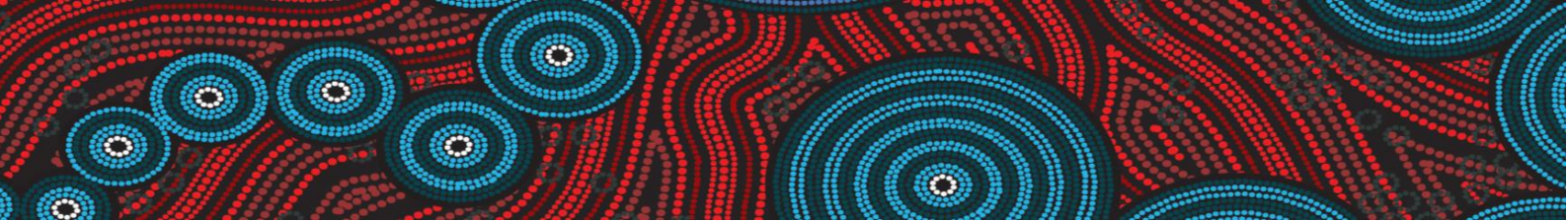


# **QUEENSLAND MURRI COURT**

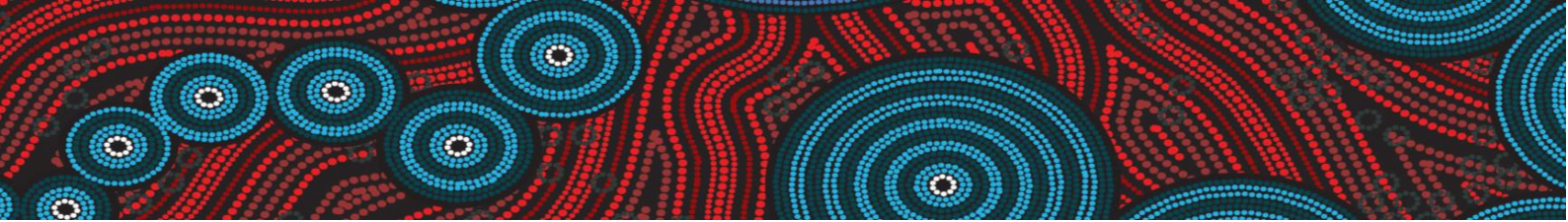
## ***Elders and Respected Persons Role Manual***





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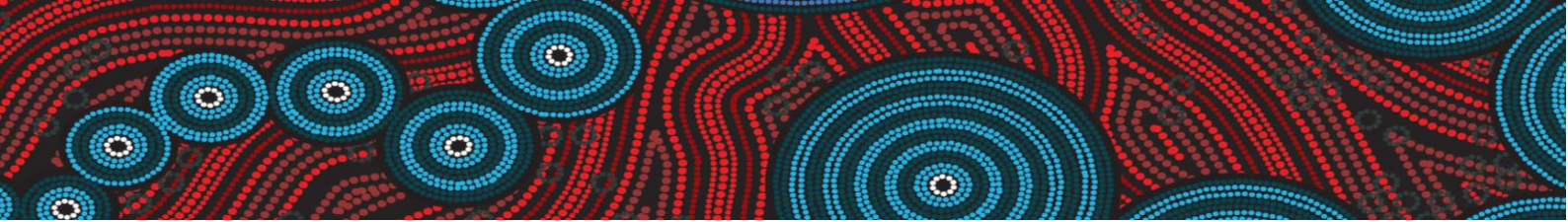
## Introduction

This manual has been developed by the Courts Innovation Program (CIP), a unit in the Queensland Government's Department of Justice and Attorney-General (DJAG).

The aim of this manual is to provide the Elders and Respected Persons working in Queensland's Murri Courts with information and guidance about their role and responsibilities.

Please note that when using the titles 'Elders and Respected Persons' we are referring to those members of Australia's Aboriginal and Torres Strait Island communities who are recognised in and by their communities as one of these two titles.

This manual should be read along with the *Murri Court Practice Direction (No 2 of 2016)* and the *Murri Court Procedures Manual*.



## **Criminal Courts in Queensland**

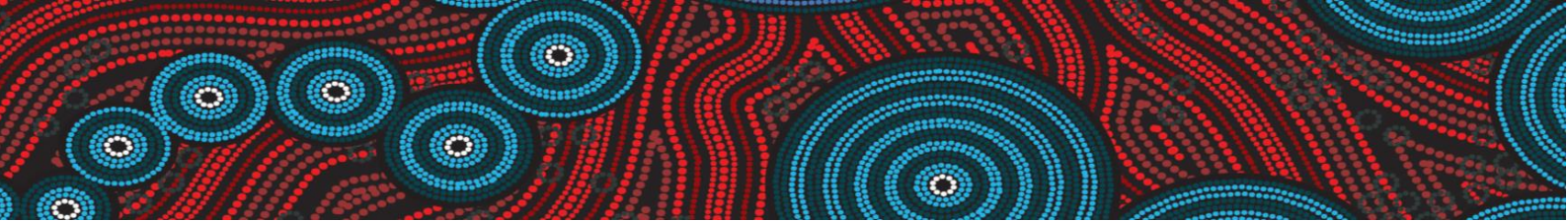
In Queensland, all criminal cases start in the Magistrates Court, but only less serious matters will stay there. More serious matters will go up to the District Court, while the most serious go to the Supreme Court.

If the person charged with an offence is a child, their criminal case will start in the Childrens Court and more serious charges will go to the Childrens Court of Queensland.

Each court has different levels of decision-making powers. For example, a Magistrates Court does not have the power to sentence a person charged with murder but a Supreme Court does.

Only matters that can be decided by a magistrate, including a Childrens Court magistrate, can be referred to Murri Court.

Not all locations have an adult and youth Murri Court. Some locations may have an adult Murri Court only whereas other locations may also have a youth Murri Court.



## What is Murri Court?

Murri Court is a special type of Magistrates Court that links suitable Aboriginal and Torres Strait Islander defendants to treatment and support in the community (including their Elders) to help them address the factors in their lives that led to their offending. In some locations, Australian South Sea Islander defendants are also able to participate in the Murri Court.

Elders and Respected Persons from the community are present in court to help the magistrate understand the lives and culture of Aboriginal and Torres Strait Islander people.

Community Justice Group (CJG) representatives are able to make submissions to the court about bail and sentencing. Their ability to do this comes from parts of the *Bail Act 1980*, the *Penalties and Sentencing Act 1992*, and the *Youth Justice Act 1992*.

The magistrate, CJG, Elders and Respected Persons, police prosecution, defendant's legal representative, government agencies such as Queensland Corrective Services, and service providers, all work together to support a defendant change their behaviour.



Murri Court itself is not set up by any special legislation. There is a *Practice Direction* that lays out the Murri Court process and procedures.

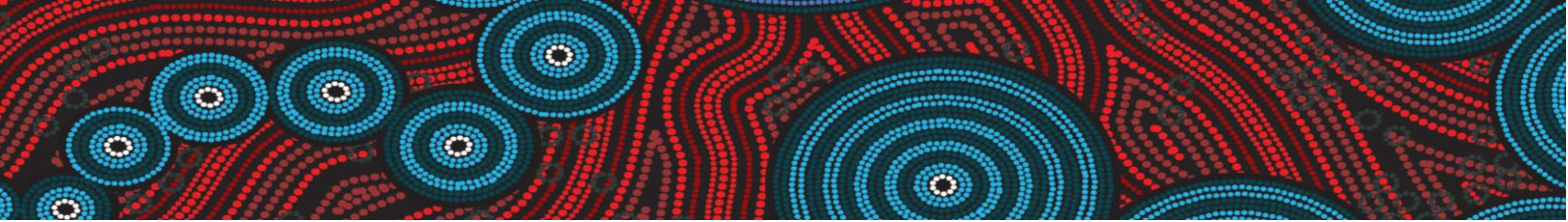
## **What happens in Murri Court?**

If a defendant is eligible, a magistrate can refer their charges to Murri Court.

To be eligible, a defendant must:

- identify as an Aboriginal person, Torres Strait Islander person, or have a kinship or appropriate connection to the Aboriginal or Torres Strait Islander community;
- have charges that can be finalised in the magistrates or childrens court;
- be on bail;
- plead guilty or intend to plead guilty; and
- agree to participate in Murri Court.

Once the charges have been referred, the CJG is notified and they organise an assessment panel to complete a *Murri Court Entry Report* (MCER) for the defendant. An assessment panel is composed of between one and three Elders and Respected Persons and a CJG representative.



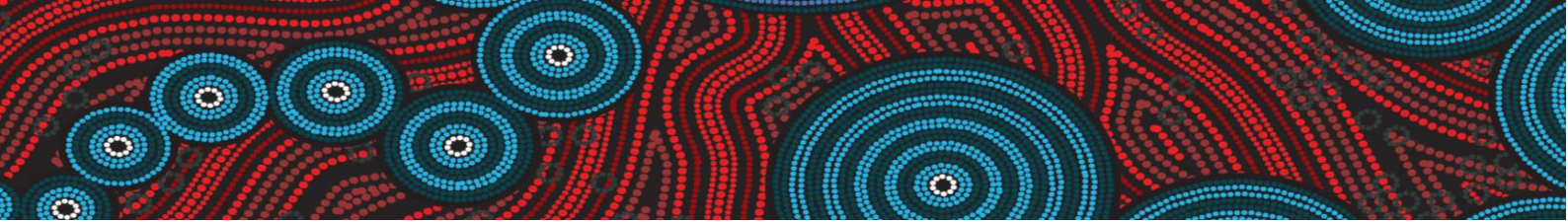
The panel meets with the defendant and talks to them to gather information about their life, culture, family, personal history, health, education, and goals for the future.

After talking with the defendant, the panel will prepare the MCER and include their opinion on the defendant's suitability for Murri Court.

At the first Murri Court date, the magistrate will make a decision on whether the defendant is suitable to participate in Murri Court or not. They will consider the MCER, any relevant facts and circumstances, and any information provided by participants such as the CJG.

If the defendant is suitable, the magistrate will decide when the court will meet again. This date is called a progress mention.

When the Murri Court meets, the following people may be in the courtroom: the magistrate, one or two Elders or Respected Persons, a CJG representative, the defendant, their legal representative, the police prosecution, and Queensland Corrective Services or Youth Justice. Other people may be there as well, such as other Elders, a member of the defendant's family, or their support person.



Between court appearances, the defendant works with the CJG and support services to address the factors in their lives that led to their offending. This may include counselling, drug and alcohol treatment, anger management, help finding employment or a place to live, or other kinds of support such as participation in yarning circles or men's and women's groups. There will be one or more progress mentions to keep the court informed on how the defendant is going.

After some time, usually around three months, the magistrate will ask that a *Murri Court Sentence Report* (MCSR) be prepared by the assessment panel and the matter will be set down for sentence.

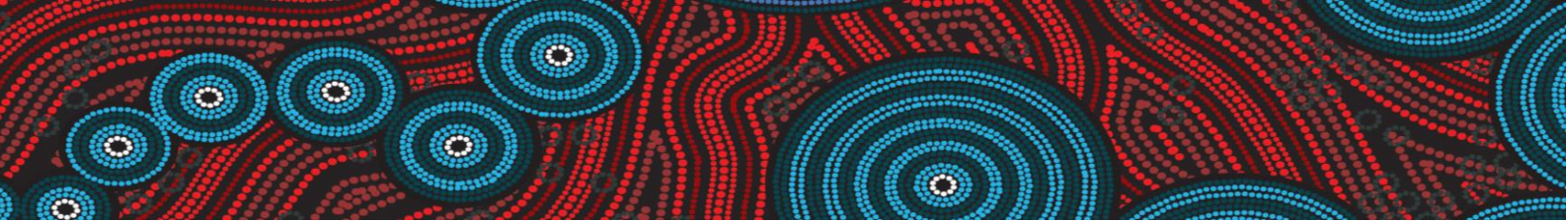
The assessment panel will meet again with the defendant to talk about any changes in their life since starting the Murri Court process and how they feel moving forward.

The magistrate will consider the MCSR, any submissions from the Elders, police prosecution, the defendant's legal representative and any victim impact statements, before sentencing the defendant.

## **The Murri Court Evaluation**

Murri Court aims to:





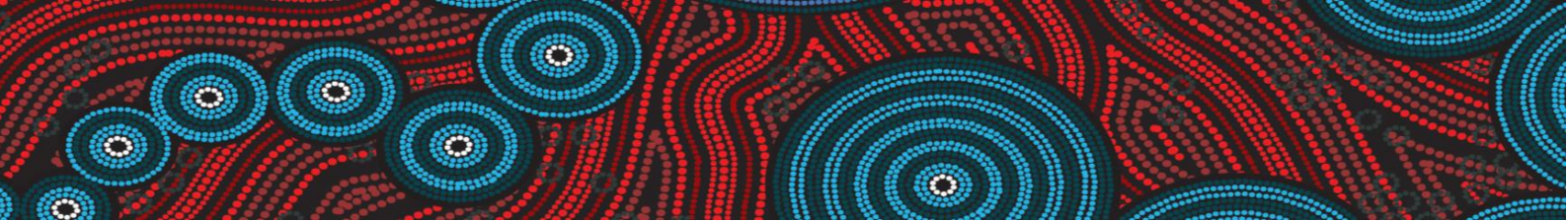
- reduce defendant reoffending;
- encourage defendants to take responsibility for their offending;
- encourage magistrates to consider a defendant's cultural and personal circumstances at sentence;
- encourage defendants to engage with support services;
- improve defendant's physical and psychological health and quality of life; and
- improve Aboriginal and Torres Strait Islander Elders and Respected Persons' confidence in and knowledge of the court process.

Murri Court will be evaluated to see if it is doing these things.

An important part of the evaluation are the defendant questionnaires that follow the MCER and MCSR.

What defendants tell CIP through the questionnaires not only helps to improve how Murri Court operates but also helps to keep Murri Court going.

Completion of the questionnaires is not a requirement for a defendant to participate in Murri Court. However, Elders and Respected Persons should encourage defendants to do so and remind them that the



questionnaires are the defendant's chance to say what they think of mainstream and Murri Court anonymously and confidentially.

## **Role and Responsibilities**

### **Elders and Respected Persons**

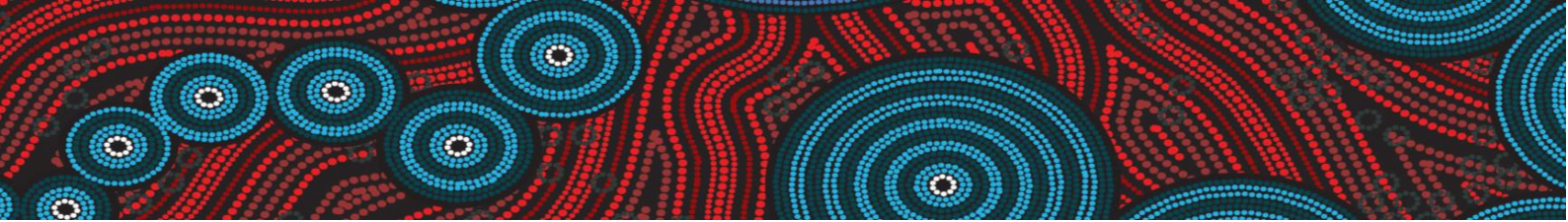
Elders and Respected Persons are an integral part of Murri Court.

As an Elder or Respected Person, your role includes:

- assessing a defendant's suitability to participate in Murri Court;
- yarning with defendants to prepare their *Entry and Sentence Reports*;
- providing advice to magistrates on cultural issues and background information on the defendant;
- supporting and encouraging defendants throughout their time with Murri Court; and
- encouraging defendants to complete the Murri Court questionnaires.

### **The Community Justice Group**

Elders and Respected Persons work closely with a CJG representative in the Murri Court.



As part of their role, CJG representatives are responsible for:

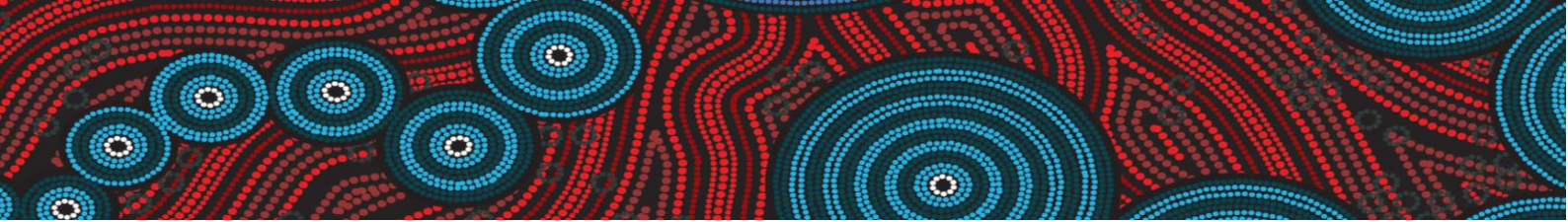
- recruiting Elders and Respected Persons from the local community to work with Murri Court;
- arranging rosters for Elders and Respected Persons to Assessment Panels and Court Panels;
- ensuring payment forms for Elders and Respected Persons are completed and provided to DJAG;
- providing copies of reports to Court Panels before the court date; and
- supporting Elders and Respected Persons in their Murri Court work.

From time to time, issues can arise between Elders, Respected Persons and CJGs.

As part of their service agreement with DJAG, all CJGs must have a dispute resolution procedure for internal complaints from members.

If an issue arises, the first step is to discuss the issue with the CJG directly.

If this is not possible or it does not resolve the matter, contact your local Indigenous Justice Officer (IJO) to assist or begin the dispute resolution process.



## The Murri Court Coordinator

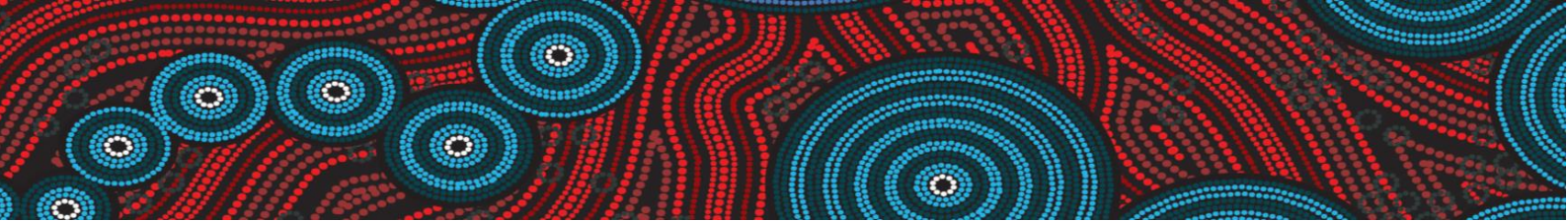
The Murri Court Coordinator is responsible for the running of Murri Court and program direction. This includes the development and implementation of supporting policies and procedures, the development and delivery of training, and the building and maintenance of collaborative relationships with stakeholder organisations and agencies.

## Interviewing Defendants

As part of preparing the *Murri Court Entry and Sentence Report*, you will be talking to defendants and asking them questions. You don't have to fill out the form as you go, if you want, you can just talk to the defendant and fill out the form later.

You are not expected to diagnose the defendant in any way, only report on what they have told you about their lives.

To help with this part of the role, we have collected some general tips on gathering information in interviews below:



A closed question is when the answer must be either a yes or a no, or when the answer will most likely be short and factual (e.g. what's your address?).

Closed questions are good for finding out basic information and testing understanding (e.g. so when you lost your job, you were living in Cairns?).

Open questions have longer answers and usually begin with what, why, and how.

Open questions are good for finding out details or opinions (e.g. what was it like in your house growing up?).

Try to avoid asking leading questions. Leading questions are ones that suggest a certain answer or have an assumption within the question (e.g. what's it like having to work such horrible hours?).

Leading questions should be avoided because the person being interviewed might not feel comfortable having to contradict you or be worried that to do so would be rude. Children and people with intellectual disabilities are particularly vulnerable to giving answers they think the asker wants to hear.



Ask follow up questions for more information if necessary. Sometimes people who do not respond well to questions will respond to a direction (e.g. tell me more about the car accident).

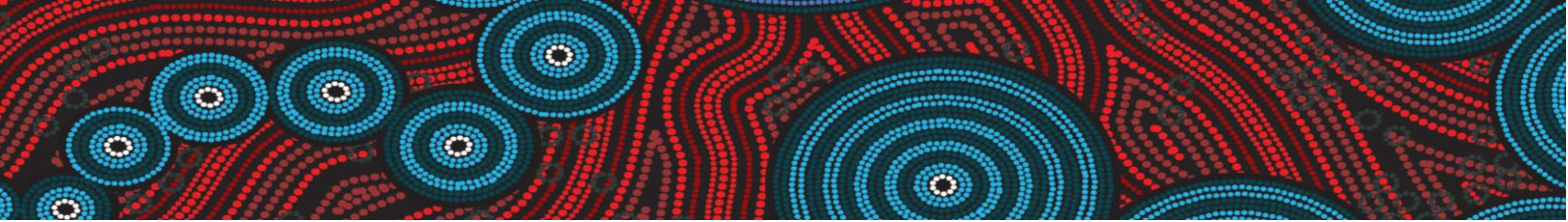
You can also use questions to challenge someone's thinking. Making a direct statement can make people defensive. Using a question to do this can be a gentler way to change their thinking (e.g. what would need to change in your life for you to feel ready to quit drinking? What would be signs that you need help? How will you recognise them?).

## **Sitting in Court**

Murri Court sittings occur to:

- decide if a defendant is suitable for Murri Court (the first Murri Court mention);
- see how the defendant is going (a progress mention); or
- sentence the defendant (the sentence).

The magistrate is in charge of deciding and guiding what happens in court. Each magistrate may have a different way of doing things.



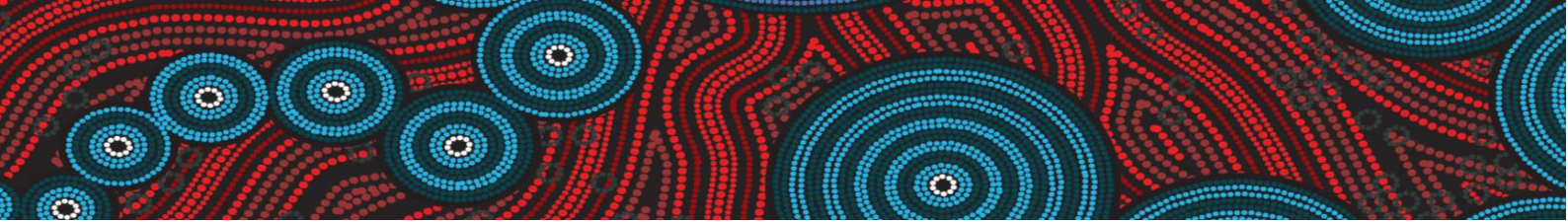
Your role in the courtroom is to provide cultural and other advice to the magistrate and the defendant and to encourage the defendant to make lasting changes in their life.

The magistrate may ask you specific questions if there is something they want to know (e.g. has the defendant been attending yarning circles with you?) or invite you to talk to the defendant about how you think they are doing, the impact of their offending on the community, or other things.

You do not have to say something every time the magistrate invites you. If there is nothing you want to say, you can just tell the court and the defendant that you have nothing to add.

If you have questions or things you want to say during the court sitting, you can respectfully ask the magistrate for a chance to speak.

Remember that adult Murri Courts are open courts and that other defendants, friends and family members, or members of the public may be in the courtroom and hear what you say to the defendant.



## **The Elder and Respected Persons Allowance**

Elders and Respected Persons are entitled to receive \$100 for each court day they are part of a Murri Court Panel. No more than two Elders will be paid for the same sitting day in the same Murri Court location.

This payment is made to recognise the valuable contribution you make to the Murri Court as an Elder or Respected Person.

DJAG will pay your allowance by direct deposit into your bank account.

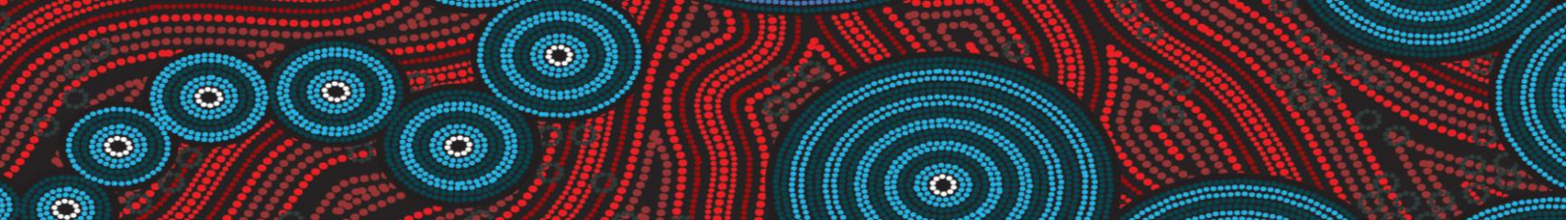
Please note the allowance may affect your Centrelink payment or tax. Please contact Centrelink or the Australian Tax Office (ATO) for questions about any potential impact.

### **The Payment Process**

The CJG must provide the following documentation for each Elder who sits on Murri Court before payments can be made:

- 1. Murri Court Elder / Respected Person Bank Account Details form*



- 
2. *Statement by a Supplier form* (unless the Elder or Respected Person has an ABN – in which case the ABN must be provided).

Forms should be emailed to [murricourt@justice.qld.gov.au](mailto:murricourt@justice.qld.gov.au) and only need to be completed once, unless any of the details change.

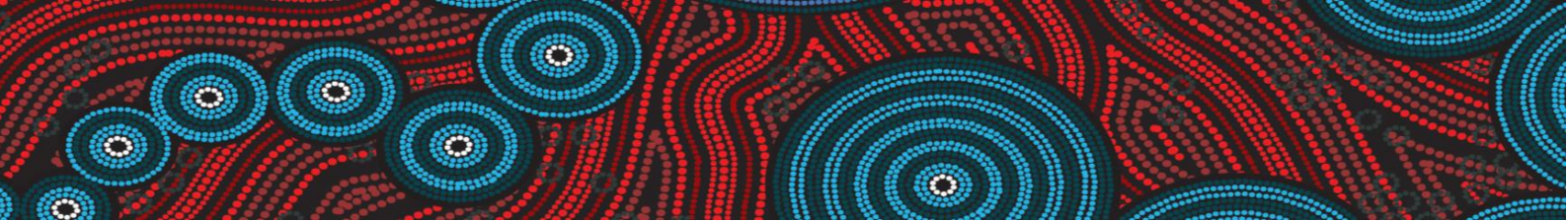
On each Murri Court sitting day, a *Community Justice Group Attendance and Submission Details form* must be completed by the CJG and endorsed by court staff. Court staff will email a copy of this form to [communityjusticegroupdata@justice.qld.gov.au](mailto:communityjusticegroupdata@justice.qld.gov.au) for processing.

If you do not want to receive the full \$100, you need to complete the *Murri Court Elder Allowance Variation form* and email it to [murricourt@justice.qld.gov.au](mailto:murricourt@justice.qld.gov.au).

All these forms are available on the [Courts website](#) or from your CJG.

## **Code of Conduct**

The Code of Conduct below provides Elders and Respected Persons guidance regarding the minimum acceptable behaviours and standards of conduct for their role.



The code also provides ethical standards.

The code has three parts:

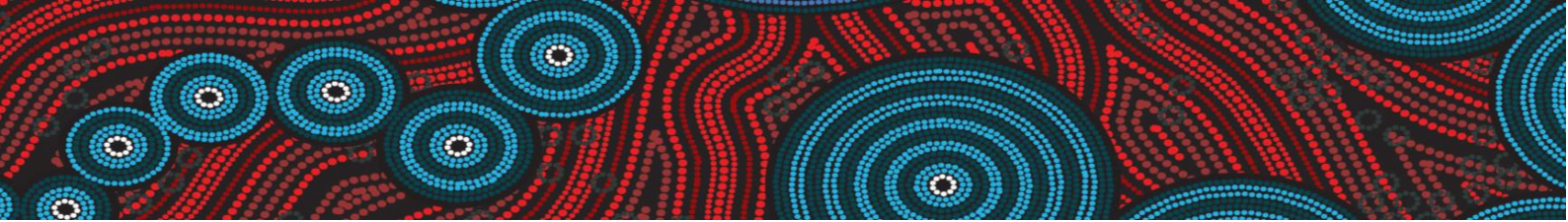
1. Integrity and behaviour
2. Privacy and confidentiality
3. Conflict of interest

## **Integrity and Behaviour**

Both inside and outside of the courtroom, Murri Court Elders and Respected Persons must act in a way that upholds the integrity and independence of their role.

The standard of behaviour expected of you includes:

- respecting and complying with the law;
- treating co-workers, defendants, and other Murri Court participants with courtesy and respect;
- avoiding behaviour, professionally or privately, that would bring shame to the position;
- avoiding behaviour, professionally or privately, that would damage the public opinion of the role's fairness or character;
- informing your IJO if you are charged or convicted of any offence;
- providing cultural and other advice in a fair, unbiased manner without favouritism;



- not using the role to provide private or personal benefits to yourself, a family member, or associate;
- referring all media enquiries or request for interviews from journalists to your IJO; and
- ensuring that any comments made, including through social media, are understood as your personal views and not the views of the Murri Court or Queensland Government.

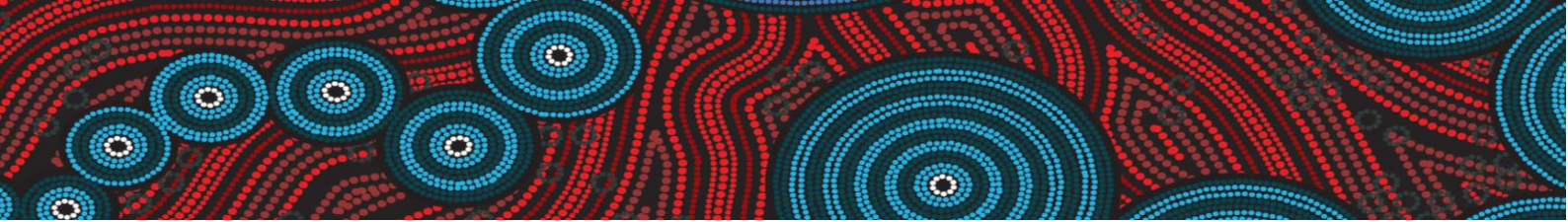
## Privacy and Confidentiality

As part of your role in Murri Court, you will become aware of confidential information.

Confidential information is information that is private or personal, or that most people would consider private or personal.

This information may be about a defendant, the victim of a crime, or other people. This information may be about things that happened a long time ago or just recently.

Regardless of the type of confidential information or who it is about, you are required to handle this information carefully. Only the person the information belongs to or the law can allow the disclosure of confidential information.



## Conflicts of Interest

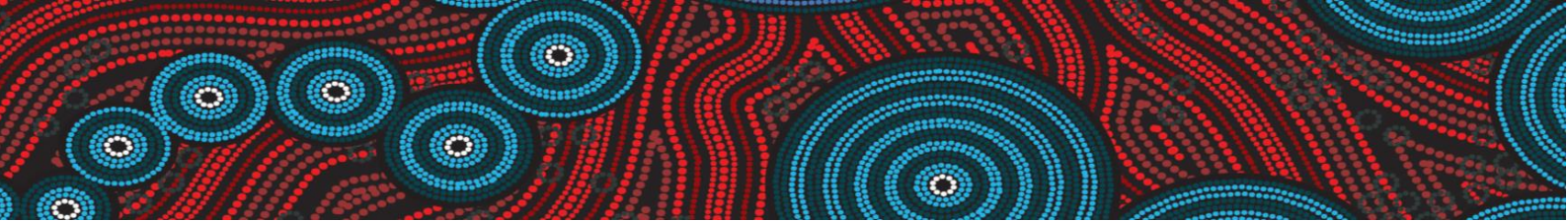
A conflict of interest is when there is a conflict between a person's responsibilities and their personal interests.

Elders and Respected Persons have a number of responsibilities as part of their role in Murri Court. You have a responsibility to the court itself, to the defendants you work with, and the owners of any confidential information you come across.

Conflicts can be actual, potential, or perceived and include occasions when an Elder or Respected Person could be influenced, or when it is seen that they could be influenced.

Conflicts can arise from things such as personal or family relationships, previous or current employment, financial interests, and involvement with external organisations such as political parties.

For example, a conflict of interest could arise where an Elder is the close relative of a victim or defendant, or a Respected Person has business dealings that could be affected by the outcome of a Murri Court matter.



Having a conflict of interest does not mean the person has done something wrong, but all conflicts should be disclosed so that they may be managed.

Management of a conflict may involve actions such as the conflicted person removing themselves from a particular defendant's matter or disclosing the interest so that everyone involved is aware of it.

Conflicts of interest will always be resolved in favour of the public interest.

If you become aware of a possible conflict, disclose it to the CJG representative and magistrate as soon as possible.

## **Complaints about me**

From time to time, DJAG may receive a complaint about an Elder or Respected Person. Any complaints received about an Elder or Respected Person will be treated in a reasonable manner and with natural justice and procedural fairness.

This means we will discuss the complaint with you and hear your side of the story. This does **not** always mean we will tell you who made the complaint.



Depending on how serious a complaint is, investigation may be required.

After we have discussed the complaint, further action may be necessary. This could range from you receiving additional training or support or, in more serious cases, you ceasing work with Murri Court.

## **Working with Young People (Blue Cards)**

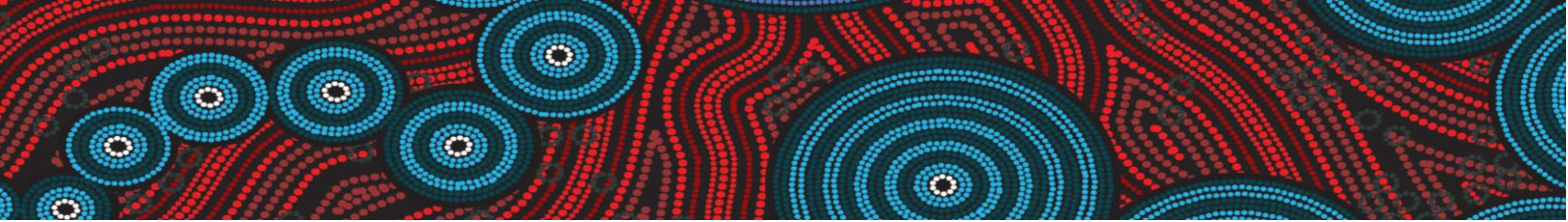
If you will be working with a child or young person - for example, as part of your work in Youth Murri Court - you must have a valid blue card.

The Blue Card system is a prevention and monitoring system to ensure the safety of children.

You will not be able to start your work at Murri Court until you hold a valid blue card.

Blue card holders must notify Blue Card Services if:

- you change your address;
- you change your name;
- you start or end a job;
- your card is lost or stolen; or
- your police information changes.



Blue Card Services recommend that applicants for blue cards allow at least 28 days for processing.

Blue cards are valid for three years and there is no application fee.

For further information about blue cards, please contact Blue Card Services on **1800 113 611**.

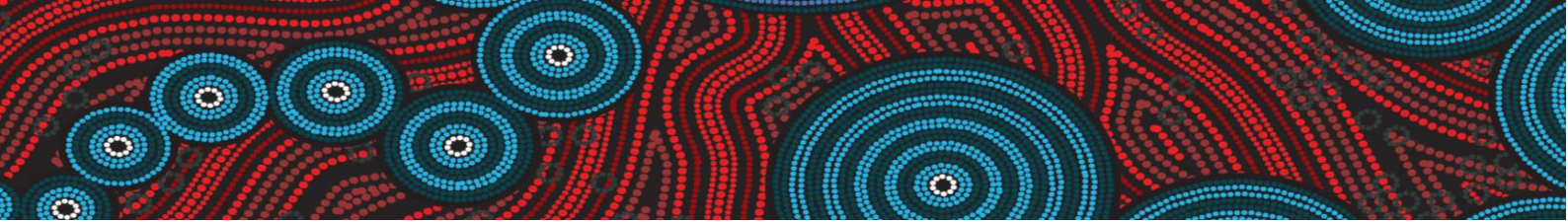
## **Training**

From time to time, DJAG will organise training for Elders and Respected Persons as part of your work with Murri Court. Training will usually be delivered by your local IJO.

You will not receive payment from DJAG for time spent in training.

Most training will take place in your local area. Any training organised by DJAG that requires travel beyond your local area will have reasonable travel and accommodation costs met by DJAG.

If you would like a refresher session on court operations or training on something specific (like how to speak in court), please speak to your IJO.



## **Outside Employment**

Murri Court Elders and Respected Persons often have jobs outside of Murri Court.

Outside employment could be a full or part time job, running a business, or involvement with other organisations (paid or unpaid).

Simply having outside employment will not create a conflict of interest, but you should keep an eye out in case one arises.

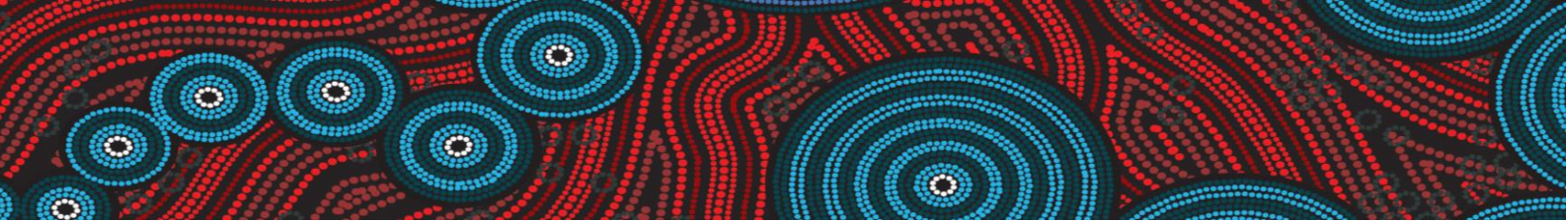
Information learned through Murri Court cannot be used in the course of other employment.

If your current or future outside employment could affect your Murri Court work, you should discuss the situation with your CJG.

## **Support for You**

In your role in the Murri Court, you may experience stress or be exposed to upsetting information. For example, hearing the details of a defendant's offences may be upsetting even if you do not know the victim personally. You may also be experiencing stressful





events in your personal life or be going through a hard time at home.

You are able to access a free, professional counselling service through DJAG called the Employee Assistance Program (EAP).

This counselling may be accessed face-to-face, by telephone, or over Skype. Anyone accessing the service can request a counsellor of a particular gender or with a particular expertise (e.g. family counselling, career advice, health counselling, etc).

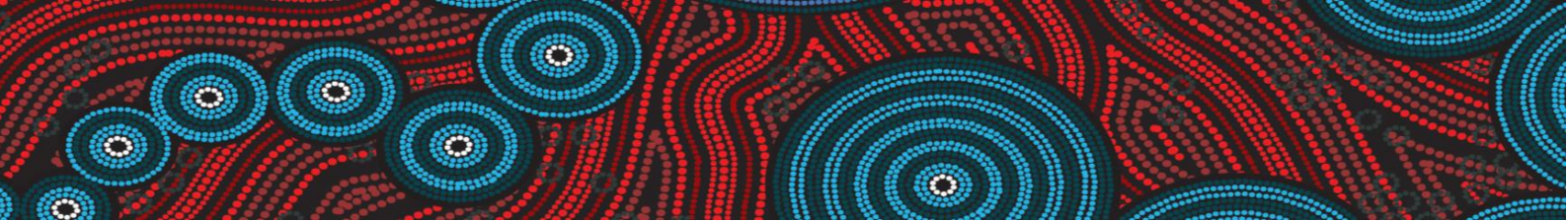
The counselling is available for both work and personal concerns. Access to the EAP is available 24/7 by calling **1800 604 640**.

When calling, you should identify the name of the Murri Court or Community Justice Group you are connected to.

## **Ending Your Work with Murri Court**

If you want to finish your work with Murri Court, you need to let the CJG know.

The CJG will contact DJAG to arrange the finalisation of any outstanding payments.



Please give at least one working days' notice before any date you were rostered to attend court or form part of an assessment panel.

## Your Input

How Murri Court runs is something that will change as time goes on.

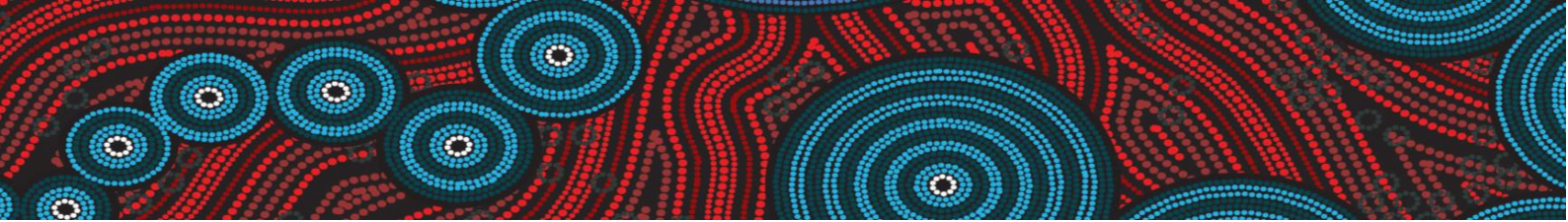
If you would like to provide us with your thoughts and ideas on how Murri Court could work better, there are a few ways for you to do so:

- email us at [murricourt@justice.qld.gov.au](mailto:murricourt@justice.qld.gov.au)
- talk to your local IJO
- talk to your CJG

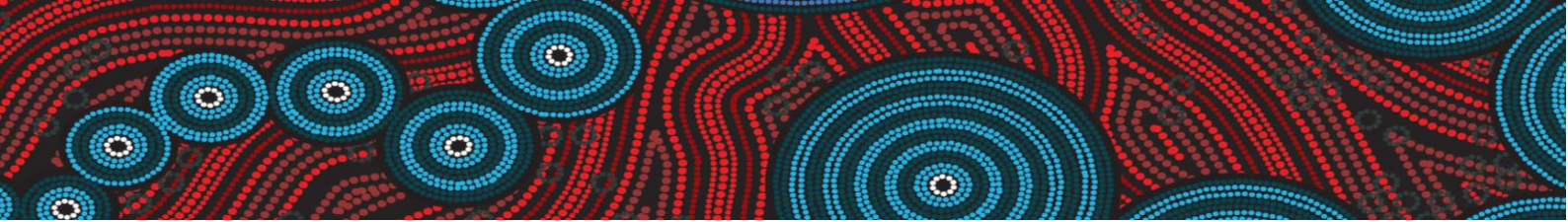
While we will not be able to act on every idea we receive, every bit of feedback we get helps us find ways for the court to improve and serve the community better.

If there is something big that you feel the Chief Magistrate or Attorney-General should know, you need to discuss the issue with your CJG so that they can raise it at a Local Stakeholder Group meeting.

Local Stakeholder Group meetings are when everyone with an interest in Murri Court – including the police,



legal agencies such as ATSILS, and government departments including DJAG – come together to discuss issues facing Murri Court and seek a solution together.



## Contacts

<i>ATSILS</i>	<a href="https://atsils.org.au">Atsils.org.au</a>	<b>1800 012 255</b>
<i>Australian Tax Office</i>	<a href="https://ato.gov.au">Ato.gov.au</a>	<b>13 28 61</b>
<i>Blue Card Services</i>	<a href="https://bluecard.qld.gov.au">bluecard.qld.gov.au</a>	<b>1800 113 611</b>
<i>Centrelink</i>	<a href="https://humanservices.gov.au/dhs/centrelink">humanservices.gov.au/dhs/centrelink</a>	<b>1800 136 380</b>
<i>Community Justice Groups</i>	<a href="https://courts.qld.gov.au/contacts/murri-court">Courts.qld.gov.au/contacts/murri-court</a>	
<i>Courthouses</i>	<a href="https://courts.qld.gov.au">Courts.qld.gov.au</a>	
	Brisbane Magistrates Court	<b>3247 5598</b>
	Caboolture Magistrates Court	<b>5431 2200</b>
	Cairns Magistrates Court	<b>4039 8900</b>
	Cherbourg Magistrates Court	<b>4168 1801</b>
	Cleveland Magistrates Court	<b>3383 0733</b>
	Mackay Magistrates Court	<b>4967 0711</b>
	Maroochydore Magistrates Court	<b>5470 8111</b>
	Mount Isa Magistrates Court	<b>4747 2011</b>
	Richlands Magistrates Court	<b>3710 1200</b>
	Rockhampton Magistrates Court	<b>4938 4558</b>
	St George Magistrates Court	<b>4625 3266</b>
	Toowoomba Magistrates Court	<b>4615 3660</b>
	Townsville Magistrates Court	<b>4761 8300</b>
	Wynnum Magistrates Court	<b>3362 9090</b>
<i>Employee Assistance Program</i>	<a href="https://livewell.optum.com">Livewell.optum.com</a>	<b>1800 604 640</b>
<i>Indigenous Justice Officers</i>	<a href="mailto:IndigenousJusticeprograms@justice.qld.gov.au">IndigenousJusticeprograms@justice.qld.gov.au</a>	<b>3109 9595</b>
<i>Murri Court Coordinator</i>	<a href="mailto:murricourt@justice.qld.gov.au">murricourt@justice.qld.gov.au</a>	<b>3109 9175</b>