more likely to receive a custodial sentence than those sentenced in the Youth Murri Court (23%) and
- a similar proportion of offenders sentenced in a Youth Murri Court (69%) and in a Children's Court (54%) received some form of community supervision or work order as their principal sentence type.

Not surprisingly, very few juveniles not identified as being at risk of receiving a custodial sentence received a custodial order. It is likely that those who did may have had a pre-sentence report ordered at some stage that was not recorded in QWIC. Among this group of offenders:

- ninety-nine percent of Youth Murri Court participants and 99 percent of offenders sentenced in a Children's Court received a non-custodial order as their principal sentence type;
- forty-nine percent of offenders sentenced in a Children's Court received some form of community supervision or work order, compared with 48 percent of offenders sentenced in a Youth Murri Court; and
- half (48%) of those offenders sentenced in a Youth Murri Court or a Children's Court received some other form of non-custodial order as their principal sentence. This included good behaviour bonds and recognisance orders, but also included those instances in which the offender is released without an order following sentence that may or may not have conditions attached, such as a caution, discharge or dismissal (ABS 2009).

## *Imprisonment orders*

The proportion of adult offenders who received a custodial sentence and were sentenced to a period of imprisonment was analysed further to determine whether differences existed between offence types and across the different Murri Courts (see Table 47). These figures relate to all offenders whose reference court episode was fully finalised in an Adult or Youth Murri Court during the evaluation period and in the case of juveniles, were at risk of receiving a custodial sentence (ie a pre-sentence report had been ordered). Townsville Adult Murri Court (34%) had the highest proportion of offenders who received a custodial sentence, followed by Brisbane (22%). The relatively low proportion of offenders in Mount Isa that received a custodial sentence (14%) compared with the other courts reflects the policy of, where possible, not imposing an imprisonment order without an immediate parole release date for those offenders who participate in the bail program, which was in place during the early stages of the evaluation. Similarly, some offenders were remitted back to a Magistrates Court for sentencing if they were not complying with the bail program and a non-custodial sentence was not practical. The high rate of imprisonment in Townsville, relative to other Murri Courts, most likely reflects the more comprehensive assessment process whereby the eligibility of participants, including whether they are at risk of imprisonment, is confirmed.

The number and proportion of juvenile offenders who received a custodial sentence and were sentenced to a period of detention across the different Murri Court locations is also presented in Table 46. Of the 14 juveniles who were at risk of receiving a custodial sentence and whose reference court episode was finalised in a Youth Murri Court during the evaluation period, three (21%) were sentenced to a term of detention.

The proportion of offenders who received a custodial sentence and were sentenced to a period of imprisonment in Murri Court was also compared to offenders sentenced in a mainstream Magistrate or Children's Court (ie the control group). The results for adults in the comparison group are presented in

**Table 46** Offenders sentenced to a period of imprisonment in a correctional institution in an Adult or Youth Murri Court

	Adult Murri Court			Youth Murri Court		
	Total (n)	Custodial sentence (n)	Custodial sentence (%)	Total (n)	Custodial sentence (n)	Custodial sentence (%)
<b>MSO</b>						
Violent offence	144	49	34	6	2	33
Property offence	142	40	28	7	1	14
Other	214	33	15	1	0	0
<b>Court location</b>						
Brisbane	230	51	22	1	0	0
Caboolture	1	0	0	0	0	0
Mount Isa	58	8	14	8	2	25
Rockhampton	50	9	18	1	0	0
Townsville	161	54	34	4	1	25
Total <sup>a</sup>	500	122	24	14	3	21

a: Excludes those offenders whose matter was finalised but who committed to a higher court or who were resentenced for a matter finalised during a previous court episode

Note: Excludes those offenders who were sentenced to imprisonment with an immediate parole release date and whose sentence was fully suspended. Includes those offenders who received an order of imprisonment that was partly suspended. Limited to those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

**Table 47** Adult offenders sentenced to a period of imprisonment in a correctional institution

	Murri Court			Control group		
	Total (n)	Custodial sentence (n)	Custodial sentence (%)	Total (n)	Custodial sentence (n)	Custodial sentence (%)
<b>Region</b>						
Metropolitan	165	28	17	44	3	7
Regional	167	47	28	240	30	13
Remote	55	8	15	100	8	8
<b>MSO</b>						
Violence	118	41	35	116	24	21
Property	80	13	16	80	11	14
Other	189	29	15	188	6	3
Total	387	83	21	384	41	11

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Excludes those offenders who were sentenced to imprisonment with an immediate parole release date and whose sentence was fully suspended. Includes those offenders who received an order of imprisonment that was partly suspended. Limited to those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

Table 47 and demonstrate that the proportion of offenders that received a custodial sentence was higher for Murri Court participants regardless of region or MSO.

Of the 13 juveniles who were at risk of receiving a custodial sentence and whose reference court episode was finalised in a Youth Murri Court during the evaluation period, three (23%) were sentenced to a term of detention (Table 48). Of the 13 juveniles in the control group were at risk of receiving a custodial sentence, six (46%) were sentenced to a period of detention.

Further investigation revealed that a number of offenders in both the Adult Murri Court (14%) and to a lesser extent, adult control group (4%), were already serving a term of imprisonment at the time of being sentenced in Murri Court. Since this component of the evaluation was concerned with the impact of the Murri Court on sentence outcomes and the outcomes for these offenders were largely predetermined by the preceding sentence, they were separated from the comparison group and are

reported separately. This enables the evaluation to examine whether those offenders sentence in Murri Court who are not in prison are more likely to be sentenced to a term of imprisonment.

A summary of principal sentence types for adult offenders sentenced in Murri Court and a similar group of offenders sentenced in a mainstream Magistrates Court, excluding those offenders already sentenced to a term of imprisonment, is presented in Table 49. This shows that the rate of imprisonment was still slightly higher among those offenders sentenced in Murri Court, but that the difference between the two groups has been substantially reduced by eliminating irrespctive prisoners. The proportion of offenders who received other sentence types as their principal sentence has remained about the same.

Table 50 provides an overview of all sentence orders given to offenders sentenced in an Adult Murri Court and those sentenced in a mainstream Magistrates Court. The results demonstrate that around twice as many Adult Murri Court participants received an

Table 48 Juvenile offenders sentenced to a period of detention in a correctional institution						
	Murri Court			Control group		
	Total (n)	Custodial sentence (n)	Custodial sentence (%)	Total (n)	Custodial sentence (n)	Custodial sentence (%)
Region						
Metropolitan	1	0	0	0	0	0
Regional	4	1	25	7	2	29
Remote	8	2	25	6	4	67
MSO						
Violence	5	2	40	5	1	20
Property	7	1	14	7	5	71
Other	1	0	0	1	0	0
Total	13	3	23	13	6	46

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Excludes those offenders who were sentenced to imprisonment with an immediate parole release date and whose sentence was fully suspended. Includes those offenders who received an order of imprisonment that was partly suspended. Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]



**Table 49** Principal sentence for offenders sentenced in Murri Court or Magistrates Court not serving a term of imprisonment

	Murri Court		Control	
	n	%	n	%
<b>Custodial orders</b>				
Custody in correctional institution	43	13	31	8
Immediate parole release date	32	10	21	6
Custody in the community	3	1	2	1
Fully-suspended sentence	101	30	43	12
Total offenders with custodial orders	179	54	97	26
<b>Non-custodial orders</b>				
Community supervision or work orders	74	22	44	12
Monetary orders	54	16	208	56
Other non-custodial orders	25	8	21	6
Total offenders with non-custodial orders	153	46	273	74
Total offenders	332	–	370	–

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Excludes those offenders already serving a period of imprisonment at time of sentence. Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 50** Sentence orders for offenders sentenced in Murri Court or Magistrates Court not serving a term of imprisonment

	Murri Court		Control	
	n	%	n	%
<b>Custodial orders</b>				
Custody in correctional institution	43	13	31	8
Immediate parole release date	32	10	21	6
Custody in the community	3	1	2	1
Fully-suspended sentence	103	30	46	12
Total offenders with custodial orders	179	54	97	26
<b>Non-custodial orders</b>				
Community supervision or work orders	101	30	61	16
Monetary orders	156	47	274	74
Other non-custodial orders	178	54	165	45
Total offenders with non-custodial orders	290	87	345	93
Total offenders	332	–	370	–

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Excludes those offenders already serving a period of imprisonment at time of sentence. Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

order comprising a custodial order with immediate parole release date, fully-suspended sentence or some form of community supervision or work order. The results also demonstrate that while only 16 percent of Murri Court participants received some form of monetary order as their principal sentence, almost half (47%) received a monetary order as part of their total sentence.

A comparison of principal sentence types for offenders sentenced in an Adult Murri Court or Magistrates Court and who were already serving a term of imprisonment is presented in Table 51. This Table demonstrates that there was little difference in terms of the proportion of offenders already serving a term of imprisonment that received an additional order in Murri Court involving custody in a correctional institution.

While the proportion of adult offenders sentenced to a term of imprisonment appears to be slightly higher among adult offenders who are sentenced in a Murri Court once those offenders already serving a term of imprisonment are removed, there is a range of factors that may contribute to the increased risk of receiving custodial sentences. Developing a logistic regression model makes it possible to determine the relative contribution of these various factors to the likelihood that an adult offender will receive a

custodial sentence, holding constant the effect of all other factors. It also corrects for any potential selection bias that resulted by limiting the Murri Court population to those offenders whose reference court episode was finalised and who were sentenced in a Murri Court. This helps to verify that the difference between the two groups (ie Murri and non-Murri) is the result of their participation or otherwise in the Murri Court and not the result of some other factors.

Table 52 reports the estimated parameters for a logistic regression model that includes a range of explanatory variables relating to demographic characteristics of the offender, the reference court episode and prior criminal history. The dependant variable is whether an offender received a custodial sentence. The model only includes those Murri Court participants whose reference court episode was fully finalised and who were sentenced in a Murri Court, along with a matched group of adult offenders in the control group whose reference court episode was finalised and who were sentenced in a Magistrates Court.

On the basis of advice from court partners, several other variables were included in the model. This included variables linking the current MSO with prior offences, the total number of offences that are equal

Table 51 Principal sentence for offenders sentenced in Murri Court or Magistrates Court serving a term of imprisonment				
	Murri Court		Control	
	n	%	n	%
Custody in correctional institution	40	73	9	64
Immediate parole release date	2	4	0	0
Fully-suspended sentence	9	16	3	21
Community supervision or work orders	1	2	0	0
Monetary orders	0	0	2	14
Other non-custodial orders	3	5	0	0
Total	55	100	14	100

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Excludes those offenders not serving a period of imprisonment at time of sentence. Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding

Source: AIC, Queensland Murri Court database [computer file]

**Table 52** Logistic regression model predicting custodial sentence (adult offenders)

	Coefficient	Standard error	Odds ratio	95% CI (lower)	95% CI (upper)
Murri Court (vs control)	0.41	0.31	1.50	0.83	2.74
Gender (male vs female)	0.31	0.40	1.36	0.62	2.99
Prior imprisonment*	0.73	0.33	2.07	1.08	3.97
Breach offence	-0.42	0.33	0.65	0.34	1.24
Warrant*	0.99	0.31	2.69	1.47	4.90
Remand*	2.14	0.38	8.48	4.04	17.82
17–20 years (vs 36 years and older)	0.14	0.53	1.16	0.41	3.24
21–25 (vs 36 years and older)	0.76	0.45	2.15	0.90	5.15
26–30 (vs 36 years and older)	0.35	0.47	1.42	0.57	3.57
31–35 (vs 36 years and older)	0.20	0.50	1.22	0.45	3.29
Metropolitan court (vs regional court)	-0.11	0.36	0.89	0.44	1.81
Remote court (vs regional court)	-0.20	0.37	0.82	0.40	1.69
Violent offence as MSO (vs other offence)*	0.69	0.34	1.99	1.02	3.92
Property as MSO (vs other offence)	0.23	0.41	1.25	0.56	2.81
Violent offence as most serious prior offence (vs other offence)	0.61	0.42	1.85	0.81	4.21
Property offence as most serious prior offence (vs other offence)	-0.41	0.57	0.66	0.22	2.03
2–3 offences (vs a single offence)*	1.26	0.44	3.52	1.49	8.32
4 or more offences (vs a single offence)*	1.32	0.47	3.74	1.50	9.33
No prior offences (vs more than 10 prior offences)	0.45	0.83	1.57	0.31	7.90
1–5 prior offences (vs more than 10 prior offences)	0.33	0.41	1.39	0.62	3.10
6–10 prior offences (vs more than 10 prior offences)	-0.27	0.40	0.77	0.35	1.69
Model chi square	111.19				
df	21				
Pseudo R square	0.238				
n	695				

\* statistically significant at  $p < 0.05$

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Excludes those offenders already serving a period of imprisonment at time of sentence. Excludes those offenders with missing or incorrectly entered age data

Source: AIC, Queensland Murri Court database [computer file]

in seriousness to the MSO and the 'average' severity of all referring and prior proven charges. However, a review of diagnostics demonstrated that the inclusion of these variables weakened the overall model and also presented problems relating to multi-collinearity. These variables were therefore subsequently removed from the model.

Generally speaking, the model shows that a range of variables predict whether an offender will receive a custodial sentence.

- Offenders who had previously served a period of imprisonment were more likely ( $or=2.07$ ) to receive a custodial sentence than those offenders who did not.
- Offenders who had a warrant issued for their arrest during their reference court episode were more likely ( $or=2.69$ ) to receive a custodial sentence than those offenders who did not.

- Offenders who were on remand at the time of being sentenced were eight times as likely (or=8.48) to receive a custodial sentence than those offenders who were not
- Offenders whose principal (most serious) offence was a violent offence (or=1.99) were more likely to receive a custodial sentence than those offenders whose MSO was some other less serious offence type.
- Having concurrent offences (ie 2 or more charges) as part of the reference court episode increased the likelihood of receiving a custodial sentence, compared with those offenders who appeared for just one offence.

Most importantly, holding all other variables constant, the model demonstrates that offenders sentenced in an Adult Murri Court who were not already serving a period of imprisonment were not significantly more likely than offenders sentenced in a mainstream Magistrates Court to receive a custodial sentence.

*Incarceration post-sentence*

The evaluation also examined incarceration rates for offenders post-sentence to verify whether the

findings relating to sentence orders derived from court data extracted from QWIC provide an accurate representation of the proportion of offenders actually being imprisoned. Consultation with JAG staff indicated that there are limitations with relying upon court data to determine the rate of imprisonment for offenders sentenced in Murri Court and mainstream courts. For example, manual checks for offenders sentenced in the Brisbane Murri Court identified a small number of offenders who were recorded as having received a custodial sentence (imprisonment order) in QWIC, when case notes indicated that the order was for rising of the court.

QCS and DoC supplied the AIC with data on the custodial episodes for those adult and juvenile offenders who appeared in a Murri Court during the evaluation period and those sentenced in a mainstream Magistrates or Children’s Court from the control group. Offenders were matched with incarceration records using a name and date of birth search. The data included the start and end date for each period of incarceration, including incarceration episodes prior to the evaluation period.

The data was used to determine the proportion of adult and juvenile offenders incarcerated eight days after their final sentence date. Selecting a period

Table 53 Offenders sentenced in an Adult or Youth Murri Court incarcerated in a correctional institution eight days after finalisation						
	Adult Murri Court			Youth Murri Court		
	Total (n)	Incarcerated (n)	Incarcerated (%)	Total (n)	Incarcerated (n)	Incarcerated (%)
MSO						
Violent offence	144	58	40	6	1	17
Property offence	142	48	34	7	1	14
Other offence	214	38	18	1	0	0
Court location						
Brisbane	230	66	29	1	0	0
Caboolture	1	0	0	0	0	0
Mount Isa	58	4	7	8	2	25
Rockhampton	50	9	18	1	0	0
Townsville	161	65	40	4	0	0
Total	500	144	29	14	2	14

Note: Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Percentages may not total 100 due to rounding  
Source: AIC, Queensland Murri Court database [computer file]

some days after offenders had been finalised, either in a Murri Court or mainstream Magistrates or Children's Court, was to account for:

- the possibility that the date of sentence recorded in QWIC and the date on which the offender was incarcerated (recorded by QCS or DoC) were not an exact match due to variations in recording practices; and
- short-term sentences which allow for offenders incarcerated at the time of sentence to return to a correctional centre prior to release.

The results for all offenders, whose reference court was fully finalised in an Adult or Youth Murri Court during the evaluation period, by MSO and court location, are presented In Table 53. Townsville Adult Murri Court (40%) had the highest proportion of offenders who were incarcerated post-sentence, followed by Brisbane (29%) and Rockhampton (18%). As was the finding from an analysis of custodial sentences, the proportion of adult offenders who were sentenced in Mount Isa (7%) and who were incarcerated post-sentence was lower than any other Murri Court.

The results from an analysis of adult offenders in the smaller comparison group who were incarcerated in a correctional institution eight days after finalisation

are presented in Table 54. Overall, 90 adult offenders (23%) finalised in an Adult Murri Court were incarcerated post-sentence, compared with 41 adult offenders (11%) finalised in a Magistrates Court. The proportion of offenders who were incarcerated post-sentence is higher among Murri Court participants across all offence categories and in both metropolitan and regional court locations.

Of the 13 juveniles who were at risk of receiving a custodial sentence and whose reference court episode was finalised in a Youth Murri Court during the evaluation period, two (15%) were incarcerated in a correctional institution eight days after their reference court episode was finalised. Of the 13 juveniles in the control group who were at risk of receiving a custodial sentence, none were incarcerated post-sentence. This suggests that for juveniles in the control group, the previous measure—the proportion of offenders that received a custodial sentence—overestimated the rate of incarceration for juvenile offenders. The number and proportion of juvenile offenders who were incarcerated in each region and according to MSO is presented in Table 55.

Offenders who were already serving a term of imprisonment at the time of sentencing were then excluded from the analysis for adults in the

Table 54 Adult offenders incarcerated in a correctional institution eight days after finalisation						
	Murri Court			Control		
	Total (n)	Incarcerated (n)	Incarcerated (%)	Total (n)	Incarcerated (n)	Incarcerated (%)
Region						
Metropolitan	165	32	19	44	3	7
Regional	167	54	32	240	30	13
Remote	55	4	7	100	8	8
MSO						
Violent offence	118	44	37	116	23	20
Property offence	80	13	16	80	10	13
Other offence	189	33	17	188	8	4
Total	387	90	23	384	41	11

Notes: Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008

Source: AIC, Queensland Murri Court database [computer file]

**Table 55** Juvenile offenders incarcerated in a correctional institution eight days after finalisation

	Murri Court			Control		
	Total (n)	Incarcerated (n)	Incarcerated (%)	Total (n)	Incarcerated (n)	Incarcerated (%)
<b>Region</b>						
Metropolitan	1	0	0	0	0	0
Regional	4	0	0	7	0	0
Remote	8	2	25	6	0	0
<b>MSO</b>						
Violent offence	5	1	20	5	0	0
Property offence	7	1	14	7	0	0
Other offence	1	0	0	1	0	0
Total	13	2	15	13	0	0

Note: Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008

Source: AIC, Queensland Murri Court database [computer file]

**Table 56** Adult offenders incarcerated in a correctional institution eight days after finalisation

	Murri Court			Control		
	Total (n)	Incarcerated (n)	Incarcerated (%)	Total (n)	Incarcerated (n)	Incarcerated (%)
<b>Region</b>						
Metropolitan	141	8	6	44	3	7
Regional	136	23	17	227	18	8
Remote	55	4	7	99	7	7
<b>MSO</b>						
Violent offence	90	16	18	106	14	13
Property offence	71	4	6	78	8	10
Other offence	171	15	9	186	6	3
Total	332	35	11	370	28	8

Note: Includes only those Murri Court participants whose matters were finalised and whose charges were finalised in Murri Court between January 2007 and December 2008. Excludes those offenders already serving a period of imprisonment at time of sentence

Source: AIC, Queensland Murri Court database [computer file]

comparison group to determine the rate at which offenders not already in prison were incarcerated and whether Murri Court participants were more or less likely to be incarcerated post-sentence. The findings from this analysis are presented for region and MSO in Table 56. The total proportion of offenders sentenced in an Adult Murri Court who were incarcerated post-sentence was 11 percent, similar to the proportion of offenders in the control group (8%). Regional Murri Courts (17%) recorded a higher rate of imprisonment than regional control

courts (8%) and offenders sentenced in Murri Court with a violent or some other offence (other than a property offence) recorded a higher rate of incarceration than similar offenders sentenced in a mainstream Magistrates Court.

As with before, a logistic regression model was developed to determine the relative contribution of a range of factors to the likelihood that an adult offender would be incarcerated eight days after their reference court episode was finalised. Table 57 reports the estimated parameters for a logistic

regression model that includes a range of explanatory variables relating to demographic characteristics of the offender, the reference court episode and prior criminal history. The dependent variable is whether an offender was incarcerated eight days after their reference court episode was finalised. The model only includes those Murri Court participants whose reference court episode was fully finalised and who were sentenced in a Murri Court, along with those adult offenders within the control group whose reference court episode was finalised and who were sentenced in a Magistrates Court. It

is also limited to those offenders not already serving a period of imprisonment at the time of being sentenced.

Generally speaking, the model shows that a range of variables predict whether an offender will be incarcerated eight days after their reference court episode is finalised.

- Offenders who had previously served a period of imprisonment were significantly more likely (or=2.59) to be incarcerated than those offenders who had not.

**Table 57** Logistic regression model predicting incarceration in a correctional institution eight days after finalisation (adult offenders)

	Coefficient	Standard error	Odds ratio	95% CI (lower)	95% CI (upper)
Murri Court (vs control)	0.31	0.31	1.36	0.74	2.51
Gender (male vs female)	-0.17	0.38	0.85	0.40	1.79
Prior imprisonment*	0.95	0.35	2.59	1.30	5.13
Breach offence	-0.21	0.33	0.81	0.42	1.54
Warrant*	1.06	0.32	2.88	1.55	5.36
Remand	0.32	0.45	1.37	0.57	3.32
17–20 years (vs 36 years and older)	-0.26	0.56	0.77	0.25	2.33
21–25 (vs 36 years and older)	0.25	0.45	1.28	0.53	3.09
26–30 (vs 36 years and older)	0.48	0.45	1.62	0.67	3.92
31–35 (vs 36 years and older)	0.09	0.51	1.10	0.40	3.01
Metropolitan court (vs regional court)*	-0.95	0.41	0.39	0.17	0.85
Remote court (vs regional court)	-0.64	0.39	0.53	0.24	1.13
Violent offence as MSO (vs other offence)*	0.91	0.35	2.47	1.25	4.89
Property as MSO (vs other offence)	0.20	0.44	1.22	0.52	2.86
Violent offence as most serious prior offence (vs other offence)	-0.29	0.39	0.75	0.35	1.63
Property offence as most serious prior offence (vs other offence)	-0.42	0.51	0.66	0.24	1.79
2–3 offences (vs a single offence)	0.67	0.42	1.96	0.86	4.46
4 or more offences (vs a single offence)	0.76	0.45	2.13	0.88	5.15
No prior offences (vs more than 10 prior offences)	-1.51	1.13	0.22	0.02	2.02
1–5 prior offences (vs more than 10 prior offences)	-0.87	0.45	0.42	0.17	1.01
6–10 prior offences (vs more than 10 prior offences)	-0.79	0.41	0.45	0.20	1.02
Model chi square	79.05				
df	21				
Pseudo R square	0.187				
n	695				

\* statistically significant at  $p < 0.05$

Note: Excludes those offenders whose matter was finalised but who committed to a higher court or who were re-sentenced for a matter finalised during a previous court episode. Excludes those offenders already serving a period of imprisonment at time of sentence. Excludes those offenders with missing or incorrectly entered age data

Source: AIC, Queensland Murri Court database [computer file]

- Offenders who had absconded subject to warrant on at least one occasion were nearly three times as likely ( $or=2.88$ ) to be incarcerated post-sentence.
- Offenders sentenced in a metropolitan court were less likely ( $or=0.39$ ) than those sentenced in a regional court to be incarcerated.
- Offenders whose principal (most serious) offence was a violent ( $or=2.47$ ) offence were more likely to be incarcerated post-sentence than those offenders whose MSO was another, less serious, offence type.

Most importantly, holding all other variables constant, the model demonstrates that offenders sentenced in an Adult Murri Court were not significantly more likely than offenders sentenced in a mainstream Magistrates Court to be incarcerated post-sentence. Together with the findings for custodial sentences, this suggests that the rate of imprisonment among those offenders sentenced in Murri Court was equivalent to the rate for those offenders sentenced in a mainstream Magistrate Court, controlling for other factors and taking into consideration those offenders already serving a period of imprisonment.

## Recidivism

The third objective of the Murri Court program is to reduce reoffending among Indigenous offenders. The 2005–06 review did not draw any conclusions regarding whether the Murri Court had any impact on reoffending due to the absence of reliable data. A number of stakeholders interviewed during the AIC's evaluation cited anecdotal evidence suggesting that the rate of reoffending had declined, but acknowledged that it remained high compared with non-Indigenous offenders.

Some argued that the seriousness and frequency of offending for which offenders returned to Murri Court had decreased and that offenders were less likely to breach community-based orders due to the increased level of support offered to them post-sentence. Similarly, a number of stakeholders involved in Murri Court, particularly Elders, knew or were familiar with the circumstances of offenders appearing before the court. As such, these Elders

were able to identify a number of examples of individuals within their community who had modified their behaviour or did not reoffend after having appeared before the Murri Court.

This component of the evaluation addresses the following key research questions:

- Do offenders who are sentenced in a Murri Court take longer to reoffend than those that are sentenced in a mainstream Magistrates or Children's Court?
- Among those that *do* reoffend, do Murri Court participants commit more or less serious offences than Indigenous offenders in mainstream courts?
- Is there a reduction in the frequency of offending by Murri Court participants when compared with Indigenous offenders in mainstream courts?

In undertaking a recidivism analysis, three key methodological elements must be considered; the indicator of recidivism, the sample selection parameters and the observation period (Payne 2007). For the purposes of this evaluation, a recidivism event is defined as at least one proven offence committed after an individual had been fully finalised in the Murri Court or, in the case of the control group, a Magistrate or Children's Court.

The sample selection parameters define the sample of offenders included in the analysis. To determine the impact of being sentenced in a Murri Court on reoffending, only those offenders whose reference court episode was fully finalised during the evaluation period and who were finalised in a Murri Court were included in this analysis. Offenders who had charges finalised outside of Murri Court were excluded, as it was not possible to determine the extent to which they had been subjected to the intervention being evaluated. The control group included offenders who were fully finalised in a Magistrate or Children's Court during the evaluation period.

Ideally, all offenders who were sentenced in a Murri Court and those in the control who were sentenced in a mainstream Magistrates or Children's Court, would have been followed (observed) for an equivalent period of time to determine the difference in the rate of reoffending between the two groups. However, this was not possible. The data extract with criminal history and court appearance data was provided to the AIC in April 2009. The evaluation



examined all offenders who were referred to the court between January 2007 and December 2008. Offenders may have been sentenced at any time during this two year period. Therefore, there were some offenders who were followed for as little as four months and others who were observed for more than two years. The observation period used in this study to monitor reoffending therefore varies between participants. In addition, some offenders will have spent time in custody, either on remand or while sentenced, prior to, or as a result of, their reference court episode. This limits their capacity to offend during this period and therefore must be considered when measuring reoffending as a function of free time.

Consequently, the prevalence of reoffending—the overall percentage of offenders who reoffend—is not included as an outcome measure of recidivism within this report. Where prevalence rates are provided, they must be interpreted with some caution. Because some offenders were observed for longer than others, prevalence rates are relatively meaningless without considering the impact of time. It is not possible to determine whether they would have reoffended in the period after observation ceased. Instead, three measures of recidivism have been examined to determine the impact of the Murri Court on reoffending:

- the time taken to reoffend;
- the change in seriousness of offending among those offenders who did reoffend; and
- the frequency of reoffending pre- and post-sentence.

### *Time taken to reoffend*

The first stage in this analysis examined whether, controlling for other factors, Indigenous offenders who were sentenced in a Murri Court take longer to reoffend than those sentenced through mainstream Magistrate or Children's Court processes. The time taken to offend is a measure of the extent to which an intervention, in this case Murri Court, has postponed an offender's return to criminal activity. Longer periods of abstinence from offending indicate a greater intervention effect.

Calculating the time taken to reoffend as a measure of the impact of the Murri Court recognises that

some Indigenous offenders have extensive criminal histories and a range of complex underlying factors that drive their offending behaviour. As such, total desistance from offending, while ideal, is not a realistic outcome for these more serious offenders. Prolonging an offender's re-contact with the criminal justice system and reducing the frequency of their contact are key measures of success that can result in significant financial and social benefits for the community (Payne 2007). Similarly, reducing an offender's contact with the criminal justice system has obvious benefits for the individual themselves.

The time taken to reoffend is based on the offence date of the individual's first subsequent proven offence, not the date that the matter was finalised in court. The start date for time to reoffend was the final sentence date for those individuals sentenced in a Murri Court (the episode end date) and the last date of finalisation for referring charges for the control group. This takes into consideration the fact that some charges will be finalised before others and that a matter is not fully finalised until all charges relating to a person's reference court episode have been finalised.

Survival analysis has been used to measure the occurrence of a reoffending event as a function of the time an individual was available to reoffend. Survival analysis is a statistical technique used for a range of 'time to event' data. It measures the time taken to reoffend to provide information about the comparative recidivism risk between groups. Survival analysis is especially useful in cases where the length of time under observation varies among offenders and takes into consideration not only the variable length of follow-up period for different offenders, but also any time spent in custody during the follow-up period.

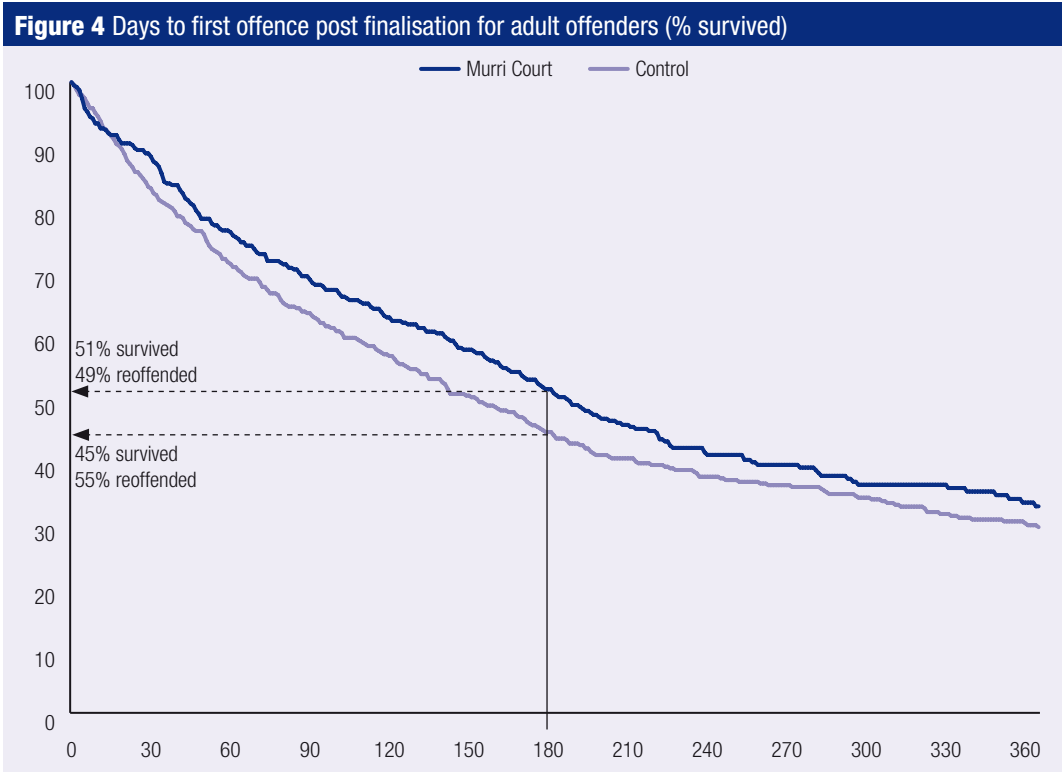
The distinct advantage of using survival analysis is that it allows for the rate of reoffending to be estimated at points in time when not all individuals included in the sample have complete data. Survival analysis controls for variations in observation times so that valid estimates of reoffending can be generated at six and 12 months, even though not all offenders have been observed for that length of time. In this study, survival analysis has been used to model the number of days to the first offence from the day the offender receives their final sentence.

Using survival analysis, it is possible to plot reoffending as a function of time, the benefit of which is to illustrate how long it took, on average, for Indigenous offenders sentenced in a Murri Court and those sentenced in a mainstream Magistrates or Children’s Court to reoffend. This analysis is undertaken by constructing a life table, which calculates the period-by-period probability of reoffending. Plotting these values over time is then used to illustrate the percentage of offenders who did not reoffend, or conversely, the percentage who did.

Figures 4 and 5 illustrate, for adult and juvenile offenders, the survival curve of the time to the first proven offence, regardless of offence type. In both figures, all survival curves begin at 100 on the y-axis, which indicates that at zero days (the day of sentencing), 100 percent of individuals in each sample had survived. The curves indicate the percentage of individuals within each sample who have survived at any given time point and these points are shown on the x-axis.

For illustrative purposes, the survival rate at 180 days has been highlighted to illustrate how prevalence rates have been calculated. A vertical line at 180 days on the x-axis meets each survival curve to provide a corresponding survival percentage on the y-axis. The value of the survival percentage indicates the proportion of each group who had survived (ie not reoffended) within 180 days of receiving a final sentence. The alternative value (100 minus the survival value) indicates the percentage of offenders who did not survive and had therefore reoffended. These estimates are derived from a mathematical calculation from within the statistical model.

In the example for adult offenders presented in Figure 4, 51 percent of adult offenders sentenced in Murri Court had survived 180 days (6 months) after being sentenced. Conversely, 49 percent had reoffended. In the control group, 45 percent of adult offenders had survived 180 days after being sentenced and 55 percent had reoffended. For juveniles (see Figure 5), 52 percent of offenders sentenced in a Youth Murri Court had survived



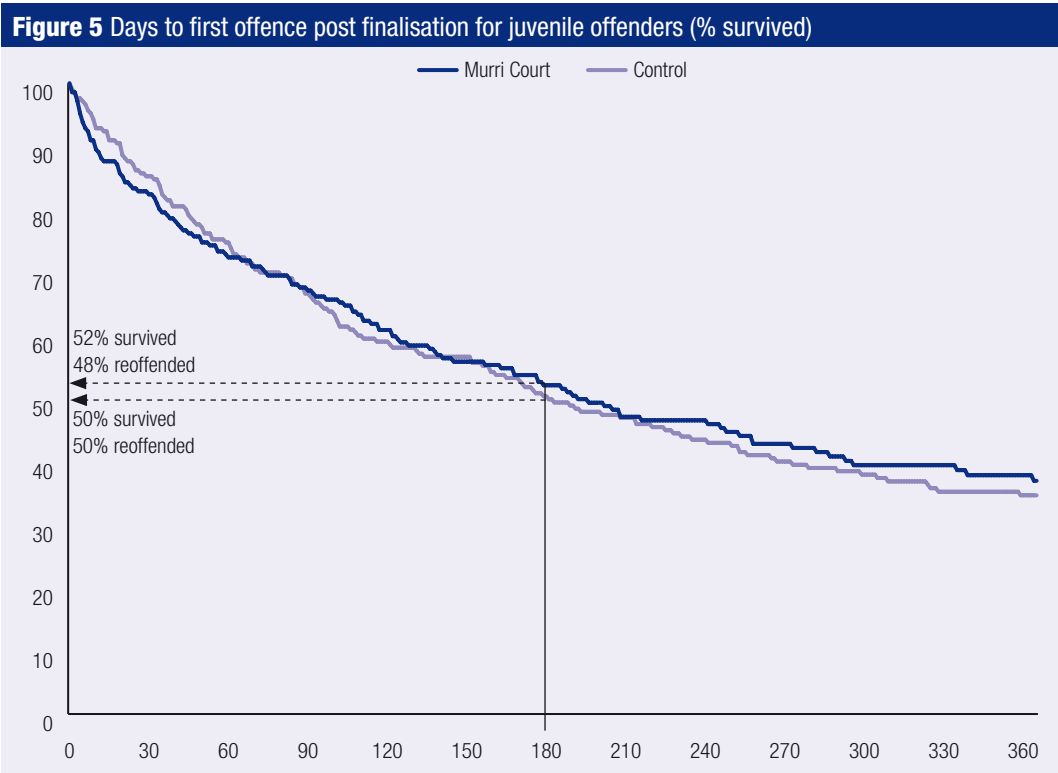
Note: Log-rank test of equality: Total ( $\chi^2=2.15$ ,  $df=1$ ,  $p=.143$ ). Wilcoxon statistic: Total ( $\chi^2=3.10$ ,  $df=1$ ,  $p=.078$ )  
Source: AIC, Queensland Murri Court database [computer file]

180 days and 48 percent had reoffended within the same period, compared with an estimated rate of reoffending at 180 days of 50 percent for offenders sentenced in a mainstream Children's Court.

Tests of significance are used to determine whether the differences observed are the result of real differences between the Murri Court participants and the control group. The value of a statistical test (the *p* value, which varies between 0 and 1) indicates the probability that the observed differences between two groups are due to chance or error. Conventionally, the maximum probability level for determining a significant difference between two groups is set at *p*=0.05 (DeVaus 2002). If the value of a statistical test is more than 0.05, there is a greater than five percent chance that the difference between two groups is due to error or chance rather than a real difference between the groups. The closer the value gets to 1, the greater the probability that the result is due to error.

For the present survival analyses, two tests of significance are used—the Log Rank Test of Equality and the Wilcoxon Statistic. The Log Rank test weights the survival data to the end of the survival curve, while the Wilcoxon Statistic weights closer to the beginning (Hosmer & Lemeshow 1999). The Log Rank test will, if significant at *p*<0.05, indicate that the differences in the final lifetime survival rate between the two groups are significant. Alternatively, the Wilcoxon statistic will indicate whether the initial survival experience between both groups is significantly different, despite the possibility that the final lifetime survival rate may not be.

For the time to first offence data for adult offenders presented in Figure 4, both tests are not significant, suggesting that it is not possible to conclude with any confidence that the survival experience of Adult Murri Court participants was better (or worse) than the adult offenders within the control group. Similarly, both tests were not significant for the estimated time



Note: Log-rank test of equality: Total ( $\chi^2=0.34$ , *df*=1, *p*=.559). Wilcoxon statistic: Total ( $\chi^2=0.02$ , *df*=1, *p*=0.899)  
Source: AIC, Queensland Murri Court database [computer file]

to first offence for juvenile offenders, suggesting that, like adults, there was no significant difference in the time to reoffend between juveniles sentenced in a Youth Murri Court and mainstream Children’s Court.

Using the same methods described above, a life table may be constructed for each sub-category of interest. Table 58 provides the reoffending estimates generated from survival analysis for adult offenders whose matter was fully finalised in a Murri Court between January 2007 and December 2008, compared with the control group of similar offenders sentenced in a Magistrates Court during the same period. Estimates of reoffending are provided at two time points—six and 12 months. Separate estimates are provided for each sub-category according to region and the MSO heard during the reference court episode. Comparable estimates for non-Murri Court participants are also provided.

The results presented in this Table appear to suggest that the propensity to reoffend was lower in the Murri Court population than among adult offenders in the control group across most categories. However, among property offenders (at 12 months), the estimated rate of reoffending is higher in the Murri Court group. However, before drawing the conclusion that there is a real difference between the two groups, it is important to examine the upper and lower confidence intervals at six and 12 months. These values are important as they provide context

for the point estimates. They describe the range of values between which the estimated value could fall, taking into account the possibility of error. At the conventional level of statistical testing ( $p<0.05$ ), there is 95 percent confidence that the actual value (in this case the estimated rate of reoffending at a particular time point) will fall between the upper and lower bounded confidence interval. Where the total sample size is smaller, estimates are subject to greater levels of error and the relevant confidence intervals are therefore usually larger.

The purpose of providing confidence intervals is to illustrate that although the estimated rate of reoffending at six months is lower for Murri Court participants and in most sub-categories, the value for the control group falls between the 95 percent confidence intervals of this estimate and the differences are not statistically significant. For example, in regional Murri Courts, the estimated rate of reoffending for adult offenders at six months post-sentence was 45 percent. In regional non-Murri Courts, the equivalent rate was 59 percent. However, the confidence intervals for these two estimates intersect at each time point along the survival curve. As such, it is not possible to conclude with any confidence that offenders sentenced in a regional Murri Court take longer to reoffend than those sentenced in a mainstream Magistrates Court in regional locations (the difference that was observed

Table 58 Estimated rate of reoffending for any offence at six and 12 months post-sentence (adults)												
	Reoffended within 6 months						Reoffended within 12 months					
	Murri Court			Control			Murri Court			Control		
	95% CI			95% CI			95% CI			95% CI		
	%	(lower/upper)		%	(lower/upper)		%	(lower/upper)		%	(lower/upper)	
Region												
Metropolitan	56	48	64	62	48	76	69	61	77	74	60	86
Regional	45	38	53	59	53	65	69	60	78	73	67	79
Remote	39	28	54	43	34	54	60	47	74	63	54	73
MSO												
Violent offence	46	37	56	55	46	64	58	47	69	71	63	79
Property offence	53	43	65	58	47	69	78	66	88	74	64	83
Other offence	48	41	55	55	48	62	67	60	75	69	62	75
Total	49	44	54	55	51	60	67	62	73	71	66	75

Source: AIC, Queensland Murri Court database [computer file]

between the 2 groups, although not significant, can be accounted for by taking into consideration differences in the average observation periods for the intervention and control groups—see below).

Table 59 provides the reoffending estimates generated from survival analysis for juvenile offenders whose matter was fully finalised in a Youth Murri Court between January 2007 and December 2008, compared with a control group of offenders sentenced in a Children’s Court during the same period. Estimates of reoffending are provided at two time points—six and 12 months. As with adults, separate estimates are provided for each subgroup according to region and the MSO heard during the reference court episode. As with the equivalent Table for adult offenders, confidence intervals for each estimate are provided. These show that for each category, the estimated rate of reoffending for the control group falls within the confidence intervals (ie estimated range) for the point estimates for Murri Court, indicating that it is not possible to conclude with any real confidence that there is a real difference between the two groups.

The bivariate analyses presented below suggest that various factors may be important in differentiating between high and low levels of risk of reoffending. For example, while the difference between adult property offenders sentenced in Murri Court and mainstream Magistrates Court was not significantly different, the estimated rate of reoffending at six and 12 months for property offenders sentenced in an

Adult Murri Court was significantly higher than violent offenders. However, the bivariate analyses do not account for the possibility of confounding effects. Those property offenders sentenced in Adult Murri Courts may also have been male, younger and had more extensive criminal histories than violent offenders; all factors which may increase the probability that they would reoffend. The differences in the time to reoffend, or even the lack of any significant difference between two groups, may be due to the confounding effects of these other covariates.

In addition, in selecting the control group, Indigenous offenders sentenced in a mainstream Magistrates or Children’s Court were matched with offenders sentenced in both Adult and Youth Murri Courts. The selection criteria used to select the control group was based on factors that were believed to have an impact on those outcomes the study was examining—court attendance, imprisonment and reoffending—so that conclusions regarding the impact of the Murri Court independent of these factors could be drawn. Individuals were selected for the control group on the basis of a one-to-one match. In order to improve the chance of finding an adequate match for each offender, certain variables were not included in the selection criteria, such as region. This introduces the potential for bias in the control group which may impact upon the final results.

Table 59 Estimated rate of reoffending for any offence at six and 12 months post-sentence (juveniles)												
	Reoffended within six months						Reoffended within 12 months					
	Murri Court			Control			Murri Court			Control		
	95% CI			95% CI			95% CI			95% CI		
	%	(lower/upper)		%	(lower/upper)		%	(lower/upper)		%	(lower/upper)	
Region												
Metropolitan	47	27	72	45	27	69	70	46	91	65	45	84
Regional	44	37	53	51	42	59	59	51	68	65	57	73
Remote	59	45	73	49	37	63	70	57	83	67	54	80
MSO												
Violent offence	48	35	63	38	26	53	64	49	79	57	43	71
Property offence	51	42	62	55	45	65	64	53	74	73	64	82
Other offence	43	32	56	51	70	63	62	49	74	61	50	72
Total	48	41	55	50	43	57	63	56	70	65	59	72

Source: AIC, Queensland Murri Court database [computer file]

To overcome these issues, multivariate Cox regression analysis was used. Cox regression analysis is a statistical method used to examine the independent effect of a single factor, controlling for the sum of the effect of all other factors. The Cox regression model is an extension of the survival analysis already conducted, but each factor is determined as having either a positive or negative effect on the hazard (or risk) of reoffending. For example, the hazard in the case of participation in the Murri Court is interpreted as the probability (or relative risk) that, at any point in time, offenders who had been sentenced in a Murri Court would be more or less likely than offenders who were sentenced in a mainstream Magistrates or Children's Court to commit an offence. Where hazard is above the value of 1, non-Murri Court participants are less likely than Murri Court participants to reoffend. Where hazard is below the value of 1, those offenders sentenced in a Murri Court are less likely to reoffend.

As a statistical model, Cox regression has a number of underlying assumptions. The most important assumption is that of proportionality. A Cox regression model will estimate the effect of a particular factor (in this case, in terms of its impact on reoffending) and assume that this effect will remain consistent over the course of the analysis. Should this not be the case, the proportionality assumption would be violated and the statistical model rendered invalid. For the purpose of this report, the AIC examined violations of the proportionality assumption. Both global and individual factor analyses were undertaken, the findings of which indicated that the assumption of proportionality was valid.

Another assumption underlying the Cox Regression is that the process that generates the outcome variable isn't affected by any other variable. In health research, where this methodology originated, the outcome variable is not dependent on any other variable—the health status for the person being monitored is immediately identifiable at the time the event occurs (ie death). This assumption does not necessarily hold true for the criminal justice system. Whether a person is identified as having reoffended is dependent upon the time taken to process a subsequent offence through the court system. Where there is a difference in the length of time a person is monitored, there is the potential for there

to be a difference in the outcome variable, in this case time to reoffend, being observed. To counteract this issue, the models described below both include a variable (not shown) controlling for the amount of time each person is observed, to account for the impact of the differential follow-up period for Murri Court and the control (the differences between follow-up times is discussed at length later in this section). In both instances, the variable was a significant predictor of post-sentence reoffending—demonstrating that the longer a person was 'followed', the more likely it would be that they would be found to reoffend at any time point.

The Cox Regression models were estimated for both adult and juvenile offenders using a common set of factors including demographic, offending, compliance and prior criminal history characteristics. These factors have been demonstrated to have an impact on reoffending (Payne 2007). Overall, the statistical model was significant for both adult and juvenile offenders, which means that the set of factors included in the model was better at predicting reoffending than a model that controls for none of these factors.

The hazard ratios presented in Table 60 indicate the proportional difference in risk at each time point between two groups for adult offenders. Those with higher proportional risk have higher recidivism probabilities. Those factors with a  $p$  value  $<0.05$  are significant predictors of reoffending, controlling for other factors. The model suggests that compliance with bail conditions and prior offending are significant predictors of post-sentence recidivism. Those offenders who had absconded subject to warrant on at least one occasion during their reference court episode were 35 percent more likely to reoffend. Offenders with five or fewer prior proven offences were less likely ( $hr=0.58$ ) than those offenders with more than 10 prior proven offences to reoffend. Controlling for all other factors, participation in an Adult Murri Court did not significantly increase or decrease the risk that an individual would reoffend at any point in time.

The hazard ratios presented in Table 61 indicate the proportional difference in risk at each time point between two groups for juvenile offenders. The only factor that was found to be a significant predictor of post-sentence reoffending was prior criminal history.

**Table 60** Cox regression predicting reoffending (any offence) among adult offenders

	hr	95% CI (lower)	95% CI (upper)	p value
Murri Court	1.02	0.83	1.26	0.84
Gender (Male vs female)	1.01	0.81	1.26	0.94
Prior imprisonment	1.07	0.87	1.32	0.49
Breach offence	1.04	0.86	1.27	0.67
Warrant	1.35	1.11	1.66	0.00
17–20 years (vs 36 years and older)	1.31	0.98	1.75	0.07
21–25 (vs 36 years and older)	1.01	0.78	1.32	0.92
26–30 (vs 36 years and older)	0.95	0.72	1.26	0.73
31–35 (vs 36 years and older)	0.95	0.71	1.28	0.75
Metropolitan court (vs regional court)	1.15	0.93	1.43	0.20
Remote court (vs regional court)	0.81	0.65	1.02	0.08
Violent offence as MSO (vs other offence)	1.08	0.87	1.35	0.47
Property as MSO (vs other offence)	1.14	0.90	1.45	0.27
2–3 offences (vs a single offence)	0.93	0.75	1.15	0.52
4 or more offences (vs a single offence)	0.84	0.66	1.08	0.17
Violent offence as most serious prior offence (vs other offence)	1.17	0.92	1.50	0.21
Property offence as most serious prior offence (vs other offence)	0.92	0.68	1.23	0.57
No prior offence (vs other offence)	0.32	0.17	0.60	0.00
1–5 prior offences (vs more than 10 prior offences)	0.58	0.44	0.77	0.00
6–10 prior offences (vs more than 10 prior offences)	0.81	0.64	1.03	0.08
Model chi square	116.78			
Log likelihood	-3140.22			
p	0.00			
n	768			

Source: AIC, Queensland Murri Court database [computer file]

Those offenders with no prior convictions at the time of their reference court episode were significantly less likely than those offenders with a prior offence (non-property or violent) to reoffend, controlling for all other factors. As with adult offenders, participation in a Youth Murri Court did not significantly increase or decrease the risk that an individual would reoffend at any point in time.

Taken as a whole, the findings from this analysis suggest that there is no significant difference between those offenders sentenced in a Murri Court and those sentenced in mainstream courts with respect to the time taken to reoffend. Calculated

estimates of survival (ie proportion of offenders that have not reoffended) are relatively consistent for both groups over time and this pattern appears to remain consistent across both Adult and Children's Courts and across the different regions. Where differences between Murri and non-Murri Court participants were observed (such as with regional courts), examining the confidence intervals for the estimates show that it is not possible to conclude with any real confidence that the difference is not due to error. The fact that these factors were also not a significant predictor in the Cox Regression model suggests that the difference was driven by some other factor outside of participation in the Murri Court.

**Table 61** Cox Regression predicting reoffending (any offence) among juvenile offenders

	hr	95% CI (lower)	95% CI (upper)	p value
Murri Court	1.13	0.87	1.48	0.36
Gender (Male vs female)	1.18	0.89	1.55	0.25
Prior detention	1.09	0.67	1.79	0.73
Breach offence	1.00	0.55	1.82	0.99
Warrant	1.15	0.83	1.59	0.40
12–13 years (vs 10–11 years)	1.82	0.76	4.39	0.18
14–15 years (vs 10–11 years)	1.26	0.54	2.95	0.60
16 years and older (vs 10–11 years)	1.25	0.53	2.94	0.61
Metropolitan court (vs regional court)	0.99	0.65	1.51	0.96
Remote court (vs regional court)	1.07	0.79	1.44	0.66
Violent offence as MSO (vs other offence)	0.96	0.66	1.39	0.81
Property as MSO (vs other offence)	1.16	0.85	1.57	0.35
2–3 offences (vs a single offence)	1.16	0.87	1.55	0.31
4 or more offences (vs a single offence)	1.33	0.92	1.92	0.13
Violent offence as most serious prior offence (vs other offence)	0.82	0.51	1.31	0.40
Property offence as most serious prior offence (vs other offence)	0.85	0.54	1.33	0.47
No prior offence (vs other offence)	0.35	0.20	0.63	0.00
1–5 prior offences (vs more than 10 prior offences)	0.69	0.47	1.03	0.07
6–10 prior offences (vs more than 10 prior offences)	0.92	0.60	1.39	0.68
Model chi square	70.10			
Log likelihood	-1518.32			
p	0.00			
n	419			

Source: AIC, Queensland Murri Court database [computer file]

### *Seriousness of offending*

The second measure of recidivism used in this evaluation was the change in offence seriousness among those offenders who had a further proven offence post-sentence. Changes in the seriousness of offending refer to the relative seriousness of the first proven offence after the reference court episode was finalised compared with the principal offence (MSO) for the reference court episode. As was described earlier in this report, charges relating to each individual's reference court episode were classified according to the ASOC classification (ABS 2009). The principal offence for each offender was identified and refers to the MSO according to the

NOI, a seriousness ranking contained within ASOC. The NOI for proven offences committed post-sentence was also determined.

The change in offence seriousness among those offenders who had reoffended during the observation period was calculated by comparing the NOI of the principal offence for the reference court episode with the NOI of the first subsequent proven offence committed post-sentence. Where multiple offences were recorded on this date, the NOI of the MSO was used. For those offenders who had reoffended, the proportion whose next offence was less serious than their principal offence for their reference court episode was calculated. The significance of any differences observed between the relative



proportions of offenders within the Murri Court and control group who had committed a less serious offence was analysed using chi-square tests or Fisher's exact test.

The results of this analysis for adult offenders are presented in Table 62. This shows that of the 241 adult offenders who were sentenced in an Adult Murri Court and who had reoffended during the observation period, 27 percent committed a less serious offence as their first subsequent offence. This was compared with 21 percent of the 298 offenders who were sentenced in a mainstream Magistrates court and had reoffended during the same period. This difference was not significant.

A comparison between groups according to region and offence type (MSO for the reference court episode) suggests that there was a significant difference between Murri and non-Murri Court participants in regional courts. The proportion of adult offenders sentenced in a Murri Court, who had reoffended and who had committed a less serious offence, was significantly higher than the control group. While this result is positive, it is possible that the difference was due to some other factor outside of participation in the Murri Court—as was the case with the analysis of time to reoffend.

The other notable difference between the two groups, although not significant, was between adult offenders in metropolitan courts. Seventy-seven percent of those offenders who were sentenced in an Adult Murri Court and who had reoffended post-sentence had committed a further offence that was equally serious or more serious than their MSO dealt with as part of their reference court episode. This was compared with 66 percent of those offenders sentenced in a mainstream Magistrates Court. The fact that the difference was not significant was most likely due to the relatively small sample size within the control group.

The same analysis was undertaken for juvenile offenders sentenced in a Youth Murri Court and compared with those juveniles sentenced in a mainstream Children's Court. Table 63 shows that of the 131 juveniles sentenced in a Youth Murri Court during the evaluation period who committed a further offence post-sentence, 36 percent committed an offence that was less serious than their principal offence for their reference court episode. This was compared with 40 percent of those juveniles sentenced in a mainstream Children's Court. This difference was not significant.

There was little variation between the proportions of offenders who committed less serious offences

Table 62 Change in offence seriousness among adult offenders who reoffended (%)							
	Murri Court			Control			p value
	Reoffended (n)	Less serious	More serious or the same	Reoffended (n)	Less serious	More serious or the same	
Region							
Metropolitan	107	23	77	35	34	66	0.20
Regional	102	31	69	191	19	81	0.02
Remote	32	22	78	72	19	81	0.78
MSO							
Violent offence	63	8	92	91	4	96	0.49
Property offence	57	14	86	65	15	85	0.83
Other offence	121	42	58	142	35	65	0.20
Total	241	27	73	298	21	79	0.14

Note: Change in offence seriousness refers to the relative seriousness of the next offence for which the offender has been convicted after reference court episode is finalised. Where multiple offences are recorded on this date the MSO is used. *P* value based on chi-square test or Fisher's exact test (for small cell numbers). Limited to those offenders who reoffended after the finalisation date of their first court episode during the evaluation period. Limited to those Murri Court participants whose first court episode was fully finalised in an Adult Murri Court

Source: AIC, Queensland Murri Court database [computer file]

**Table 63** Change in offence seriousness among juvenile offenders who reoffended (%)

	Murri Court			Control			p value
	Reoffended (n)	Less serious	More serious or the same	Reoffended (n)	Less serious	More serious or the same	
Region							
Metropolitan	12	42	58	14	36	64	0.76
Regional	84	44	56	103	40	60	0.56
Remote	35	14	86	37	43	57	0.01
MSO							
Violent offence	29	0	100	30	3	97	n/a
Property offence	61	31	69	76	36	64	0.59
Other offence	41	68	32	48	71	29	0.80
Risk of custodial sentence							
Not at risk of custodial sentence	122	38	62	142	39	61	0.77
At risk of custodial sentence	9	11	89	12	50	50	0.16
Total	131	36	64	154	40	60	0.45

Note: n/a=not applicable. Change in offence seriousness refers to the relative seriousness of the next offence for which the offender has been convicted after reference court episode is finalised. Where multiple offences are recorded on this date the MSO is used. *P* value based on chi-square test or Fishers exact test (for small cell sizes). Limited to those offenders who reoffended after the finalisation date of their first court episode during the evaluation period. Limited to those Murri Court participants whose reference court episode was fully finalised in a Youth Murri Court

Source: AIC, Queensland Murri Court database [computer file]

across the different regions and offence types (MSO for the reference court episode). The only exception to this was in remote locations, where the proportion of offenders who committed a less serious offence was higher in the control group. However, these results need to be interpreted with some caution due to the relatively small sample sizes in each category and due to the fact that region was not included as one of the selection criteria for the control group. This means there may be other differences between the two groups that may explain the result. For other regions and MSO, there was no significant difference between offenders sentenced in a Youth Murri Court and those sentenced in a mainstream Children's Court.

### Frequency of offending

The third and final measure of recidivism compared the frequency of offending before and after each offender's first matter within the evaluation period. This was determined by calculating the number of offences per 365 free days for an equivalent period before and after the reference court episode. This

was the number of unique proven offences committed by each offender, divided by the number of days for which they were observed (minus time spent in custody) and multiplied by 365.

For offenders sentenced in an Adult or Youth Murri Court, the observation period post-sentence was the number of days from the date of finalisation (episode end date) until the end of the observation period (the date on which the data was extracted). The number of days an offender spent in custody was subtracted from this total. Murri Court participants were observed for an equivalent period (free days only) up to the date on which they were referred to a Murri Court. For offenders within the control group, the post-sentence period commenced on the date of finalisation in a Magistrates or Children's Court. The same group of offenders were observed for an equivalent period (free days only) up to the first date of their reference court episode. Therefore each offender will be observed for a different period of time, but an equivalent period of time before and after their reference court episode.

The results from this component of the study must therefore be interpreted with some caution. The fact that offenders have been observed for different periods post-sentence has already been discussed. Undertaking the necessary steps to select the control group required that the original group of offenders were selected relatively early in the evaluation. As a result, offenders within the control group were, on average, observed for a longer period of time than the Murri Court population. Table 64 shows that, not accounting for time spent in custody, the average number of days for which the control group was observed was considerably higher than the Murri Court group for both adults and juveniles.

This has important implications when comparing offending frequencies. The analysis of reoffending was based on court data. It did not include those offences that were not finalised by the date on which the data was extracted. Not all offences committed during the observation period will have been finalised by the end of that period. Further complicating this issue is the fact that some matters, such as those relating to more serious or complex cases, take longer to process than others. This report has already shown that offenders referred to Murri Court for more serious matters—where they are at risk of receiving a custodial sentence—take longer to finalise than those offenders whose matter is dealt with in a mainstream Magistrates or Children’s Court. Shorter follow up periods for offenders sentenced in a Murri Court means that the observation period post-sentence is less likely to capture offences that took longer to finalise, or those where the offender is referred back to Murri Court.

These issues aside, the change in the frequency of offending was compared in two stages. Stage one compared the number of offences per 365 free days before and after the reference court episode. It was not possible to compare this across the Murri Court and control groups. Instead, the analysis compared the number of offences per 365 days before and after the reference court episode for each group independent of one another. Since this data was not normally distributed, a non-parametric Wilcoxon signed rank sum test was used. This test describes whether the frequency of offending is significantly different between the pre- and post-periods. The direction of change is inferred by examining the median values of the number of offences per 365 days for the two periods.

The results for adult offenders are summarised in Table 65. Overall, there was no difference between the frequency of offending for offenders sentenced in an Adult Murri Court before and after their reference court episode. Similarly, there was no significant difference in offending frequency among the control group in the period before and after the reference court episode. This pattern was consistent across all sub-categories within the two groups, with the exception of property offenders in Murri Court.

The median number of offences per 365 free days for juvenile offenders sentenced in Murri Court and in mainstream Children’s Courts is presented in Table 66. There was a significant difference in the frequency of offending in the pre- and post-period for Youth Murri Court participants dealt with in regional courts—due to a decline in the frequency of offending among offenders sentenced in the Townsville Youth Murri Court. Conversely, there was

Table 64 Follow up period for offenders in Murri Court and the control group				
	Murri Court		Control	
	n	Follow up time (average days)	n	Follow up time (average days)
Adults	389	426	390	618
Juveniles not at risk of custodial sentence	197	414	197	594
Juveniles at risk of custodial sentence	13	526	13	704

Note: Limited to those Murri Court participants whose reference court episode was fully finalised in an Adult or Youth Murri Court. Excludes 1 Adult Murri Court participant with missing data  
Source: AIC, Queensland Murri Court database [computer file]

**Table 65** Median number of offences committed by adult offenders per 365 free days

	Murri Court				Control			
	n	Pre court episode	Post court episode	p value	n	Pre court episode	Post court episode	p value
<b>Region</b>								
Metropolitan	165	1.4	1.7	0.39	46	2.0	2.5	0.46
Regional	169	2.0	1.4	0.58	244	2.0	2.0	0.11
Remote	55	1.0	1.0	0.78	100	1.9	1.5	0.61
<b>MSO</b>								
Violent offence	119	1.6	1.0	0.60	119	1.8	2.5	0.12
Property offence	80	1.4	2.4	0.02	80	1.5	2.5	0.14
Other offence	190	1.6	1.4	0.71	191	2.1	1.6	0.60
Total	389	1.6	1.5	0.62	390	1.9	2.0	0.20

Note: Limited to those Murri Court participants whose reference court episode was fully finalised in an Adult or Youth Murri Court. Excludes 1 Adult Murri Court participant with missing data. *P* value calculated using Wilcoxon signed rank sum test, compares change in offending frequency within group

Source: AIC, Queensland Murri Court database [computer file]

a significant increase in the number of offences per 365 free days for offenders sentenced in mainstream Children's Court, as well as within many sub-categories of offenders.

Given that direct comparisons between the offending frequencies of Murri Court and control group participants in the pre-and post-periods could not be made, the second stage in this analysis involved categorising individual offenders according to whether their offending frequency increased or decreased between the two periods. The significance of any differences observed between the relative proportions of offenders within the Murri Court and control group who had offended less frequently was analysed using chi-square tests.

A comparison of offending frequency among adult offenders before and after their reference court episode is presented in Table 67. These results suggest that there was no significant difference between the proportion of offenders who offended less frequently in the period post-sentence who were sentenced in an Adult Murri Court and a mainstream Magistrates Court. The results for the different sub-categories of offenders show that the proportion of offenders who offended less frequently was relatively consistent across the different regions and between the different principal offence types.

Conversely, juveniles sentenced in a Youth Murri Court were significantly more likely than the control

group to offend less frequently in the period post-sentence than an equivalent period prior to their reference court episode. Fifty-two percent of Youth Murri Court participants recorded a decline in the frequency of offending post-sentence, compared with 33 percent of juveniles sentenced in a Children's Court. This result was due primarily to the significant difference between those offenders sentenced in regional courts. In regional Murri Courts (ie Townsville and Rockhampton), the proportion of offenders who offended less frequently in the period post-sentence was 56 percent, compared with 35 percent of juveniles sentenced in a regional Children's Court. Juveniles sentenced in Youth Murri Court for violent and property offences (as their principal offence) were also significantly more likely to offend less frequently than their counterparts in the control group. As has already been highlighted these results need to be interpreted with some caution due to the variable follow up periods between the two groups (ie Murri Court and control group).

## Health and social wellbeing of Murri Court participants

While not an explicit objective of the Murri Court program, the focus on improving access for Indigenous offenders to rehabilitative programs and services that can assist them to overcome issues

**Table 66** Median number of offences committed by juvenile offenders per 365 free days

	Murri Court				Control			
	n	Pre court episode	Post court episode	p value	n	Pre court episode	Post court episode	p value
<b>Region</b>								
Metropolitan	17	2.6	2.4	0.74	20	1.1	2.1	0.31
Regional	145	1.8	0.8	0.01	137	1.2	2.5	0.00
Remote	48	2.4	3.2	0.48	53	1.5	2.2	0.10
<b>MSO</b>								
Violent offence	48	1.7	1.1	0.82	48	1.0	1.6	0.03
Property offence	93	2.2	2.0	0.17	93	1.4	3.2	0.00
Other offence	69	2.1	1.3	0.39	69	1.2	2.0	0.78
<b>Risk of custodial sentence</b>								
Not at risk of custodial sentence	197	2.0	1.4	0.21	197	1.1	2.1	0.00
At risk of custodial sentence	13	4.8	2.1	0.26	13	5.5	11.3	0.05
Total	210	2.1	1.5	0.14	210	1.2	2.3	0.00

Note: Limited to those Murri Court participants whose reference court episode was fully finalised in an Adult or Youth Murri Court. *P* value calculated using Wilcoxon signed rank sum test, compares change in offending frequency within group

Source: AIC, Queensland Murri Court database [computer file]

**Table 67** Comparison of offending frequency among adult offenders before and after court episode (based on number of offences per 365 free days)

	Murri Court			Control			p value
	Total offenders (n)	Less frequent (%)	More frequent or the same (%)	Total offenders (n)	Less frequent (%)	More frequent or the same (%)	
Region							
Metropolitan	165	41	59	46	37	63	0.66
Regional	169	42	58	244	41	59	0.84
Remote	55	42	58	100	47	53	0.54
MSO							
Violent offence	119	45	55	119	39	51	0.29
Property offence	80	30	70	80	34	66	0.61
Other offence	190	44	56	191	48	52	0.44
Total	389	41	59	390	42	58	0.85

Note: Limited to those Murri Court participants whose reference court episode was fully finalised in an Adult or Youth Murri Court. Excludes 1 Adult Murri Court participant with missing data. *P* value calculated using chi-square test, compares Murri Court and Control group

Source: AIC, Queensland Murri Court database [computer file]

**Table 68** Comparison of offending frequency among juvenile offenders before and after court episode (based on number of offences per 365 free days)

	Murri Court			Control			
	Total offenders (n)	Less frequent	More frequent or the same (%)	Total offenders (n)	Less frequent (%)	More frequent or the same (%)	P value
Region							
Metropolitan	17	41	59	20	30	70	0.48
Regional	145	56	44	137	35	65	0.00
Remote	48	46	54	53	28	72	0.07
MSO							
Violent offence	48	46	54	48	25	75	0.03
Property offence	93	53	47	93	28	72	0.00
Other offence	69	57	43	69	45	55	0.17
Risk of custodial sentence							
Not at risk of custodial sentence	197	52	48	197	33	67	0.00
At risk of custodial sentence	13	62	38	13	31	69	0.24
Total	210	52	48	210	33	67	0.00

Note: Limited to those Murri Court participants whose reference court episode was fully finalised in an Adult or Youth Murri Court. P value calculated using chi-square test, compares Murri Court and Control group

Source: AIC, Queensland Murri Court database [computer file]

related to their offending means that an important outcome of the program is the improved health and social wellbeing of Indigenous offenders. This refers to the various factors that may increase the risk of future offending.

The offender profile questionnaire was specifically designed as a tool to measure the longitudinal impact of the Murri Court program across a broad range of key indicators. In addition to the initial profile conducted upon a person being referred to the Murri Court, the Murri Court coordinator was required to attempt to seek contact with Murri Court clients at six monthly intervals while they were serving a community-based order.

Unfortunately, the low rate of follow-up profiles makes it difficult to draw reliable conclusions regarding the impact of the Murri Court on the health and social wellbeing of offenders. A total of 29 follow up profiles were conducted. This is equivalent to less than 10 percent of those Murri Court participants profiled at the time of being referred to Murri Court for their reference court episode and only three percent of all adult offenders referred to the Murri Court during the evaluation period. This includes

profiles of participants who returned to the Murri Court for a second episode during the evaluation period (ie a court episode for new charges). Around half of the profile interviews that were completed post-sentence were for offenders who had been contacted to participate in an evaluation interview rather than returning to court for a new matter. The majority of follow-up profiles were completed in Mount Isa.

Few coordinators described having a standard procedure to undertake follow-up interviews with clients six months after their final sentence date. In Mount Isa, an arrangement was established whereby the coordinator supplied QCS with the details of offenders who were on current community-based orders in an attempt to coordinate a follow-up interview. Feedback from the coordinator indicated that this process has been moderately successful. In other locations, contact with offenders post-sentence was arranged either by mail or by telephone.

For the purposes of the current evaluation, results from the follow-up profiles have been compared with the interview responses for the same group of

offenders at referral. Findings for a number of key indicators—particularly relating to those areas that aim to be addressed by the Murri Court program—are presented here. These results are illustrative only and should only be used to draw comparisons between the circumstances of those Murri Court participants profiled at referral and then again at follow up. They are insufficient to draw reliable conclusions regarding the impact of the Murri Court on areas relating to the health and social wellbeing of offenders.

Table 69 presents responses relating to three key areas—training, employment and community involvement. Among those offenders interviewed at referral and then again sometime post-sentence, there was no change in the proportion of Murri Court participants who had completed, or were enrolled, in at least one training course. Seven respondents were employed at follow up compared with nine at referral. There was no increase in the number of participants who reported having had contact with community Elders in the previous six months, suggesting that, outside of Murri Court, contact with community Elders for these offenders had not changed. Of the 29 offenders interviewed, 13 reported a decline in terms of their participation in community activities post-sentence.

Another important issue that those working the Murri Court aim to address is the high proportion of offenders who experience problems associated with drug and alcohol use. Of the 29 offenders profiled upon referral to Murri Court, 17 reported using alcohol at least weekly in the previous six months. This decreased to 11 at follow up. Conversely, the number of respondents who had tried to get into, or had been in, treatment in the previous six months increased from six to 10, suggesting that participation in the Murri Court had assisted those individuals with accessing treatment. There was also a decline in the number of respondents who reported feeling as though they needed, or were dependent on, some form of illicit drug, falling from six at referral to just one respondent at follow up (Table 70).

In addition to drug and alcohol use, respondents were also asked about their health status overall. The results from the responses at referral and again at follow up are presented in Table 71. Seventeen participants assessed their health as being better at follow up than it was six months previously, which was higher than the number of participants at referral (n=11).

Interviews with key stakeholders, particularly Elders, highlighted the importance of addressing the

Table 69 Key indicators relating to training, employment and community involvement in the previous six months <sup>a</sup>				
	At referral		At follow up	
	n	%	n	%
<b>Education, training and employment</b>				
Employed (full time, part time or casual)	9	31	7	24
Completed or enrolled in at least one tertiary or training course	20	69	20	69
<b>Community involvement</b>				
Had contact with community Elders in the past six months	14	48	14	48
Attended at least once community activity in previous six months	21	72	15	52
<b>Participation in community activities</b>				
Increased	—		10	34
Decreased	—		13	45
Stayed the same	—		6	21

a: Total respondents at referral and follow-up n=29  
Source: AIC, Queensland Murri Court database [computer file]

immediate stressors that increase the likelihood that someone will reoffend. Some of those stressors, such as divorce or the death of a family member or friend are obviously external factors over which the Murri Court program has no control. However, other stressors, such as alcohol problems and trouble with the police, are factors over which the Murri Court program and the service providers and Indigenous community that support the program can exert

some influence. Despite the very low response rate, there are some positive signs among those offenders who were profiled before and after their Murri Court episode. There was a decline in the number of participants who reported trouble with the police, with school and alcohol problems as recent problems experienced by them, their family or friends.

**Table 70** Self reported alcohol and other drug use in the previous six months<sup>a</sup>

	At referral		At follow up	
	n	%	n	%
<b>Alcohol</b>				
Ever used	27	96	27	96
Used at least weekly	17	63	11	39
Felt that they needed or were dependent on drug in the previous six months	6	22	6	21
Tried to get in or been in treatment for use of drugs in previous six months	6	22	10	36
<b>Other drugs</b>				
Ever used	22	79	22	79
Used at least weekly	9	33	7	25
Felt that they needed or were dependent on drug in the previous six months	6	22	1	4
Tried to get in or been in treatment for use of drugs in previous six months	4	15	4	14

a: Total respondents at referral and follow-up n=28

Source: AIC, Queensland Murri Court database [computer file]

**Table 71** Self reported health status and access to health services in the previous six months<sup>a</sup>

	At referral		At follow up	
	n	%	n	%
Didn't go to doctor, hospital or other health service in the previous six months on at least one occasion when needed attention	5	17	1	3
<b>Self assessment of health</b>				
Excellent	3	10	5	17
Very good	8	28	4	14
Good	11	38	15	52
Fair	3	10	5	17
Poor	4	14	0	0
<b>Self assessment of health compared to six months ago</b>				
Better now	11	38	17	59
About the same	14	48	9	31
Worse now	4	14	3	10

a: Total respondents at referral and follow-up n=29

Source: AIC, Queensland Murri Court database [computer file]



**Table 72** Recent stressors reported as having been experienced by offenders, their family or friends in the previous six months

	At referral		At follow up	
	n	%	n	%
Trouble with the police	23	82	13	46
Trouble with school	12	43	8	29
Death of a family member or close friend	17	61	8	29
Trouble with partner	10	36	7	25
Member of family sent to jail or in jail	13	46	7	25
Divorce or separation	4	14	6	21
Somebody very sick or disabled	9	32	6	21
Trouble with family or family pressures	8	29	5	18
Alcohol problems	16	57	5	18
Seeing fights, or seeing people beaten up	6	21	5	18
Too many people living in one house	4	14	4	14
Drug problems	5	18	3	11
Treated badly because they are Indigenous	4	14	3	11
Lost their job	1	4	2	7
Gambling problem	2	7	2	7
Abuse or violent crime	3	11	1	4
A bad accident	8	29	1	4
Not able to get job	0	0	0	0
Other	3	11	6	21
Two or more stressors	24	86	19	68
None of these	2	7	4	14
Total respondents <sup>a</sup>	28	—	28	—

a: Respondents could select multiple responses

Source: AIC, Queensland Murri Court database [computer file]

# The relationship between the court and the Indigenous community

This section of the report outlines the findings from an assessment of the impact of the Murri Court on the relationship between the Magistrates Court and the Indigenous community in dealing with Indigenous justice matters. The 2005–06 review, while recommending that the existing objectives of the Murri Court program be retained, recommended that an additional objective be added to reflect collaborative focus of the court. Specifically, it was recommended that an important aim of the court is 'to strengthen the partnership between the Magistrates Court and the Indigenous communities to deal with Indigenous justice issues' (Parker & Pathé 2006: 6) and that an objective should be added to reflect this goal.

The review recommended that the additional objective be included on the basis of input from a variety of stakeholders indicating that the Murri Court was viewed as an effective mechanism for:

- increasing ownership and participation among the Indigenous community in the criminal justice process;
- community building and collaboration; and
- developing trust in the court process among the offender and the broader community (Parker & Pathé 2006).

Improving the historically poor relationship between the criminal justice system and the Indigenous

community is an important outcome. It is also a critical step in making sure that the criminal justice response to Indigenous offenders is both appropriate and effective in addressing the underlying reasons for their offending behaviour. It was therefore important that the evaluation addressed this objective.

This component of the evaluation sought to determine whether the Murri Court had:

- increased the level of Indigenous participation in criminal justice processes and contribution to sentencing outcomes for Indigenous persons;
- improved perceptions of the fairness and cultural appropriateness of Magistrates and Children's Court in dealing with Indigenous offenders; and
- increased the level of collaboration between different sections of the Murri Court community.

This involved extensive consultations with stakeholders from the Murri Court and observations of both Adult and Youth Murri Court hearings in each of the evaluation sites. In addition, questions were included in the offender profile to ascertain Murri Court participants' attitudes towards the criminal justice system generally and their experience of the Murri Court post-sentence. Findings from these different methodologies are reported throughout this section.

Consultations included interviews with stakeholders in a number of court locations (not limited to those included in the evaluation) to undertake a retrospective analysis that sought people's impressions of the impact of the Murri Court on the partnership between the court and the Indigenous community. Including interviews in communities in which a Murri Court did not currently operate or had only recently been established enabled the AIC to assess whether any perceived improvements in the relationship were specifically the result of the implementation and operation of a Murri Court or reflected some overall shifts in court and Indigenous community relationships across Queensland. Interviews and observations therefore took place in:

- locations with established Murri Courts (ie the 5 evaluation sites);
- a community that had recently established a Murri Court (Ipswich); and
- a site that did not have a Murri Court (Toowoomba).

This allowed the evaluators to assess the relative involvement of the Indigenous community in each jurisdiction and allowed for comparisons between different regions, including metropolitan, regional and remote areas. More detail regarding the qualitative methodology used in this evaluation is outlined in the third section of this report.

## Participation in court processes

The participation of the Indigenous community in the sentencing of Indigenous offenders is central to the philosophy of the Murri Court program. The establishment of a Murri Court aims to increase the participation of the Indigenous community in court processes by providing opportunities that enable Elders and respected persons, CJGs, offenders and their families and victims to become involved in the sentencing process. The role of each of these stakeholders has already been described at length in the fourth section of this report.

While the participation of representatives of the Indigenous community automatically increases with the establishment of a Murri Court, the level and nature of this participation must be sufficient so as to

effect change in offenders and court processes. This evaluation therefore examined whether:

- opportunities for meaningful participation of community representatives, offenders, victims and their families have been created;
- the capacity exists within the Indigenous community to contribute to court processes or that appropriate strategies to increase this capacity have been developed;
- the participation of the Indigenous community leads to changes in the way in which court processes respond to the specific needs of Indigenous offenders, or whether there is evidence that participation effects change in Indigenous offenders' lives;
- the high level of participation that is perceived to be central to the effectiveness of Murri Court can be sustained over time;
- there are specific factors that are critical to ensuring the ongoing participation of the Indigenous community in court processes; and
- there are barriers that limit opportunities for participation and where challenges have been encountered, whether strategies to overcome them have been developed.

There are several ways in which the Murri Court program increases the opportunity for the participation and involvement of the Indigenous community. Court processes that have been adapted since the implementation of the Murri Court to engage the Indigenous community include:

- inviting Elders and respected persons to participate as advisors to the Magistrate, as sources of authority for the offender and as liaisons between non-Indigenous court staff and the offender;
- encouraging the offender to actively engage in the hearing and to openly and honestly discuss the issues surrounding their offending behaviour, both through a series of pre-sentence interviews and on the day of sentence;
- inviting family members and support persons to be part of the sentencing process;
- providing Indigenous victims of crime with a voice in the sentencing process via victim impact statements and enabling them to participate in the sentencing process by being present in the courtroom (eg for domestic violence related matters);

- formally engaging the CJG to support offenders both pre- and post-sentence, and to prepare cultural reports;
- encouraging Indigenous community-based organisations to develop or enhance services to support Murri Court participants; and
- encouraging and supporting the CJG and/or Elders to maintain contact with the offender post-sentence, either as a formal requirement of their sentence or in a more informal manner.

### *Elders and respected persons*

There was considerable evidence collected through the consultation process that demonstrated that Elders perform a crucial role in the operation of a Murri Court across all five evaluation sites. Elders and respected persons are held in high regard by stakeholders from all sections of the Murri Court community and it is clear that there has been significant effort to ensure their continued involvement in the program.

All five courts have successfully engaged a small group of Indigenous Elders to participate in Murri Court proceedings on a routine basis. Their continued participation is indicative of the success of the Murri Court program and stakeholders in engaging Elders and supporting them to make meaningful contributions to the sentencing process. A number of stakeholders commented that regardless of funding and external support for the program, there would continue to be involvement from Elders and representatives of the Indigenous community in the court process. There is also evidence of growing interest among Elders not already participating in Murri Court, as reported by some stakeholders.

Most stakeholders indicated that the involvement of Elders and respected persons in court proceedings was the single most important aspect of the Murri Court and of fundamental importance to the overall effectiveness of the courts as a mechanism for diverting Indigenous offenders from prison. Elders were described by one respondent as ‘the spirit of the Murri Court program’.

Many stakeholders felt that the interaction between Elders and Murri Court participants, both adult and juveniles, was important for a range of reasons. Interactions between the Elders and offenders in

Murri Court were described by interviewees as serving three primary functions—shaming the offender, increasing accountability and providing support and assistance.

Murri Court incorporates a shaming process which is a traditional punishment. Offenders are forced to confront respected members of their own community (ie the Elders and/or respected persons) and recognise the impact of their behaviour on the Indigenous community. This is regarded as having a significant impact on offenders. Shaming is seen as fundamental to the effectiveness of the Murri Court process in motivating behavioural change among Indigenous offenders. Elders represent an alternative authority figure in the eyes of Murri offenders. Introducing shaming into the court process helps to improve perceptions of the legitimacy of the court in the eyes of Indigenous offenders. In some cases, the idea of coming before the Elders is too much for an Indigenous offender to handle and they will elect to go through mainstream court to avoid being shamed.

People think Murri Court is an easy way to avoid jail, but let me tell you, there is nothing easy about Murri Court. Jail is an easier option than Murri Court, because if you decide to go through the mainstream court process you don't have to say you're sorry for what you done, you don't have to speak directly to the Magistrate, the Elders aren't in the court, let alone there to tell you that you have disgraced your community and that you should be ashamed; and you don't have to tell the whole court how you are going to get better and mix your life. In Murri Court you gotta do all those things and frankly being shamed is the hardest part of all (Respected person personal communication 2008).

When offenders come before Elders from the community, the Elders strongly condemn their behaviour, emphasising the negative impact of their offending behaviour on themselves, their family, their victim and the broader Indigenous community. By incorporating this mode of traditional punishment into the courts process, the defendant feels shame because of their behaviour and the disappointment expressed by their Elders and respected persons.

When Murri offenders walk into the courtroom you can tell what's going to happen. Some are already

feeling the shame of being in front of us; whereas others think Murri Court is going to be easier than jail and others still don't care. It is our job to make them care again. I can tell if I am being bull-shitted, I can see it in their eyes. The defendant may walk in thinking they will bluff us, but by the time we Elders are done, they are left in no doubt that what they done is totally unacceptable and we expect to see change (Elder personal communication 2008).

The Elders also try to encourage offenders to take responsibility for their actions and the consequences of their offending and recognise that they are accountable for their behaviour. Several Elders described how they would relate personal stories of being a victim of crime, or present hypothetical scenarios where they are the victim of the offender's behaviour. They tried to encourage offenders to recognise the impact of their behaviour. Elders will often deliver severe reprimands to offenders, particularly where they feel they are not engaging or do not respect the court and those involved. The offender may express regret or remorse for the actions as a result. The Elders also encourage the offender to take responsibility and ownership of the outcome in court.

The adversarial process has never succeeded in making Murri offenders take responsibility for their actions and to make them truly understand that they are accountable for whatever it is that they do. But the Murri Court with direction from the Elders can do that, it makes them understand why they are accountable and how to reconstruct a life after all is said and done (Legal representative personal communication 2008).

Finally, the presence of the Elders creates a more supportive environment for defendants to discuss the circumstances surrounding their offending behaviour. The presence of the Elders also seeks to make the offender feel more comfortable in opening up to the court and speaking openly about those circumstances surrounding their behaviour that they wish to be considered by the Magistrate. Elders will encourage defendants to attend relevant services and support offered by local Indigenous community organisations to redress their offending behaviour. The level of support offered to offenders is considered an important factor in their deciding

to address their offending behaviour. They may also offer the offender practical advice or support following the hearing. The Elders will reiterate that this support is contingent upon the defendant taking positive steps towards addressing their own offending behaviour.

Our young people are misguided and disconnected from their country, their traditions and their ancestry. We are here to help them see the value in themselves as Aboriginal men and women again (Elder personal communication 2008).

Elders are involved in a range of services outside of Murri Court. Many provided support to Indigenous offenders in their community prior to the establishment of Murri Court. Many Elders are employed by or manage non-government organisations that provide services to Indigenous people, such as counselling for victims and perpetrators of domestic violence and drug and alcohol counselling, and may offer these services in Murri Court to offenders and their families. Elders may also visit juveniles in detention centres, providing valuable support to offenders who may be disconnected from their own family and peer networks.

However, it was apparent from observations of the court process that the interaction between Elders and offenders has an important impact on some offenders appearing before the Murri Court. The body language of some offenders when they were being admonished by the Elders was notably different than when being spoken to by the Magistrate, where there is often little response. Several were observed becoming emotional when being confronted by the Elders.

It was also apparent that some offenders did not appear to respond to the Elders—an issue highlighted by the Elders themselves. Some of the Elders suggested that certain offenders did not appear, for a range of reasons, to respect their authority within the court. It is also unclear as to the extent to which this interaction, while widely acknowledged as affecting the offender, has the capacity to translate into longer-term behavioural change. For many offenders, the issues related to their offending behaviour are significant and complex long-term problems. While they may not always be

able to exert a direct influence over an offender's behaviour or circumstances, the impact of the Elders in motivating offenders to try and address some of the issues, although difficult to measure, is significant.

### **Benefits from Elders' involvement in the Murri Court**

Stakeholder consultation and observations of the court process suggested that there are several notable benefits that have resulted from involving the Elders in the sentencing process. The benefits of the involvement of Elders reported by those involved in Murri Court include:

- a much greater level of information before the court regarding the offender's circumstances than would otherwise be available;
- the interaction between the Elders and the offenders leads to a greater contribution from the offender in determining appropriate sentencing outcomes and in developing strategies to address their offending behaviour;
- acknowledgement by the offender of the impact of their behaviour and the shame felt by the offender once having been confronted by the Elder can help to encourage them to try and address the issues relating to their offending;
- an increase in the capacity of the court to reintegrate the offender into their community by establishing (or repairing) relationships between the offender and respected members of the community;
- a better understanding among non-Indigenous court staff of aspects of Indigenous culture generally and the complex issues faced by Indigenous people and communities; and
- improved perceptions of the authority of the court and greater respect for decision-making and sentences imposed by the Magistrate.

Magistrates indicated that the input of Elders, in addition to submissions made to the court based on assessments of the offender, have a significant bearing on their decision-making with regard to sentencing. In many instances, issues may be identified which may have otherwise not have been known to the court, relating to the offender's circumstances or the circumstances of the offence, which are considered during sentencing.

The advisory role undertaken by the Elders to inform Magistrates of the cultural, familial, educational, socio-cultural and behavioural issues that need to be considered when sentencing an offender is valuable because it places the offending in context which is otherwise not well understood.

Murri Court allows for context to be important and Elders and respected persons provide that context for the Magistrate, the police, the Department of Corrective Services and sometimes even for the offender themselves (Coordinator personal communication 2008).

Magistrates find the advice and authority that Elders bring to court invaluable and this was apparent in the degree to which Magistrates called upon Elders to speak to the offender or to provide information that would assist them make sentencing decisions.

Without the guidance of the Elders, we as Magistrates may as well be back in a robe in mainstream court, it would be no different. You can have every intention of employing as many therapeutic mechanisms at your disposal, but, unless you understand the context of the offending behaviour it is unlikely that the sentence you give will have any significant meaning in a Murri offender's life (Magistrate personal communication 2008).

The role of the Elders in each Murri Court location will depend largely on the capacity of local Elders to contribute to proceedings and whether formal structures exist to provide the Elders with support through the process. The degree to which Elders contribute to court processes will vary from Elder to Elder. Some Elders are more comfortable speaking openly and directly to the offender or the Magistrate and will require little prompting from the Magistrate. Others are less assertive and will require greater encouragement from the Magistrate. It is important that the Magistrate is cognisant of this fact and recognises that not speaking is not necessarily an indication that the Elder does not have something to contribute. Many Elders spoke of a transition period, whereby it took them time to adjust to the role.

Recognising the benefits of Elders' involvement, other stakeholders involved in Murri Court, including Magistrates, Murri Court coordinators and CJG coordinators (where present), work to accommodate

Elders and ensure that they are able to attend and participate in court processes. This includes assistance relating to practical barriers such as transport to and from court, but also taking the time to engage with Elders outside the court process to help make them feel comfortable to contribute during hearings.

Elders also have a considerable say over the development and management of Murri Court practices. For example, the Elders were reported as having decided how the court would be laid out for sentencing where the differences between evaluation courts reflect the different intentions and beliefs of the Elders. Similarly, the Elders have been strong advocates for the widening of eligibility criteria to include juveniles not at risk of custodial sanctions and expanding the role of the court to adopt a more intervention-focused model. Enabling Elders and sections of the Indigenous community to make decisions regarding the operation of the Murri Court ensures that there is a sense of ownership which empowers communities; something that has been lacking in criminal justice processes in the past.

### Impact of Murri Court on Elders

Elders also reported benefits from their involvement in Murri Court. Elders discussed in consultations how meaningful and satisfying to be able work with and 'help' their 'young people' guiding them through a destructive period in their lives.

To help them understand that their offending behaviour does not just reflect poorly on them, but that it reflects poorly on their community and their people generally (Elder personal communication 2008).

Contributing to Murri Court has a significant impact upon Elders' feelings of pride and sense of achievement, an outcome also highlighted in the evaluation of the NSW circle sentencing court (CIRCA 2008). This encourages Elders to continue to be involved in the process and also encourages other Elders within their community to become involved. Elders also use Murri Court as a mechanism for identifying people within their community who may need support or assistance and will offer that assistance during hearings.

Some Elders and respected persons also highlighted the emotional and physical strain experienced as a result of having participated in Murri Court.

The Murri Court takes a lot out of you—it is physically and emotionally demanding. I think it's because it's not a cut and dry process, offenders are struggling with life in a lot of cases and it's an unreasonable expectation that the lives of offenders will change dramatically in 40–60 minutes of court contact at sentencing time. So when there isn't a positive outcome or someone that you thought had got it together comes back before the court, it's hard. But at the same time when you see a positive outcome your heart just soars (Respected person personal communication 2008).

This emphasises the importance of adequate processes being in place so that Elders are able to deal with the emotional impact of their involvement in the Murri Court process. This may require a more formal approach to post hearing debriefing, an activity already undertaken on a more informal level.

### Benefits outside of Murri Court

Other benefits described by stakeholders were more difficult to measure. However, it appears from the advice of stakeholders that involving the Indigenous community in the sentencing process for Indigenous offenders (ie Murri Court) not only produces benefits within the process itself (such as engaging the offender and encouraging them to appear before the court), but that there are outcomes that extend beyond the immediate criminal justice process.

Involving Elders in the sentencing process can help to increase access to programs and services. Many Elders are employed or manage non-government organisations that provide services to Indigenous people, such as counselling for victims and perpetrators of domestic violence and drug and alcohol counselling, and may offer these services in Murri Court to offenders and their families. Alternatively, the information provided by Elders to the Magistrate on the offender's circumstances can lead to more appropriate decisions with respect to treatment programs (Marchetti 2008).



These outcomes included increased standing and respect for Elders among the broader Indigenous and non-Indigenous communities, particularly among young offenders. There was also anecdotal evidence reported that Murri Court was having a positive effect in rebuilding local communities and community relationships, and re-engaging offenders with the Indigenous community and their Elders. Elders spoke of numerous positive encounters with Murri Court offenders post-sentence.

## Sustaining Elder involvement

An issue that emerged during the consultations was the sustainability of Elder involvement in the Murri Court process. A number of stakeholders also acknowledged that the Murri Court relies heavily on the support and input on the same relatively small group of Elders. The courts have experienced limited success in engaging younger respected members of the community to support the Elders. In many cases, those people who might otherwise be involved have full-time employment, often with government agencies and limited capacity to provide the time to be available to contribute to Murri Court proceedings.

Some of the Elders may be unwell and often have numerous other responsibilities within their community and as a result, may be increasingly unavailable to participate in Murri Courts. The capacity to contribute time to the Murri Court is also an issue for Indigenous workers generally (paid or voluntary), such as those employed in CJGs or Indigenous-specific community organisations, because of other demands and limited resources. The success of initiatives such as Murri Court is often based on significant individual contributions. It is important that appropriate steps are taken to ensure that the contribution of Elders and the Indigenous community more broadly is managed in such a way so as to guarantee the sustainability of the Murri Court in the long term.

## Representing the community

Women outnumber men among the Elders involved in Murri Court. It is widely acknowledged that female Elders play a significant role within Indigenous family and community networks. However, it is also important to acknowledge the significance of 'men's

business' and to ensure there is a concerted attempt to increase the number of male Elders involved in the court, particularly given the significant proportion of males before the court. Stakeholders felt it was important that male offenders coming through the Murri Court process had a significant male role model to look up to and engage with, not just during the hearing, but outside the court process.

I am involved in Murri Court because I want to be a role model for the many Murri young men and to demonstrate that you can do what you want to with your life and I am here to help them achieve it (Respected person personal communication 2008).

Similarly, the issue of where Elders were from arose on a number of occasions. The Elders involved in each court process are members of the local Indigenous community and in most cases have strong connections and networks in that community. In some circumstances, there was concern that Elders were not necessarily Elders from the same community as the offender coming before the court. This is a complicated issue that may be a barrier to successfully engaging offenders in the sentencing processes. Some authors have suggested that the involvement of Elders in the court process has a more positive impact on offenders when they are from the same community and the Elder is respected as an authority within that community (Harris 2006a; Marchetti & Daly 2007).

Responses to this issue were mixed. Many Elders did not view this as having a significant impact on the effectiveness of the court. Some argued that this was used as an excuse by offenders for their lack of participation or engagement and as a disrespectful way of removing themselves from the Murri Court process. It was most common among younger offenders who would occasionally say 'you aren't my Elder, I don't have to listen to you' or convey this sentiment through negative body language in court. Other stakeholders suggested that the issue arose more frequently in urban locations, but was a function of the fact that in places like Brisbane there are offenders from Indigenous communities from all over Queensland. Ensuring that Elders represent the communities of all offenders within metropolitan courts is unrealistic and for the majority of offenders, it was argued that the same level of respect is



shown for Elders irrespective of where they were from. Nevertheless, some attempt should be made to ensure that Elders are representative of the offender's community when an Elder from that community is part of the pool of Elders available for that court.

While this issue does not arise as frequently in smaller or more traditional communities and regional and remote areas, some Elders suggested that when it does, it has the potential to have a more negative impact than in a metropolitan court. It is therefore more important in regional and remote communities to ensure representation among Elders of the local Indigenous communities in those locations. The potential impact of involving Elders from outside the offender's community requires further exploration, particularly in terms of whether it may undermine attempts to incorporate elements such as shaming in the sentencing process, or attempts to reconnect offenders with their community.

### *Community Justice Groups and community service providers*

The Murri Court program has also provided for the involvement of CJGs and Indigenous community organisations in supporting offenders both prior to sentencing (formal conditions imposed as part of pre-sentence supervision) and post-sentence. The importance of culturally-appropriate programs and services for Indigenous offenders is widely acknowledged (eg see Willis 2008) and the significance of providing opportunities for Murri Court participants to access the services provided by CJG and other service providers and delivered by members of the local Indigenous community, should not be understated. However, as is often the case, resourcing plays a major role in determining the capacity of these organisations to support Indigenous men and women. Nevertheless, stakeholder consultation suggests that the Murri Court has increased contact between offenders and the programs and services that are available.

Stakeholders stated that the degree of support offered by members of the Indigenous community to offenders serving community-based orders had a significant influence over the likelihood of that person

reoffending or breaching the conditions of their order. It is also important that the support and assistance offered and committed to the offender during sentencing is followed through post-sentence, so as not to undermine the process. The need to improve these services has already been highlighted.

In Murri Courts that are not currently funded, the members of the CJG perform many of the functions of the Murri Court coordinator. Within the evaluation courts, the role of the CJG varies considerably. In some locations, members of the CJG provide supervision and case management for offenders, while in others they conduct pre-sentence assessments to report to the Magistrate and act as the conduit to a range of local services. In some courts, the CJG has little or no direct involvement in the Murri Court process but may have contact with offenders outside of court. In other locations, there is no CJG. Many CJG members are Elders who are actively involved in the Murri Court and the distinction between their roles as Elders in the court and as CJG members is not well defined. The role of CJGs in supporting the Murri Court may need to be more clearly defined, particularly as the court program continues to expand.

### *The involvement of offenders in the sentencing process*

The welfare of the offender and the development of strategies to address their offending behaviour are central to the philosophy of the Murri Court program. Therefore, the Murri Court process seeks to actively engage the offender in the sentencing process and in determining an appropriate sentence. This was evident in the observations of both Adult and Youth Murri Court hearings. In mainstream Magistrates court, the offender will regularly allow their lawyer to do most of the talking on their behalf. In Murri Court, the Magistrate and Elders speak directly to the offender. The offender is encouraged to speak on their own behalf and to actively participate in discussions with the Magistrate and Elder(s). For many offenders, participation in Murri Court can be a confronting and emotional experience.

The offender's involvement in Murri Court is not limited to the hearing itself. The offender is also

expected to participate in pre-sentence interviews, either with the Elders, the CJG, or both. This is an important component of the Murri Court process and based on both observations and stakeholder interviews, appears to have a significant influence over the interaction between offenders and the Elders during the sentencing hearing. Pre-sentence interviews engage the offender prior to the sentencing process, help build familiarity between the Elder and offender and, where it does not exist, provide the foundation for a shared understanding of the offender's circumstances which leads to more meaningful dialogue during court sittings. It also provides the offender with the opportunity to raise issues that they might not wish to discuss during open court.

The Murri Court has, for the most part it seems, been successful in creating opportunities to involve the offender in the court process and appears markedly different to mainstream courts in this regard. This encourages the offender to be accountable for their actions and to recognise the impact of their behaviour on their victims, their family, their community and themselves. Elders and Magistrates have suggested that the reactions of offenders, both during and after sentencing, indicate that they take greater responsibility for their actions and for the consequences (ie the sentence) they have brought upon themselves. Elders recalled several instances in which offenders had offered an emotional apology for their behaviour, both to them and to their families.

Stakeholders also suggest that by being involved in the process, offenders come to better understand the court process and what is required of them when undertaking conditions imposed either as part of bail or as part of a community-based order. Greater involvement of offenders also leads to increased perceptions of fairness of the court process and sentencing outcomes.

Participation of the offender is often overlooked as being of importance in mainstream court processes; Murri Court provides the offender with the opportunity to feel that the process is just as much about them as it is about community safety. This inclusiveness in the process is crucial to the success of Murri Court and producing a reduction in offending behaviour. (Corrective Services staff member personal communication 2008)

However, the impact of participation in the Murri Court does not appear to be the same for all offenders. Most stakeholders recognised that the court is more effective with some clients than with others and that some offenders are not willing to actively engage in proceedings. This raises two important issues—the rapid growth of the Murri Court and the eligibility of offenders.

The proportion of Indigenous offenders participating in a Murri Court in Queensland is significant. The number of offenders participating in the court has increased by 30 percent in the second year of the evaluation. This level of participation has been attributed to the dedication of those involved in the Murri Court to providing the opportunity for as many Indigenous offenders as possible to have their matter heard in the court. It also reflects a belief expressed by those involved that the Murri Court is a more appropriate and effective mechanism for dealing with Indigenous offenders.

However with adults, other than in Mount Isa and Townsville, there is limited assessment as to the suitability of the offender for Murri Court, beyond the specified eligibility criteria. Legal representatives indicated that they will only recommend Murri Court to the offender if they believe that the offender is prepared to confront their offending behaviour and is suitable overall for the process. The offender must also indicate their willingness to participate. In most locations, referral to the Murri Court is ultimately at the discretion of the presiding Magistrate, with some input from the Elder or CJG.

With the continued growth in the number of referrals, there is a need for appropriate guidelines to assess the suitability of an offender for Murri Court. Such guidelines should be established locally for each court or region by the Elders in partnership with the Magistrate and other court staff. These would not serve as strict guidelines, but as a checklist of factors to consider and to guide discussion in deciding whether an offender is suitable for Murri Court. These guidelines could encourage consideration (in addition to existing eligibility criteria) of issues such as whether:

- the offender has shown signs that they are willing to take steps to address their behaviour;
- they have shown a willingness to engage openly and honestly with representatives of their community;

- the Elders in the court feel comfortable dealing with the offender; and
- the offender is likely to be able to deal with the interactive and emotional demands of the court.

This last point is an important one. While encouraging offenders to appear before the Murri Court, it is important that they are told what to expect.

Appearing in the Murri Court can be a confronting and emotional experience for offenders.

Stakeholders reported that some offenders, particularly children, were apprehensive about appearing in Murri Court and would instead choose to appear in a mainstream Magistrates or Children's Court for sentencing.

### Offenders' family and support persons

An offender's family and support persons are encouraged to attend and be involved in Murri Court processes and often sit alongside the offender during proceedings or are present in the courtroom. Family members may submit to the court information of a personal nature that may have impacted upon the offender and the circumstances that may have contributed to the offending behaviour. They may also provide the court with information on the offender's current living, family, education or employment circumstances which may impact upon their capacity to comply with bail conditions or conditions imposed as part of a community-based order. The willingness of the offender's family and/or support person to support the offender post-sentence is often taken into consideration in sentencing.

Stakeholder feedback suggests that family members and support persons are more likely to attend Murri Court hearings than mainstream Magistrate or Children's Court. Stakeholders indicated that offenders were often supported in court by family members or other support persons and that those in attendance were regularly asked to contribute to the court proceedings. This is an important outcome; the presence of family members provides the Magistrate and Elders with an insight into the offender's living circumstances and home life that they might not have otherwise had and can provide valuable information regarding the suitability of a non-custodial sentence (or conversely, other people who might be affected if the accused receives a

custodial penalty). However, there were a number of hearings observed by the evaluators in which a family member or support person was not present. Strategies to encourage and support family members to be involved in the Murri Court, particularly Youth Murri Court, may help to facilitate contact with support networks.

### Impact of court layout

The layout of the court room for Murri Court hearings is an important component of the program. In Brisbane, Caboolture and Mount Isa, Murri Court participants, including the Magistrate, Elders, the offender, the offender's legal representative, QCS/DoC officer, police prosecutor and in some cases a member of the offender's family or support person are seated around a large conference table (or equivalent) in a dedicated Murri Court room or around the bar table in a normal courtroom. All participants are seated at the same level. Two or more Elders or respected persons will appear in court to assist the Magistrate in these locations. Where possible and appropriate to the nature of the offence, a male and female Elder will attend court.

In Rockhampton and Townsville, the traditional court layout has been retained. This was at the request of Elders, who were primarily concerned with the impact this has on the offender's perception of the court. It was their view that retaining this format reinforces the seriousness of the matter and encourages the offender to acknowledge the authority of the court and the presiding Magistrate. The Magistrate presides at the bench in their robe, so as to endorse the respect and the identity of the judiciary in the Murri Court proceedings. An Elder will sit on the bench with the Magistrate. The Elder may choose not to sit on the Bench with the Magistrate, in which case they, along with any other Elders attending court are seated behind the bar table and in proximity to the offender. CJGs and family and/or support persons are seated in the gallery. Family members may also sit beside the offender near the bar table.

Observations of the court process did suggest that the court layout may have some impact on the nature and extent of communication between the various parties involved in the court process and the level of formality within these interactions.

Generally speaking, however, it appeared that the style of the individual Magistrates and willingness of the Elders and/or respected persons in attendance during the sitting to address the offender and the Magistrate, had greater affect on the nature of communication between the Murri Court stakeholders and offenders.

### *The role of Magistrates*

Individual Magistrates have considerable influence over Murri Court proceedings and the level of involvement of the Indigenous participants. It is sometimes the case that Magistrates presiding in Murri Courts will support a different focus in dealing with offenders. Some may emphasise the importance of shaming, whereas others may place greater emphasis on rehabilitation. This will influence the role and contribution of Elders. The level of input from Elders and the consideration given to that input, can also vary between Magistrates.

Similarly, stakeholders also commented on the growing involvement of Magistrates in Murri Court who were not involved in establishing courts in the various locations and who, in some cases, may have limited experience working in Indigenous communities. Some stakeholders expressed concern that these Magistrates had not actively engaged the local Indigenous community or key government agencies involved in the Murri Court process. Elders in particular spoke of the importance of selecting an appropriate Magistrate to preside over Murri Court matters; 'appropriate' Magistrates manage the court in a more culturally-sensitive manner, particularly in their interactions with Indigenous participants and recognise the authority and influence of the Elders in the Indigenous community. There have been circumstances where this has been lacking.

The Elders asked me to drive them home during a break in proceedings as they did not think that the Magistrate was making the right decisions. The Elders felt uncomfortable and as a result they were not able to participate in the court process like they normally would. They were truly concerned and slightly disturbed by the way Murri Court was run that day (Coordinator personal communication 2008).

The importance of cultural training and experience with Indigenous communities was identified in the review and remains an important consideration. However, it appears that there is also an increasing need for training to be provided for Magistrates that focuses more broadly on the establishment and operation of Murri Courts. Training should also incorporate the management of stakeholder relationships, dealing with local politics and seeking support. This will ensure the continued meaningful participation of the Indigenous community within the court process.

### *Creating opportunities for victims to be involved in the court process*

As well as being over-represented among offenders, Indigenous people also constitute a disproportionately high proportion of victims. Unlike circle sentencing, the involvement of victims is not a central component of the Murri Court model. However, there is evidence in some of the evaluation courts of a concerted effort to involve victims in the sentencing of Indigenous offenders, with varying degrees of success.

Youth justice conferences bring less serious juvenile offenders and their families together with victims, as well as police officers. A Magistrate in Murri Court may refer a young person to a youth justice conference, either instead of the court making a sentence order or to take place before sentencing, in which case the Magistrate can consider the conference outcome at the time of deciding upon an appropriate sentence. Magistrates and Elders indicated that less serious juvenile offenders are frequently diverted to conferencing and training has been provided to Elders to enable them to be involved in these conferences.

In some circumstances, victims are involved in the sentencing process due to an established relationship existing between the offender and the victim. Many of the violent offences that appear before the Murri Court have been reported to relate to domestic violence. It is in these cases that have the most victim involvement. In matters relating to domestic violence incidents in which the offender's partner attends court, they may provide the court with information as to the seriousness of the offence and the impact on them and their family (ie in lieu of a victim impact statement).

Charges related to domestic violence were discussed at length by stakeholders and court partners during consultations. It was revealed that victim participation in cases like domestic violence proves to be a productive outlet for the airing of grievances and ensuring offenders understand the impact of actions and recognise that they are accountable for their behaviour.

Murri Court is a bit like couples counselling sometimes, because we have so many domestic violence cases come before the court. But because the missus comes to court too we talk about all the issues that lead to the incident, whether it is related to drinking too much grog, or just an argument that got out of control, it's talked about. This is an important step for Murri men and women (Elder personal communication 2008).

However, stakeholders suggested that there are not yet adequate processes in place to support victim involvement in the court process. The victim may attend court, however, it is generally not requested in Murri Court as the proceedings are not set up to protect the victim from any potential emotional harm and there is no capacity to provide any support persons for the victim. This is an area that has been acknowledged as requiring further research to determine the needs of victims within Indigenous sentencing courts and the impact that their involvement may have on them (Marchetti 2008). The 2005–06 review recommended that strategies to inform victims of the Murri Court process and provide support and assistance from a qualified support person be implemented. The employment of Murri Court coordinators was expected to address this requirement. However, given the reported levels of victim participation in matters relating to domestic violence, there is a clear need to take further action to support victims in the Murri Court process.

Rather than involving victims directly in the sentencing process, some jurisdictions have recognised the need for expanding victim involvement in the Murri Court process through the use of victim impact statements. The victim impact statement is in plain language, allowing the victim to tell their story in their words:

Poignant accounts of fear and hurt, read into the record.

Statements are tempered by hope and positive accounts of the change in the offender's relationship with the victim.

This victim impact statement was particularly powerful, as the victim told of his fear in going out in public for fear of retribution by the offender's family, how he could no longer work in that job and that he was afraid for his partner's safety (Coordinators personal communications 2008).

In Townsville and Rockhampton, the prosecutor, following the referral of a matter to Murri Court, may be requested by the Magistrate to make enquiries of the investigating officer as to whether the victim of the offence(s) wishes any statement to be made to Court on their behalf. Stakeholders in Townsville and Rockhampton reported a decline in the number of victim impact statements submitted to Murri Court. However, with the support of PLOs, the Mount Isa Murri Court has instigated a process whereby victim impact statements are obtained where possible. Initial reports on this process suggest that it has been working well.

Nevertheless, stakeholders have indicated that the process of acquiring victim impact statements and using them in the sentencing process needs to become more consistent. There is rarely sufficient time to work with victims to gather information from them due to limited time and resources available within the Murri Court process. Considering the perceived importance of victims in the process, there is merit in allowing more time and establishing formal processes (where they don't already exist) in each court location to obtain victim impact statements so they could be consistently used in the Murri Court process.

## Perceptions of court processes

To assess the perceptions of court processes, consultations focused on questions that looked at whether there was evidence of:

- an increased level of confidence in the court process to deliver fair outcomes for Indigenous offenders;
- support for the Murri Court as being culturally appropriate for Indigenous people;
- a perception within the Indigenous community and among court partners that the Murri Court process is more effective in dealing with the specific needs of Indigenous offenders;
- factors that contribute to or detract from perceptions of the court process as fair, equitable and appropriate for Indigenous offenders; and
- whether there are specific areas in which improvements could be made so as to enhance perceptions of the court as fairer, more equitable, appropriate and effective for Indigenous offenders.

Findings from the interviews with key stakeholders suggest that Murri Court has improved perceptions of the court as being fairer and more culturally appropriate for Indigenous clients, relative to mainstream court processes. Several important factors had been identified as influencing these perceptions, namely:

- Elders in a designated position of authority in the court process;
- the direct involvement of Indigenous people in the court process (as described above);
- an acknowledgement of Indigenous traditions within court practice, such as the display of Indigenous artwork and flag in the courtroom; and
- the removal of the more adversarial elements of the Magistrates court.

Through the involvement of Elders, Magistrates are provided with guidance that allows them to make a better informed decision about the circumstances of the offender and the source of their offending behaviour. This was argued as having enhanced perceptions of fairness and increasing the legitimacy of the court in the eyes of Indigenous people, including Elders, offenders and their families and victims. Indigenous stakeholders remarked that Murri Court delivers sentences and manages offenders in a manner that takes into consideration the cultural context and circumstances of the offender; such as the significance of *sorry business*.

The rapid expansion of Murri Court across Queensland, which has required the support and involvement of the Indigenous community in each location in which a court has been established, is evidence of the impact that existing Murri Courts have had on perceptions of the legitimacy of the Adult and Youth Murri Courts in dealing with Indigenous justice issues. This is true among both Indigenous and non-Indigenous sections of the community. Satisfaction among stakeholders involved in the courts across the five evaluation sites was high, with relatively few issues raised specifically in relation to the operation of the court and the way in which it deals with Indigenous offenders.

Not only have perceptions of the fairness and appropriateness improved, but the collective view of stakeholders appears to suggest there is also a perception that the Murri Court is more effective than mainstream Magistrates and Children's Courts in dealing with those factors that increase the risk that an offender will reoffend and supporting offenders to successfully reintegrate into their community. There is increased confidence that the Murri Court will deliver more positive outcomes for Indigenous offenders. Stakeholders are supportive of the Murri Court as an innovative strategy to address offending by Indigenous people, which overcomes the limitations of more traditional mainstream court processes in dealing with Indigenous justice issues:

Indigenous people have a lot of reasons to distrust the mainstream justice system and the non-Indigenous community generally. Working with Elders in a respectful, fair and appropriate way can be a model for working with communities and strengthening awareness of the mutual obligations and benefits of inclusion in modern Australian society (Coordinator personal communication 2008)

Furthermore, there were suggestions of a growing awareness of the Murri court as a process that would attempt to address not only the issues that lead to offending behaviour, but those issues that impact upon the offender's capacity to address the causes of their offending.

We know that offending behaviour comes from a variety of different societal and psychological pressures, the Murri court process acknowledges



those pressures, it doesn't use them as an excuse, it uses them as a context; this makes the process seem less daunting and less like punishment, instead it uses them as a way to seek better outcomes for the offender (Psychologist personal communication 2008).

Some stakeholders felt that the slowing down of the court process made fair outcomes more likely, by removing the jargon and helping the offender to understand the process and the conditions of their sentence.

Perceptions of fairness are difficult to measure, but I take the positivity of those involved as a measure of fairness. I also think that 'fairness' is about understanding the process and feeling like you count. These things happen now because the process has been slowed down and the offender is more involved. This means that the court session doesn't finish until all parties sitting in that courtroom understand what has transpired and what the offender is going to be doing. I think this makes the process seem fairer (Elder personal communication 2008).

Stakeholders perceive the court as being a more effective mechanism for dealing with the specific needs of Indigenous offenders. However, most are realistic with respect to what the Murri Court can achieve.

I have noticed a difference in the demeanour of offenders coming before the court, people see this process as being fairer and open when dealing with people offending in the community and I think this is leading to effective change. However, it is a slow process; it's not going to change markedly overnight (Police prosecutor personal communication 2008).

Unrealistic expectations regarding the impact of the Murri Court in local communities, which prove difficult to achieve, can harm longer-term perceptions of the legitimacy of the court and may have a detrimental impact upon the momentum that often drives Murri Court through the initial stages. The Murri Court represents just one part of the criminal justice system; while it can be a catalyst for change, it is not a cure all for Indigenous offending. A range of external factors that may not be addressed by the Murri Court program influence outcomes such as reoffending.

## **Perception of Murri Court as delivering lenient sentences**

A number of stakeholders commented that they believed there to be a misconception among the broader community that the Murri Court delivers more lenient sentences for Indigenous offenders. Magistrates and Elders were particularly emphatic as to the need for the court to not adopt a lenient approach to sentencing Indigenous offenders and described instances in which Elders had approached Magistrates seeking explanations for what they perceived as lenient sentencing options.

Many of those involved felt that the process was confronting and emotional, and powerful in its effect on Indigenous participants. Participation and compliance in the Murri Court process requires a significant commitment from the offender and will, in many cases (particularly for more serious offenders and where there is a bail program in place), exceed what a normal court and sentence would require. The Magistrates take into consideration issues that would otherwise not have come to the attention of the court but which may have had a significant impact on an offender's behaviour (such as long-term drug and alcohol use). Murri Court provides a forum in which these issues may be acknowledged, but also requires that offenders actively seek to address the underlying causes of their behaviour.

## **Adherence to Murri Court principles**

A number of symbolic principles for the operation of the Murri Court are detailed both in the review and the various practice and procedure manuals for each jurisdiction. For example, in Rockhampton, the Murri Court has Aboriginal, Torres Strait, South Sea Islanders and culturally-relevant justice artefacts placed in the courtroom for all Murri Court proceedings. Similar items of a symbolic and culturally-significant nature are displayed in Brisbane, which has rooms dedicated to both Adult and Youth Murri Courts.

Based on court observations and interviews, it appears that the extent to which each court operates on a routine basis in a manner consistent with these principles varies across jurisdictions. Observations undertaken in the Caboolture and Townsville courts indicated that they did not display

culturally-significant items in the courtroom. Other principles for which there were variations observed between courts or between court sittings included:

- Elder(s) entering the courtroom with the Magistrate;
- the wearing of uniforms by police prosecutors (where they are not civilians);
- private discussions between the Magistrate and the Elders prior to sentencing;
- use of clear, simple language and addressing offenders personally by name; and
- the offender not being handcuffed or placed in the dock.

These principles have been established because it is believed that they impact upon offender's perceptions of the court. It is important therefore that, in the absence of a local agreement between Elders and court partners to manage the court differently, these principles are adhered to for all court sittings.

## The consistency of Elders

Elders reported that they have either had previous contact, know of, or are known to, many of the offenders who come before the Murri Court. This is unsurprising, given their extensive family and community networks, and is particularly true in regional and remote communities. Elders reported some benefits that come from this, insofar as the existing relationship or familiarity can enhance the impact of any communication that takes place within the court, particularly in terms of shaming the offender.

Information provided by both Elders and other Murri Court stakeholders indicated that Elders actively self-regulate their involvement in the court process in those instances where the offender is a close relative, or when they feel that they cannot contribute objectively to the process. This is particularly important, since the Elders are well-known members of the community in which Murri Court operates. It is important that, as figures of authority, they maintain their objectivity.

There are currently no guidelines in place to assist Elders in determining the circumstances in which they should declare a potential conflict of interest.

However, in circumstances where Elders have found that there was a conflict of interest, they have excused themselves from Murri Court proceedings. Although there was some hesitation regarding the establishment of stringent guidelines for Elders' involvement in Murri Court, it is important to inform Elders of their obligations with respect to standing down from matters for which they believe they cannot remain objective.

A small number of stakeholders raised concerns regarding the consistency of Elders. They noted that the Elders could be inconsistent with their involvement in court between matters or offenders. This could be as a result of many different circumstances; for example, not contributing may be because the Elders feel they have nothing to add, believe that the offender is not being open or honest, or they may simply not feel comfortable. However, some stakeholders were concerned with the potential impact that this inconsistency could have on the offender and the perceptions of the legitimacy of the court among both court partners and the broader community. The risk is that it would convey a lack of interest or confidence in certain cases and this undermines the authority of the court. The importance of being as consistent as possible and where it is not possible, excusing oneself from proceedings should be communicated to all new and existing Elders.

## *Impact on offenders and their perceptions of the court process*

During consultations, many stakeholders indicated that they had observed changes in the way offenders perceived the court and the manner in which the court dealt with their matters. They suggested that there was a much better understanding of how the court worked. It was argued that this improved understanding of the court process was leading to a perception among offenders that the court was fairer in the way in which it dealt with their individual matter.

The evaluators did not interview offenders who participated in a Murri Court directly. Instead, the profile administered by the Murri Court case coordinators provided information relating to Murri Court participant's perceptions of the Murri Court



and of the criminal justice system generally. Around one-third (n=315, 34%) of all adults appearing before a Murri Court during the evaluation period were surveyed to examine their attitudes towards the criminal justice system upon referral to Murri Court. Their responses to the questions contained within the profile are provided in Table 73.

The overwhelming majority of respondents (94%) *strongly agreed or agreed* with the statement that it is important for Murri Elders to have a say in the court's decisions. Around three-quarters (77%) of respondents appeared to understand the court process prior to their participation, which although higher than anticipated, still suggests that one-quarter of offenders do not understand the process. Two-thirds (67%) of those interviewed *strongly agreed or agreed* with the statement that Murri Court makes a difference to Indigenous people. A large proportion of respondents (58%) did not appear to believe that police treated everyone equally.

These responses and the extent to which they reflect attitudes of respondents prior to their participation in the Murri Court, need to be interpreted with some caution. While these profiles were completed during the first episode of referral during the evaluation

period, many were completed sometime after the start of the episode. The extent to which some of these respondents appeared in Murri Court prior to the evaluation period is also difficult to determine. These responses do, however, provide a useful insight into the attitudes of offenders towards the criminal justice system and highlight areas that need to be addressed.

There was some variation between the interview responses to these questions across the different courts. The proportion of respondents who *agreed or strongly agreed* with the statement that they understood the court process varied from 66 percent in Rockhampton to 82 percent in Townsville. Only 40 percent of respondents in Townsville indicated that they felt the Murri Court made a difference to Indigenous people, which was much lower than any other court. There were also noticeable differences between perceptions of the courts and police and whether they treat all people equally.

As part of the follow-up profile for Adult Murri Court participants completed after they have had their matter heard in Murri Court, offenders were surveyed to determine their reasons for agreeing to have their matter referred to Murri Court for sentencing. The

	Strongly agree or agree		Strongly disagree or disagree	
	n	%	n	%
It's important that Murri Elders have a say in the court's decisions	297	94	0	0
I understand the court process	241	77	27	9
The last few times I was in court the penalties I received were generally fair	222	70	54	17
The Murri Court makes a difference to Aboriginal and Torres Strait Islander people	210	67	7	2
The courts treat everyone equally	174	55	85	27
The last few times I was in court I was treated like a number not a person	124	39	138	44
The police treat everyone equally	72	23	182	58

Note: Percentages are calculated based on total number of respondents to questions on attitudes towards the criminal justice system (n=315)

Source: AIC, Queensland Murri Court database [computer file]

**Table 74** Proportion of participants that ‘strongly agree’ or ‘agree’ with the following statements at the time of referral to Murri Court, by court location (%)

	Brisbane	Mount Isa	Rockhampton	Townsville
It's important that Murri Elders have a say in the court's decisions	99	96	93	89
I understand the court process	77	78	66	82
The Murri Court makes a difference to Aboriginal and Torres Strait Islander people	74	60	88	40
The last few times I was in court the penalties I received were generally fair	62	78	69	75
The last few times I was in court I was treated like a number not a person	49	27	32	43
The courts treat everyone equally	37	69	51	67
The police treat everyone equally	13	37	19	24
Total (n)	99	67	59	91

Source: AIC, Queensland Murri Court database [computer file]

**Table 75** Reasons provided for electing to have case heard in Murri Court

	n	%
Advice from lawyer	16	55
Wanted to appear before a court with members of the Aboriginal community sitting on it	11	38
Suggestion from another person	9	31
Thought they would be treated more fairly	7	24
Thought they would receive an easier sentence	3	10
No particular reason	1	3
Total respondents <sup>a</sup>	29	–

a: Respondents could select multiple responses

Source: AIC, Queensland Murri Court database [computer file]

most common reasons provided by the small number of participants who were surveyed were that they decided on the advice of their legal representative (55%), followed by wanting to appear in a court with members of the Aboriginal community (38%). Only three of those surveyed (10%) felt that they would receive an easier sentence.

The results presented in Table 76, while only relating to a small number of participants, suggest that the majority of those surveyed some time after their appearance(s) in Murri Court viewed the experience as a positive one. These responses suggest that those respondents who were contacted, either in the community or upon reappearing in Murri Court, felt as though they were being heard, felt comfortable in

Murri Court and viewed the role of Elders as being important. Around one-third of respondents did not have a clear idea of what to expect going in to Murri Court, suggesting that more information needs to be provided to offenders prior to referral to Murri Court. Given that offenders reported that their legal representative played a significant role in their decision-making, organisations such as ATSILS fulfil an important role in communicating to offenders information on the court and how it operates.

In addition to being surveyed on their attitudes to the criminal justice system upon being referred to Murri Court, a small number of respondents also completed a follow-up survey. The responses to these questions at referral and again at follow up

**Table 76** Attitudes towards Murri Court at follow up<sup>a</sup>

	n	%
Thought that the Magistrate heard what they had to say in Murri Court	28	97
Thought that the Elder/Respected Person played an important role in the Murri Court	28	97
Made the right choice to go to the Murri Court	28	97
Felt comfortable having their case heard in Murri Court	27	93
Would tell other Aboriginal people to have their case heard in the Murri Court <sup>b</sup>	27	93
Elder/respected person helped them to understand what was going on in the Murri Court <sup>c</sup>	26	90
Elder/respected person helped them to explain their side of the story <sup>d</sup>	24	83
Had a clear idea about what Murri Court involved before appearing	11	38

a: Total respondents at follow up n=29

b: 1 respondent did not provide a response to this question or were unsure

c: 2 respondents did not provide a response to this question or were unsure

d: 3 respondents did not provide a response to this question or were unsure

Source: AIC, Queensland Murri Court database [computer file]

**Table 77** Number and proportion of Murri Court participants that strongly agree or agree with the following statements<sup>a</sup>

	At referral		At follow up	
	n	%	n	%
It's important that Murri Elders have a say in the court's decisions	27	93	28	97
I understand the court process	26	90	25	86
The last few times I was in court the penalties I received were generally fair	23	79	24	83
The courts treat everyone equally	18	62	21	72
The Murri Court makes a difference to Aboriginal and Torres Strait Islander people	17	59	26	90
The police treat everyone equally	8	28	8	28
The last few times I was in court I was treated like a number not a person	6	21	15	52

a: Total respondents at referral and follow-up n=29

Source: AIC, Queensland Murri Court database [computer file]

among those who completed a follow-up survey are presented in Table 77. Given that this represents just three percent of all adult offenders who appeared in Murri Court during the evaluation period and that around half of those surveyed were from the one court (Mount Isa), these results need to be interpreted with extreme caution. However, among this small group, there were notable increases in the proportion who *agreed* or *strongly agreed* with the statement that Murri Court makes a difference to Indigenous people (from 59% to 90%). Conversely, the proportion who indicated that the last few times they were in court they were treated like a number

not a person also appeared to increase (from 21% to 52%); a finding that is inconsistent with results from other statements.

While these results suggest that Murri Court has the potential to have some impact upon Indigenous offenders' attitudes towards the criminal justice system and to Murri Court, they are not sufficient to draw definitive results. Surveying a much higher proportion of those participating in the Murri Court would enable conclusions to be drawn as to whether these results are representative of the impact of Murri Court on offender attitudes towards the criminal justice system.

## Perceptions of police

The proportion of respondents who indicated they do not believe the police treat everyone equally warrants further exploration. Stakeholders suggested that negative perceptions of police within the community has the potential to undermine the positive impact of the Murri Court in improving perceptions of the criminal justice process as fair, equitable and appropriate for Indigenous offenders.

Police prosecutors indicated that Murri Court is very time consuming and resource intensive and that they often have significant workloads outside of the Murri Court. This can make it difficult for them to allocate enough time to the overall process. However, feedback from police indicated that they did see value in the Murri Court process and were genuinely supportive of the program. Other stakeholders stated that they felt that, in some circumstances, police were not engaging in the process as much as other stakeholders and that police practices outside of Murri Court (ie policing in the community) were not consistent with the approach within Murri Court.

Factors like this can reflect poorly on the court process, even though it is not directly related to the court itself. There is a tendency to group all arms of the criminal justice system together when issues surrounding fairness and appropriateness are discussed.

There has been a difficult history between the Indigenous community and the criminal justice system and for positive change to be effective the relationship needs to be nurtured on an ongoing basis (Coordinator personal communication 2008).

The issues associated with police and Indigenous community relations and strategies to improve them have been dealt with in detail elsewhere (eg Crime and Misconduct Commission 2009). Advice provided to the AIC indicated that significant steps have been taken by QPS to improve the relationship between police and the Indigenous community. Furthermore, in a number of court locations, there is a consistent police prosecutor who is recognised as the QPS Murri Court coordinator and who is tasked with the responsibility of managing police involvement in the program in that location.

Continuing efforts to improve police engagement with the Indigenous community, in line with the strategies recommended by the Crime and Misconduct Commission (2009), would be of benefit to try to forge a more positive relationship between the Indigenous community and police. The precise role of PLOs in improving the relationship between QPS and the Indigenous community, including their role in supporting the Murri Court program, may also warrant further exploration. Training for police involved in Murri Court should cover areas (where it doesn't already) such as restorative justice principles and court innovations practices generally as well as the reasons behind diversionary practices, including the philosophy underlying the Murri Court.

## Collaboration between stakeholders

The evaluation examined:

- whether there are greater levels of collaboration between key stakeholders involved in Murri Court when compared with Magistrates and Children's Court processes;
- whether there is evidence of a flow-on effect to processes and settings beyond Murri Court; and
- whether there are specific factors that impede or contribute to effective collaboration.

Stakeholders reported that the Murri Court represents a more holistic and collaborative approach to dealing with Indigenous offenders, with input from a range of key stakeholders all working towards a shared goal.

A key difference between mainstream Magistrates or Children's Courts and the Murri Court is the emphasis on a consultative and collaborative problem-solving process. It was noted during the consultations that there had been an increase in communication between stakeholders and an improvement in the overall capacity for Murri Court stakeholders to work together to address local issues impacting on court processes. These improved relationships have a flow-on effect to other court and criminal justice processes and settings in which these stakeholders were involved.

The Magistrate plays a central role in Murri Court, engaging the various stakeholders involved in the process and ensuring that the process operates as efficiently as possible. The role of the Magistrate in the Murri Court has been described as both facilitator and adjudicator. The Magistrate is responsible for encouraging and supporting an open dialogue between all stakeholders, including the offender and their family. This can be difficult given that the consultative approach which characterises the Murri Court process is not directly compatible with the traditional adversarial justice system. It requires the Magistrate to have high-level interpersonal skills and the ability to communicate with a high degree of cultural sensitivity. In many cases, Magistrates have been instrumental in the setup of the court, creating and maintaining a dialogue between the CJG, Elders, service providers and other court partners so that a collaborative and holistic approach can be utilised in court wherever possible. Stakeholders had a lot of praise for Magistrates during consultations. Some stakeholders suggested that particular Magistrates were more suited to the Murri Court process than others.

Trying to maintain some consistency in the Magistrate presiding over Murri Court was an important issue identified by a number of Murri Court stakeholders. There are considerable benefits in having one Magistrate preside over Murri Court matters, either adult or youth or both, for an extended period of time. This ensures that there is some level of continuity and familiarity for each offender as their matter proceeds through the court and ensures that the Magistrate remains aware of the circumstances surrounding their appearance in Murri Court. Elders and other court partners also develop a better understanding of their role in the court and know what to expect at each sitting. It also enables strong relationships between the presiding Magistrate and other Murri Court stakeholders, particularly Elders, to be forged which contributes to the overall efficiency and effectiveness of the process. In practice, this level of consistency is difficult to maintain, as Magistrates may not always be available for Murri Court due to other commitments, or they may relocate to other jurisdictions. It is nonetheless a desirable feature for the Murri Court and strategies to ensure this can be managed are required.

Feedback from key stakeholders suggests that the contribution of coordinators in Murri Court is highly valued, particularly in terms of their role in facilitating collaboration between court partners. This has contributed to the efficient operation of the Murri Courts in the evaluation sites. Murri Court coordinators are responsible for coordinating and facilitating the engagement of the Indigenous community in court processes and hold an important function in supporting the Elders in their roles. They fulfil an important role in managing both informal and formal processes within the Murri Court and it was clear from the evaluation that the operation of Murri Court, particularly in those locations with high numbers of offenders, requires a dedicated coordinator to support the process.

Some stakeholders were cautious of the potential for the coordinators to become overburdened with additional duties and the risk that their role in supporting the Murri Court process would suffer as a result. In particular, there is growing evidence that in addition to supporting Elders and coordinating the court process, coordinators are increasingly taking on responsibility for supporting offenders, in a role similar to that performed by ATSILS field officers. It is important that there is a clear delineation of the role of case coordinators, so as to not detract from their primary responsibilities and to reduce the risk of issues such as burnout.

Stakeholders noted that the expansion of the Murri Court and the move towards a more interventionist model in some jurisdictions has increased the significance of effective collaboration between court partners and service providers. Providing support for offenders post-sentence relies on coordination between the court and service providers. Effective partnerships and communication between court stakeholders, both formally and informally, also enables the court to stay informed as to the progress of offenders while under pre-sentence supervision or between hearings.

### *Establishing new Murri Courts*

The rapid expansion of Murri Court has highlighted the need to ensure that individual courts and the communities that support them have the capacity to effectively implement and maintain a Murri Court. Consultations across locations with and without

established Murri Courts have highlighted the importance of several critical factors in establishing new Murri Courts and expanding the program:

- the support of key stakeholders involved in the Murri Court;
- local agreement regarding the best approach to managing and implementing a Murri Court and the 'style' of court adopted, developed through consultation with local court partners involved in the program;
- the presence of an overarching framework or guidelines to ensure all courts operate in accordance with certain standards and are consistent with recognised good practice;
- the local capacity, particularly within the Indigenous community, to support the demands of a Murri Court; and
- adequate resources to support the program.

Experience among those stakeholders involved in establishing a Murri Court demonstrates that even with the strong support of the community, it takes considerable time and effort to establish an effective process where all stakeholders are working together. This involves trial and error and a significant amount of the workload is often undertaken by a small number of highly committed members of the community. The potential impact of this delay in dampening initial spirits and momentum needs to be well managed. It is important therefore that a suitable timeframe be allocated to enable this 'start up' work to take place, prior to the court commencing operation.

## Summary of key recommendations

In order to improve the effectiveness of the Murri Court program in strengthening the relationship between the court and Indigenous community, the AIC recommends that the following actions be considered.

### *Recommendation 18: Debriefing for Elders post-sentence*

Given the emotional and sometimes confronting nature of court proceedings, it is recommended that

formal processes be established to provide support and an opportunity for Elders to debrief (where requested) following the completion of Murri Court hearings on each sitting day.

### *Recommendation 19: Ensuring the availability of Elders to support the Murri Court*

Strategies should be implemented to continue to actively encourage new Elders and respected persons to participate in the Murri Court program and to provide support to existing representatives to increase the pool of Elders and respected persons in each court. Particular emphasis should be placed on finding Elders from local Indigenous communities not represented in the different court locations. The potential role of younger representatives of the Indigenous community in supporting Elders, particularly in Youth Murri Court, warrants further investigation. The potential impact of involving Elders from outside an offender's community also requires further exploration, particularly in terms of whether it may undermine attempts to incorporate traditional cultural elements such as shaming in the sentencing process, or attempts to reconnect offenders with their community.

### *Recommendation 20: Additional considerations in determining the eligibility of Adult Murri Court participants*

In addition to the basic criteria for participating in the Murri Court, additional guidelines should be established to assist legal representatives, police prosecutors, Magistrates and Elders to assess the eligibility of offenders, particularly where participation involves formal pre-sentence supervision under bail conditions or is likely to involve significant contact with Elders, Indigenous community groups or a CJG post-sentence. These guidelines could consider issues such as:

- whether the offender has shown signs that they are willing to take steps to address their behaviour;
- whether they have shown a willingness to engage openly and honestly with representatives of their community;

- whether the Elders in the court feel comfortable dealing with the offender; and
- whether the offender is likely to be able to deal with the interactive and emotional demands of the court.

### *Recommendation 21: Encouraging the involvement of family members and support persons*

Strategies that encourage and support family members to be involved in the Murri Court process, particularly in Youth Murri Courts, should be developed and implemented to help facilitate contact with important support networks.

### *Recommendation 22: Training opportunities for Magistrates*

Given the importance of their role in managing the Murri Court process, opportunities for training focused on the skills required to establish and manage the Murri Court process should be explored. This training should incorporate the management of stakeholder relationships, dealing with local politics and working with Indigenous communities.

### *Recommendation 23: Victim support and impact statements*

Processes should be established in each court where they do not already exist to obtain victim impact statements and formal mechanisms to support victims where they attend court (ie victims support staff).

### *Recommendation 24: Training for Elders*

In addition to providing training on the criminal justice system and operation of Murri Court, it is important that Elders are informed of their obligations with respect to standing down from matters for which they believe they cannot remain objective.

### *Recommendation 25: The role of police liaison officers in supporting the court process*

The role of PLOs in supporting the Murri Court program should be more clearly defined.

### *Recommendation 26: Consistency in Magistrates presiding over Murri Court*

Where possible, strategies should be implemented to enable Magistrates to preside over Adult and Youth Murri Courts for an extended period of time, thereby providing the opportunity to build long term relationships with court partners.

### *Recommendation 27: Murri Court coordinator*

A dedicated coordinator should be tasked with the responsibility for managing the Murri Court process in each location, and the role of this coordinator should be clearly defined so as to ensure that they are able to focus on their primary role in supporting the operation of the court.

### *Recommendation 28: Establishing new Murri Courts*

Prior to establishing new Murri Courts, the capacity of individual courts, local stakeholders and communities that support them should be assessed to determine whether they have the capacity to implement and sustain a Murri Court. Adequate time and resourcing should be invested in supporting communities to establish a Murri Court where the capacity exists.





# Key findings: Outcomes from the Murri Court program

This report has provided a detailed overview of the operation of, and outcomes from, the Queensland Murri Court program. The evaluation examined whether the Murri Court is meeting its objectives in terms of:

- reducing the over-representation of Indigenous offenders in prison and juvenile detention;
- reducing the rate at which Indigenous offenders fail to appear in court;
- decreasing the rate of reoffending and number of court orders breached by Indigenous offenders; and
- strengthening the partnership between the Magistrates Court and Indigenous communities with regard to how they deal with Indigenous justice matters.

## Impact of the Murri Court on court appearance rates

The present study used the issuing of warrants as the indicator of court appearance to measure the impact of the Murri Court program on the rate at which Indigenous offenders attend their scheduled court appearances. This included:

- the number and proportion of offenders who absconded on at least one occasion during their reference court episode and where a warrant had been issued for their arrest (or ordered to lie on file) for failing to appear in court; and
- the number and proportion of court appearance events during the reference court episode that resulted in a warrant being issued due to the offender having failed to appear in court.

Taken as a whole, the findings from this component of the evaluation suggest that the proportion of offenders who abscond subject to warrant on at least one occasion and the proportion of court appearance events that result in a warrant being issued (or ordered to lie on the file), is lower for offenders appearing in a Murri Court than for Murri Court participants appearing in a mainstream Magistrates or Children's Court prior to referral. It is also lower than a similar group of offenders in the control group. The proportion of court appearance events

in Murri Court resulting in a warrant being ordered is also lower than in the period prior to referral to Murri Court and for a comparable group of offenders appearing only in a mainstream Magistrates or Children's Court.

However, these results are not straightforward and interpretation of these findings is complex.



Consideration must be given to the differences between the average number of court appearances between the Murri Court participants, the different phases within a Murri Court participant's court episode and the control group. The higher the number of court appearance events and the greater the length of time taken to finalise a matter, the greater the opportunity to abscond.

Furthermore, there is some degree of uncertainty with respect to whether these results reflect an improvement in the rate at which offenders appear in court, or reflect a change in operational practices by Magistrates. In other words, there are several possible explanations for this difference.

- Murri Court participants are more likely to appear in Murri Court because it is more culturally appropriate and inclusive, and therefore perceived as fairer and more relevant to Indigenous offenders.
- There is an increased level of support for offenders through the Murri Court process and the coordination between court partners to monitor progress and to provide assistance to offenders while on bail.
- Murri Court is a court of finalisation and for many offenders, appearing in the Murri Court represents the end of their matter. They may, as a result, be more likely to attend.
- Magistrates are more likely to exercise some flexibility with offenders who fail to appear in Murri Court, particularly juveniles.
- Some combination of all of these reasons.

Nevertheless these results are promising. Reducing the rate at which warrants are issued reduces the likelihood that offenders will be remanded in custody prior to sentencing, which is an important outcome for a program that aims to reduce the over-representation of Indigenous offenders in prison. Improvements to data collection processes are necessary to ensure that data on court attendance, specifically those instances where non-attendance does not result in a warrant being issued, is routinely collected. Not only will this enable the effectiveness of the Murri Court in improving court attendance among Indigenous offenders to be measured more reliably in the future, it will also enable court appearance rates in other courts to be monitored and reviewed.

## Impact of the Murri Court on the over-representation of Indigenous offenders in prison

Two different measures of imprisonment were used to determine the impact of Murri Court on the over-representation of Indigenous offenders in prison. The first compared the relative proportion of offenders sentenced in a Murri Court and mainstream Magistrates or Children's Court who had received a custodial sentence. The second compared the groups on the basis of whether offenders were incarcerated eight days post-sentence.

For juveniles who were assessed as being at risk of receiving a custodial sentence, the two measures produced slightly different results. The proportion of juveniles sentenced in a mainstream Children's Court who received a custodial sentence was higher than among those sentenced in a Youth Murri Court. However, further analysis of incarceration rates suggested that the use of sentence orders overestimated the number of juveniles in the control group who served a period of detention. Both measures indicated that the number of juveniles who were incarcerated in either a Youth Murri Court or Children's Court was low.

Initially, it appeared that offenders sentenced in an Adult Murri Court were more likely than a similar group of offenders sentenced in a mainstream Magistrates Court to receive a custodial sentence and to be incarcerated post-sentence. However, further analysis demonstrated that a significant proportion of offenders sentenced in Murri Court were already serving a period of imprisonment at the time of being sentenced—around four times as many as in the control group. The most likely explanations for this finding are that these offenders have been sentenced in a higher court for a more serious charge prior to being sentenced in Murri Court, or the offender was still serving a period of imprisonment for previous offences when new charges were being dealt with in the Murri Court.

Since this component of the evaluation is concerned with the impact of the Murri Court on sentence outcomes and the outcomes for these offenders are largely predetermined by the preceding

sentence, they were separated from the comparison group and are reported separately. This enabled the evaluation to examine whether those offenders sentenced in Murri Court who are not in prison are more likely to be sentenced to a term of imprisonment.

The subsequent results indicated that the proportion of Adult Murri Court participants to have received a custodial sentence was only slightly higher than the control group, based on either measure. The logistic regression models demonstrated that while a number of factors contributed to the risk that a custodial sentence would be imposed and that an offender would be incarcerated, offenders sentenced in an Adult Murri Court were not significantly more likely to be imprisoned, controlling for other factors.

Adult Murri Court participants were more likely to receive a custodial penalty with immediate parole release date, suspended sentence and in the case of those offenders that received a non-custodial penalty, more likely to receive some form of community supervision and work order. While data on the extent to which Murri Court participants received rehabilitative orders was not available, it appears that they are more likely to receive a sentence that provides them with the opportunity to participate in programs post-sentence under some form of supervision arrangement. There was anecdotal evidence from court partners, already discussed in this report, which suggested that Murri Court participants were more likely to receive rehabilitative orders.

However, stakeholders involved in the program, including Magistrates and Elders, suggested during the consultation process that fewer Indigenous offenders were sentenced to imprisonment in Murri Court. Similarly the 2005–06 review reported anecdotal evidence that suggested that the Murri Court had been successful in reducing the number of offenders sentenced to imprisonment, with offenders instead receiving rehabilitative orders (Parker & Pathé 2006). There are several possible explanations as to why the rate of imprisonment was not lower among Adult Murri Court participants.

- Submissions by a number of court partners suggested that among offenders referred to Murri Court, the offences brought before the court, were often of a more severe nature than in mainstream Magistrates Court, particularly violent offences. The selection of the control group could not control for differences in the facts of charges. Therefore, while the rate of imprisonment is similar in Murri Court to the control group, it may be that some offenders sentenced in Murri Court committed more serious offences, even though the charge itself may have been the same.
- Related to the point above, some court partners indicated that it was not unusual for offenders who may otherwise have been dealt with in a higher court to plead guilty to less serious charges that may be heard in a Murri Court. There are significant savings in terms of the costs associated with processing offenders in a Magistrates Court rather than a District Court. It also means that the offender can be sentenced in a court involving representatives of the local Indigenous community and benefit from their involvement in the process. As a result, these offenders may have committed a more serious offence than non-Murri Court participants facing the same charge.
- The Murri Court was originally established as a jail diversion strategy for those offenders who had pleaded or intended to plead guilty and who could, with the appropriate support mechanisms, demonstrate that they were suitable, willing and capable of complying with the requirements and conditions of alternative non-custodial sentencing options. One of the eligibility criteria for participation in the Murri Court is that the offender needs to be at risk of receiving a custodial penalty. The same criteria did not apply to the control group and while every attempt was made to match Murri Court offenders with similar offenders sentenced in mainstream courts on the basis of demographic, referring charges and criminal history characteristics, the extent to which these factors predict the risk of custodial penalty is unclear. There are many factors considered by Magistrates in determining

whether an offender is at risk of a custodial penalty—many of which cannot be measured using administrative data.

- Some Magistrates indicated that there were limited sentencing options available in terms of non-custodial sentences because the local infrastructure (ie rehabilitative programs, counselling etc) required to support offenders while serving community-based orders was not sufficient to provide them with the level of support they required to successfully complete their orders. They may have as a result been reluctant to impose a community-based order.
- A number of stakeholders identified occasions in which Elders had approached Magistrates seeking explanations for what they perceived as lenient sentencing outcomes. It is possible that, while Magistrates are responsible for imposing the sentence, the views of Elders have had some influence over their decision-making with respect to sentencing.

## The impact of the Murri Court on recidivism

To determine whether the Murri Court had any impact on recidivism rates among Indigenous offenders, this study used three measures of reoffending; the time to first offence post-sentence, the change in offence seriousness among those offenders who had reoffended and the frequency of offending before and after the reference court episode.

- There was no significant difference between those offenders sentenced in a Murri Court and those sentenced in mainstream courts with respect to the time taken to reoffend, accounting for variable observation times and time spent in custody. This finding was the same for both adults and juveniles, and across the different subcategories of offenders (region and MSO) examined as part of this study.
- The proportion of offenders who reoffended and whose first proven offence was less serious than the principal offence for their reference court episode was not significantly different between the Murri Court and control groups. This finding was also the same for both adults and juveniles.

- The frequency of offending for both Adult and Youth Murri Court participants (calculated as the number of offences committed per 365 free days) did not change significantly between the period before and an equivalent follow-up period after the reference court episode. Conversely, there was a significant increase in the number of offences per 365 free days for offenders sentenced in mainstream Magistrates and Children's Courts.
- While there was no difference between adult offenders sentenced in Murri and non-Murri Courts, there was a significant difference between the proportion of juveniles sentenced in Youth Murri Court who offended less frequently in the period post-sentence than the control group, due primarily to differences between regional court locations.

As has already been discussed, the findings with respect to the frequency of offending must be interpreted with some degree of caution. Murri Court participants had, on average, shorter observation periods post-sentence from which to calculate the frequency of offending. In addition, since region was not one of the variables used to select the control group, it is possible that the differences may be due to some other factors outside of participation in the Murri Court. Therefore, overall, it appears as though the Murri Court does not have a significant impact on the time to or seriousness of offending for adults or juveniles when compared with offenders sentenced in a mainstream Magistrates of Children's Court. The findings with respect to the frequency of offending, particularly in regional court locations, are promising; however, given the limitations associated with this measure and coupled with the fact that the two alternative measures of reoffending found no difference between the experimental and control groups, these findings are insufficient to draw any reliable conclusions regarding the impact of the Murri Court on the frequency of offending.

These results are consistent with the findings from the recent evaluation of the circle sentencing courts in New South Wales, which concluded that involving representatives of the Indigenous community in the sentencing process alone is insufficient to impact upon future offending behaviour (Fitzgerald 2008). The Murri Court is somewhat different from circle sentencing in that there is a stronger focus on

improving offenders' access to rehabilitative programs and services to address those issues that are related to their offending. However, while the evaluation has identified a general trend more recently towards an expanded intervention model, the primary focus of the Murri Court in most locations (which accounted for the majority of offenders included in this study) has been to engage Elders in the sentencing process and ensure that the court deals with Indigenous offenders in a more culturally-appropriate manner.

Realistically, for the Murri Court to have any impact on reoffending (while not moving away from the philosophy of involving Indigenous community representatives in the sentencing process), strategies are required to enhance the capacity of rehabilitative programs to address those factors recognised as being associated with the disproportionate rate of offending among Indigenous offenders. Many of these issues were highlighted in a discussion of the results from the profile interviews with adult offenders, but include addressing low levels of employment, issues relating to school attendance and further education, drug and alcohol problems, housing stability, providing support to individuals to overcome stressful events and family instability. Problems associated with the availability of culturally-appropriate services have also been highlighted in this report. In addition to increasing the availability of these services, there is a need to strengthen the relationship between the Murri Court and these services. This may be facilitated through the recognition of these services as a fundamental component of Murri Court bail programs or post-sentence supervision arrangements.

## The impact of the Murri Court on the relationship between the Indigenous community and Magistrates Courts

This report has also outlined the findings from a qualitative assessment of the impact of the Murri Court on the relationship between the Magistrates Court and the Indigenous community in dealing with

Indigenous justice matters. There is considerable evidence that the Murri Court is achieving this objective. Taken as a whole, this component of the evaluation found that the Murri Court has been successful in:

- increasing the level of participation of the Indigenous community—including Elders and respected persons, CJG members, community-based organisations, offenders and their families and, to a lesser extent, victims—within criminal justice processes and their contribution to sentencing outcomes for Indigenous offenders, which has delivered a range of benefits for those involved in the program;
- improving perceptions of the fairness and cultural appropriateness of Magistrates and Children's Court jurisdiction in dealing with Indigenous offenders, including among Elders, Indigenous offenders and non-Indigenous stakeholders involved in the program; and
- increasing the level of collaboration between the different stakeholders involved in the operation of the Murri Court in the various locations in which it operates, which has had a flow-on effect into other criminal justice processes.

Many stakeholders regarded this objective as the most important objective of the Murri Court program. However, the resulting outcomes are recognised as being far more difficult to measure.

## Comparing the costs and savings associated with the Murri Court

In the absence of reliable costing data, the evaluation is limited to a simple comparison of the savings generated by the Murri Court relative to the additional financial resources invested in the program (on top of the costs associated with the operation of a mainstream Magistrates or Children's Court). This involved examining the time taken for a matter to be finalised in a Murri Court compared with mainstream court processes and the additional resources required to support the program and comparing this with the outcomes that were observed for Murri and non-Murri Court participants,

the people and organisations involved in the program and the broader community.

An earlier section in this report presented the findings from a detailed analysis of court appearance event data for Murri Court participants and a comparable group of offenders within the control group. Matters dealt with in the Adult Murri Court took longer to finalise on average than equivalent matters dealt with by a mainstream Magistrates or Children's Court. On average, matters relating to adult offenders in an Adult Murri Court took nearly twice as many court appearances to finalise than in mainstream Magistrates Court. Similarly, while the average number of appearances for juveniles at risk of a custodial sentence was lower for matters dealt with in a Youth Murri Court than in a mainstream Children's Court, the overall length of these episodes was almost the same. Youth Murri Court matters for less serious offenders took an equivalent number of court appearances to similar matters heard in a Children's Court. In simple financial terms, the longer each matter takes to finalise, the greater the costs incurred by the various agencies involved in the operation of the court.

There is a range of other costs associated with the operation of the Murri Court which are over and above what would be required for mainstream Magistrates and Children's Courts.

- In addition to the extra time needed to finalise Murri Court matters, individual hearings (ie court sittings) can take significantly longer in Murri Court, especially final sentence hearings and a comparatively small number of matters are heard on any one Murri Court sitting day.
- Additional preparation is required prior to each sitting day to prepare pre-sentence assessments (especially for QCS, DoC, CJG members and Elders) and liaise with other key Murri Court stakeholders.
- A range of individuals and organisations (Indigenous and non-Indigenous, government and non-government) are involved in providing considerable support to or monitoring the progress of offenders either as part of the bail program or post-sentence.

This is in addition to the funding already provided by the Queensland Government to support the program, including funding for Murri Court coordinators,

Magistrate relief and an allowance for Elders. Further complicating this matter is that there is a trend among Murri Courts to expand and take on an increasingly intervention-focused approach to reoffending. This increases the time taken to deal with matters and is potentially far more resource intensive. This is not to say that these are the only costs incurred by the program—many other stakeholders contribute to the program and must be resourced accordingly. Nevertheless, these findings demonstrate that the Murri Court is a resource intensive program, a finding that is consistent with feedback from key stakeholders involved in the program.

Comparing these costs with the quantitative outcomes examined as part of this study, the evidence as to whether the Murri Court has delivered measureable savings to the criminal justice system or to the community relative to the high costs associated with operating the program is mixed.

- While there was a reduction in the proportion of offenders who absconded subject to warrant on at least one occasion and in the proportion of events resulting in a warrant being ordered, it is unclear whether this reflects improved court appearance rates, whether this improves the overall efficiency of the court process and whether this results in cost savings for the program. However, reducing the rate at which warrants are issued reduces the likelihood that offenders will be remanded in custody prior to sentencing, which is likely to reduce the costs associated with managing offenders while on remand. Conversely, the relative cost implications associated with supervising offenders in the community must also be considered.
- The cost associated with imprisoning Indigenous offenders is high. The rate of imprisonment for adults was similar for offenders sentenced in Murri Court when compared with an equivalent group of offenders sentenced in mainstream Magistrates court processes. This finding was contradictory to the views of many court partners, who believed that the rate of imprisonment would be lower among Murri Court participants. While there was only anecdotal evidence, some stakeholders suggested that the requirement for Murri Court participants to be at risk of receiving a custodial sentence meant that:

- offenders who did not receive a custodial penalty, by virtue of the fact that they had been at risk of imprisonment, had been diverted from prison resulting in an immediate saving to the criminal justice system; and
- they were more likely to receive a custodial penalty than their counterparts in the control group due to some other factor not included in the selection of the control group and as such, the rate of imprisonment for Murri Court participants would have been higher were they sentenced in a mainstream court.
- There were differences in the types of community-based orders imposed in Murri Court and mainstream Magistrates Courts, which although they provide greater opportunities for participation in rehabilitative programs in the community, may incur greater costs related to post-sentence community supervision.
- There was no significant difference in the time to the first proven offence post-sentence between offenders sentenced in a Murri Court and those sentenced in a mainstream Magistrates or Children's Court, indicating that the Murri Court does not postpone future contact with the criminal justice system.
- There was no significant difference in the seriousness of offending and frequency of offending pre- and post-Murri Court when compared with offenders finalised in mainstream court processes, indicating that the overall impact of future offending on the community (such as on victims) and costs associated with that offending are unlikely to be significantly reduced.

It would be unwise on the basis of this simple comparison to conclude that the Murri Court does not deliver any important outcomes from this additional investment of resources. As has been discussed in the findings from the assessment of the impact of the Murri Court on the relationship between the Magistrates Court and Indigenous

community in dealing with Indigenous justice issues, the program delivers a range of benefits to those involved, many of which are difficult to measure or quantify in financial terms. The significance of these outcomes should not be understated; improving the historically poor relationship between the criminal justice system and the Indigenous community is an important outcome.

## Improving data quality and further research

This report has highlighted a number of issues related to the quality of data available for the purposes of the evaluation. The limitations encountered were described in detail in the evaluation methodology and in the relevant sections of the report. A number of these issues have since been addressed. There is a need to improve the quality of information available to monitor the impact of the court, including better recording of court attendance and of referrals and completion rates for rehabilitative programs and to implement processes to regularly monitor the performance of the court against key indicators. In particular, this will require:

- developing strategies to minimise data entry errors in both QWIC and CIPES, including additional training for personnel responsible for data entry and improved guidelines for recording data on offenders' progress through the Murri Court;
- addressing problems relating to the linkages between the two systems, as has been done with the introduction of 'wild cards' and aliases to improve the capacity of CIPES to extract criminal history data; and
- revisiting the content of the offender profile and implementing strategies to improve the processes involved in administering the questionnaire to Murri Court participants pre- and post-participation in the Murri Court.



There is also scope for further research into the impact of the Murri Court on key outcomes, including the longer-term impact of the program on reoffending. In addition, research should also investigate what impact the Murri Court program has had since its expansion into other regions. An evaluation conducted over a greater number of court locations may also offer better opportunities to evaluate the relative impact of different Murri Court models. Given that the program continues to evolve and improve over time, it is important that the program be subject to further monitoring and/or evaluation to determine whether these changes have led to improved outcomes and to ensure that positive outcomes do not diminish over time.

## Summary of key recommendations

Based upon the findings presented in this final section, the AIC provides the following recommendations.

### *Recommendation 29: Strengthening the relationship between Murri Court and culturally-appropriate programs and services*

In addition to increasing the availability of culturally-appropriate programs and services (Recommendation 14), there is a need to strengthen the relationship between the Murri Court and programs designed to address the factors that increase the risk that an individual will reoffend. This may be facilitated through the recognition of these services as a formal component of Murri Court bail programs or post-sentence supervision arrangements.

### *Recommendation 30: Improving data quality and further research*

There is a need to improve the quality of information available for monitoring the impact of the court, including better recording of court attendance and of referrals and completion rates for rehabilitative programs. Processes should be implemented to monitor the performance of the court against key indicators on an ongoing basis. Further research should be undertaken into the long-term impact of the court program and the impact of the program since its expansion into other locations across Queensland.



# Conclusion

The Murri Court is highly valued among stakeholders involved in the program and the Indigenous community and represents a concerted attempt to improve the response of the criminal justice system in Queensland to Indigenous offenders. This evaluation report has outlined key findings from a process and outcome evaluation of the program, conducted over a two year period (2007 to 2008).

Overall, the evidence relating to the effectiveness of the program in achieving its objectives appears mixed. The Murri Court has demonstrated considerable success in improving the relationship between the Magistrates Court and Indigenous communities in dealing with Indigenous justice issues, delivering a range of benefits to those directly involved in the program. It also appears to have had some impact on court appearance rates among Indigenous offenders, although these results need to be interpreted with some caution. Offenders sentenced in an Adult Murri Court appear to have been imprisoned at a similar rate than their counterparts in mainstream Magistrates Courts, but were provided greater opportunity to participate in rehabilitative programs pre- and post-sentence. However, there was no evidence available to determine whether Murri Court participants had been referred to, or participated in, rehabilitative programs post-sentence, or what effect this may have had on their health and wellbeing. The Murri Court does not appear to have had a short-term

impact upon the rate of reoffending among Indigenous offenders.

Several strategies to improve the operation of the Murri Court program have been highlighted. Given widespread support for the program, and the fact that there are now Murri Courts operating across a far greater number of communities than at the commencement of the evaluation, the development or expansion of the Murri Court program must acknowledge and aim to address the issues identified in this report in order to continue to deliver positive outcomes for Indigenous offenders and communities.

## Recommendations to improve the operation and effectiveness of the Murri Court

Throughout this report several issues have been highlighted which may have impacted upon the efficiency and effectiveness of the Queensland Murri Court program. Therefore this report concludes by listing the AIC's recommendations for enhancing the operation and effectiveness of the Murri Court program.



### *Recommendation 1: Key features of the Murri Court program*

While allowing for some local flexibility, those key features of the Murri Court program that distinguish the court from mainstream court processes and are regarded by court partners as fundamental to the effectiveness of the court should continue to form the basis of both new and existing Murri Courts across Queensland.

### *Recommendation 2: Modifications to the Murri Court model*

Decisions to modify the operation of a local Murri Court as it relates to fundamental features of the program should be, like the establishment of the courts themselves, based on a collaborative agreement between Magistrates, Elders and relevant court partners, and should take into consideration the impact of the changes in terms of both the efficiency and effectiveness of the court process.

### *Recommendation 3: Practice and procedure manuals*

Practice and procedure manuals for each court should be developed in consultation with key stakeholders involved in the program. Practice and procedure manuals should be endorsed by court partners and consistent with the overarching framework guiding the operation of the court program.

### *Recommendation 4: Documenting changes to the Murri Court process*

Changes to the Murri Court process should be documented in the practice and procedure manual for that court and communicated to various stakeholders involved in the program and potentially affected by the changes.

### *Recommendation 5: Resourcing*

Adequate resources need to be available to support the continued operation of the program, irrespective of what mode of operation the program adopts in

the future. This includes funding to support the involvement of the core group of stakeholders involved in the program in each location.

### *Recommendation 6: Training, mentoring and professional development*

Training and induction should be provided to new staff employed by those organisations involved in the Murri Court program. Training for staff involved in the Murri Court should focus on the underlying philosophy of the court program, important aspects of Indigenous culture relevant to the operation of the court program and procedures, guidelines and key principles relating to the operation of the court. Opportunities for mentoring of new staff should be explored.

### *Recommendation 7: Assessing the eligibility of offenders*

There is a need to consider the viability of a more consultative approach in assessing the eligibility of offenders where it does not currently exist; one that involves Indigenous groups, CJG members and Elders, particularly where they are involved in supporting the offender pre- or post-sentence.

### *Recommendation 8: Pre-sentence assessments*

Protocols surrounding the sharing of information from the various pre-sentence interviews conducted as part of the assessment process should be reviewed and strategies implemented to minimise the time and resources required to complete multiple assessments without limiting the level of information available to Elders, Magistrate and court partners.

### *Recommendation 9: Pre-sentence interviews*

Consistent processes in both Adult and Youth Murri Courts (primarily with more serious juvenile offenders) should be established that provide the opportunity for offenders to meet with Elders, CJGs and/or Indigenous support groups prior to sentencing.

### *Recommendation 10: Murri Court bail programs*

The expansion of bail programs into other locations should be well supported by the various stakeholders likely to have some level of involvement in monitoring offenders' progress while on bail. Where they do operate, bail programs would benefit from greater definition of purpose, process and partner participation. In addition, there must be adequate resources available to support the program.

### *Recommendation 11: Relationship to other court-based diversion programs*

The relationship between the Murri Court program and other court-based diversion programs needs to be strengthened and consideration given to whether Indigenous offenders should be able to access these programs and still be sentenced in a Murri Court. This includes QIADP, which currently operates in a number of jurisdictions in which a Murri Court has been established.

### *Recommendation 12: Contact with offenders post-sentence*

Where they do not already exist, processes should be instituted that allow offenders the opportunity to meet with either ATSILS field officers, Murri Court coordinators, Elders, CJGs or, where applicable, QCS or DoC immediately after a community-based sentence has been imposed. This provides offenders with the opportunity to 'debrief' and to be made aware of the requirements of their sentence, their obligations and any additional support that may be available.

### *Recommendation 13: Role of CJG and Indigenous community organisations in supporting offenders post-sentence*

The role of CJGs and Indigenous community organisations in supporting offenders post-sentence and in increasing compliance with both bail conditions and community-based orders, should be more clearly defined.

### *Recommendation 14: Culturally-appropriate programs and services in the community*

Strategies to improve the availability of rehabilitative and diversionary programs for Indigenous offenders, targeted at the specific needs of offenders referred to the Murri Court for sentencing should be implemented. These could include:

- increasing support for Indigenous community organisations and CJGs to develop and implement culturally-appropriate services to meet the needs of local Indigenous communities and to support the Murri Court;
- developing the skills and expertise of local Indigenous people through training and mentoring to contribute to the delivery of services for Murri people and increase the capacity of communities to deal with local issues; and/or
- increasing the capacity of existing service providers (not limited to those that deal only with Indigenous people), especially those that target substance abuse problems and mental health issues, to cater for Indigenous clients.

### *Recommendation 15: Culturally-appropriate programs in custodial settings*

In addition to ensuring that services are available for offenders serving community-based sentences, there is a need to review the availability and appropriateness of programs for Indigenous offenders delivered in custodial settings and to ensure that programs are accessible to offenders sentenced in Murri Court to a period of imprisonment or detention.

### *Recommendation 16: Overarching framework*

The Murri Court program would benefit from the development of an overarching framework that may be used to provide guidance to new and existing Murri Courts operating across Queensland. It is recommended that this be developed in consultation with court partners and reflect the key elements of the program described in this report.

### *Recommendation 17: Roles and responsibilities of court partners*

There is a need to more clearly define the roles and responsibilities of the core group of stakeholders involved in the Murri Court program.

### *Recommendation 18: Debriefing for Elders post-sentence*

Given the emotional and sometimes confronting nature of court proceedings, it is recommended that formal processes be established to provide support and an opportunity for Elders to debrief (where requested) following the completion of Murri Court hearings on each sitting day.

### *Recommendation 19: Ensuring the availability of Elders to support the Murri Court*

Strategies should be implemented to continue to actively encourage new Elders and respected persons to participate in the Murri Court program and to provide support to existing representatives to increase the pool of Elders and respected persons in each court. Particular emphasis should be placed on finding Elders from local Indigenous communities not represented in the different court locations. The potential role of younger representatives of the Indigenous community in supporting Elders, particularly in Youth Murri Court, warrants further investigation. The potential impact of involving Elders from outside an offender's community also requires further exploration, particularly in terms of whether it may undermine attempts to incorporate traditional cultural elements such as shaming in the sentencing process, or attempts to reconnect offenders with their community.

### *Recommendation 20: Additional considerations in determining the eligibility of Adult Murri Court participants*

In addition to the basic criteria for participating in the Murri Court, additional guidelines should be established to assist legal representatives, police

prosecutors, Magistrates and Elders to assess the eligibility of offenders, particularly where participation involves formal pre-sentence supervision under bail conditions or is likely to involve significant contact with Elders, Indigenous community groups or a CJG post-sentence. These guidelines could consider issues such as:

- whether the offender has shown signs that they are willing to take steps to address their behaviour;
- whether they have shown a willingness to engage openly and honestly with representatives of their community;
- whether the Elders in the court feel comfortable dealing with the offender; and
- whether the offender is likely to be able to deal with the interactive and emotional demands of the court.

### *Recommendation 21: Encouraging the involvement of family members and support persons*

Strategies that encourage and support family members to be involved in the Murri Court process, particularly in Youth Murri Courts, should be developed and implemented to help facilitate contact with important support networks.

### *Recommendation 22: Training opportunities for Magistrates*

Given the importance of their role in managing the Murri Court process, opportunities for training focused on the skills required to establish and manage the Murri Court process should be explored. This training should incorporate the management of stakeholder relationships, dealing with local politics and working with Indigenous communities.

### *Recommendation 23: Victim support and impact statements*

Processes should be established in each court where they do not already exist to obtain victim impact statements and formal mechanisms to support victims where they attend court (ie victims support staff).

### *Recommendation 24: Training for Elders*

In addition to providing training on the criminal justice system and operation of Murri Court, it is important that Elders are informed of their obligations with respect to standing down from matters for which they believe they cannot remain objective.

### *Recommendation 25: The role of PLOs in supporting the court process*

The role of PLOs in supporting the Murri Court program should be more clearly defined.

### *Recommendation 26: Consistency in Magistrates presiding over Murri Court*

Where possible, strategies should be implemented to enable Magistrates to preside over Adult and Youth Murri Courts for an extended period of time, thereby providing the opportunity to build long-term relationships with court partners.

### *Recommendation 27: A dedicated Murri Court coordinator*

A dedicated coordinator should be tasked with the responsibility for managing the Murri Court process in each location and the role of this coordinator should be clearly defined so as to ensure that they are able to focus on their primary role in supporting the operation of the court.

### *Recommendation 28: Establishing new Murri Courts*

Prior to establishing new Murri Courts, the capacity of individual courts, local stakeholders and communities that support them should be assessed to determine whether they have the capacity to implement and sustain a Murri Court. Adequate time and resourcing should be invested in supporting communities to establish a Murri Court where the capacity exists.

### *Recommendation 29: Strengthening the relationship between Murri Court and culturally-appropriate programs and services*

In addition to increasing the availability of culturally-appropriate programs and services (Recommendation 14), there is a need to strengthen the relationship between the Murri Court and programs designed to address the factors that increase the risk that an individual will reoffend. This may be facilitated through the recognition of these services as a formal component of Murri Court bail programs or post-sentence supervision arrangements.

### *Recommendation 30: Improving data quality and further research*

There is a need to improve the quality of information available for monitoring the impact of the court, including better recording of court attendance and of referrals and completion rates for rehabilitative programs. Processes should be implemented to monitor the performance of the court against key indicators on an ongoing basis. Further research should be undertaken into the long-term impact of the court program and the impact of the program since its expansion into other locations across Queensland.



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