




Aboriginal and
Torres Strait Islander
Research Unit



Evaluation of Murri Court

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Shortened forms

ATSILS	Aboriginal and Torres Strait Islander Legal Service
CJG	Community Justice Group
DJAG	Department of Justice and Attorney-General
QPS	Queensland Police Service
QWIC	Queensland-Wide Interlinked Court (database)

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1. Executive summary


Murri Court is a network of Queensland Courts operating at the Magistrate level which specialise in hearing criminal matters pertaining to Aboriginal and/or Torres Strait Islander people. Murri Court, originally established in 2002 in Brisbane, was abolished after 10 years due to a withdrawal in government funding. Notwithstanding this, a number of the Murri Court sites continued to operate through the efforts of community volunteers and Magistrates through a similarly formed operation known as Indigenous Sentencing Lists. In 2015–16, the Queensland Government committed \$8.7 million to reinstate courts such as the Murri Court and specialist courts. In 2015, extensive community consultation was undertaken to determine the model for the new reinstated Murri Courts. The first Murri Courts commenced operation in 2016.

Murri Court now operates at 14 centres across Queensland: Brisbane, Caboolture, Cairns, Cherbourg, Cleveland, Mackay, Maroochydore, Mt Isa, Richlands, Rockhampton, St George, Toowoomba, Townsville, Wynnum. The Queensland Government initiated the Murri Court as a way to rectify the over-representation of Indigenous people in the criminal justice system. The Murri Court would provide sentencing that was more culturally aware and sensitive to the overarching structural disadvantages that perpetuate criminality and deviance among Indigenous Australians. In doing so, the courts recognise and adhere to the principles of rehabilitative justice and therapeutic jurisprudence in seeking to address the underlying factors of a person's offending within their personal and community context.

According to the Murri Court Procedure Manual (Queensland Courts, 2015 p. 9), the objectives of the Murri Court are to:

- reduce the frequency and seriousness of any subsequent contact Murri Court defendants might have with the criminal justice system;
- encourage defendants to take responsibility for their offending and increase defendants' awareness of the consequences of their actions for victims and the community;
- encourage Magistrates to consider at sentence how a defendant's cultural and personal circumstances contribute to their offending;
- encourage defendants' attendance and engagement with support services while on bail;
- facilitate improvements in defendants' self-reported physical and psychological health and quality of life;
- improve defendants' engagement with and understanding of the court process;
- improve Aboriginal and Torres Strait Islander Elders' and Respected Persons' confidence in and knowledge of the court process.

Uniquely, Murri Court operates in a manner distinct to traditional Magistrate Courts, both stylistically in being more informal (i.e. verbal terms of address and speech, attire) and functionally (i.e. inclusion of Indigenous Elders during sentencing alongside the Magistrate and at other times during the court process such as mentions). As such, it is designed to be less intimidating for Indigenous people in the procedure and environment of the court, yet, notwithstanding this, more authoritative and reformatory through the inclusion of respected community members (Elders) in the judicial process. Murri Court partners with a number of government and non-government entities in seeking to facilitate lasting change for offenders, including drug and alcohol treatment programs, employment and housing services, health and wellbeing services, legal services, Queensland Police Service (QPS) and Queensland Corrective Services.



Between 1 July 2016 and 30 June 2018, 1077 Aboriginal and/or Torres Strait Islander people were referred to Murri Court. Almost three-quarters (73%) of defendants were male (790). Just over half of the male defendants were aged 18–34 (437), with more than a third aged 35 years and over (301), and there were 52 youth under the age of 18. A quarter of the defendants were female (287). Just over half of the female defendants were aged 18–34 (159), with more than a third aged 35 years and over (110) and there were 18 youth under the age of 18. Some acknowledged their Homelands in Queensland (373) and identified that their clan/nation was situated within the south-east and south-west of Queensland.

In 2017, Ipsos was commissioned by the Queensland Government’s Department of Justice and Attorney-General (DJAG) to evaluate the Murri Court program. This evaluation is one of several reviews that have been undertaken, both internally and externally, on the Murri Court system in Queensland (Parker & Pathé, 2006; Morgan & Louis, 2010; Queensland Courts, nd). This Ipsos evaluation complements these existing reviews in providing valuable qualitative empirical research: the acquired views at the ‘coalface’ from Elders, offenders, legal practitioners and judicial officers that provide rich detail and contributions to knowledge.

The review occurred between May 2018 and May 2019 and comprised five aims:

- Investigate if Murri Court is operating as intended (this includes commenting on the availability of support services in the community and how this availability impacts on the operation of Murri Court)
- Determine if Murri Court is achieving program outcomes:
 - Improving Aboriginal and Torres Strait Islander Elders’ and Respected Persons’ confidence in and knowledge of the court process
 - Improve Aboriginal and Torres Strait Islander defendants’ engagement with and understanding of the court process
 - Encourage defendants to take responsibility for their offending and increase defendants’ awareness of their actions for victims and community
 - Increase Aboriginal and Torres Strait Islander access to support services that may increase their health and wellbeing, reduce the likelihood of reoffending and assist them to build ties with family and community
 - Sentencing decisions that reflect the cultural and personal circumstances of Aboriginal and Torres Strait Islander people before the court
- Understand if Murri Court is cost-efficient
- Assess if Murri Court supports a reduction in participant reoffending
- Identify ways to improve the operation of Murri Court

This review is unique in providing an evaluation of the Murri Court from the ‘coalface’. Rather than scrutinising budgets and criminological statistical figures, the review utilises a mainly qualitative sociological approach to receive and analyse stories and perspectives from those who work in or have otherwise experienced Murri Court. This perspective permits not only the prioritisation of Aboriginal and/or Torres Strait Islander voices, but also a re-presentation from experienced insight into the system’s strengths and limitations. Finally, in recognising the slow and incremental nature of rehabilitative justice and therapeutic jurisprudence, the qualitative approach enables the showcasing of positive results of Murri Court that cannot necessarily be found from criminological statistics. Such stories of hope and incremental growth are prioritised throughout this report.

1.1. Methodology

This evaluation utilised a mixed methods approach, employing both qualitative and quantitative methods and data analysis.

The qualitative methods, hereafter referred to as ‘primary data’, included use of semi-structured interviews (telephone and face to face), online surveys and focus groups undertaken between October and November 2018 with community members and stakeholders comprising Elders, past Murri Court participants, Murri Court Magistrates, government officers, service provider personnel and Community Justice Group (CJG) staff. The questions asked were formulated in consultation with the Murri Court Evaluation Cultural Reference Group. In total, 162 interviews were undertaken, ranging from 45 minutes to three hours in length. Three focus groups were run, one each in Cairns, Mount Isa and Cherbourg. There were 35 attendees in total, and the average length was three hours.

The quantitative method of document analysis was used to analyse ‘secondary data’ from five sources, totalling 1746 documents, including:

- i. Murri Court Entry and Sentence Reports
- ii. Murri Court Entry and Sentencing Questionnaires
- iii. CJG quarterly reporting
- iv. Queensland-Wide Interlinked Court data management system
- v. QPS database

Primary and secondary data was analysed using descriptive statistics for coded data and manual coding of free text responses (i.e. qualitative data). A segmentation analysis involving a statistical multivariate approach (i.e. latent class) was used to identify groups of participants based on their experiences within both the Magistrates Court and the Murri Court. There were 465 Murri Court participants with sufficient data records in both Entry and Sentence Reports and Questionnaires to be included in the analysis. Four segments (or categories/groups) were identified from the analysis of the data and then further profiled by linking their outcomes in Queensland Police charge data and Queensland Court records.

1.2. Summary of results: Is Murri Court operating as intended?

The report finds that the Murri Court is operating as intended in providing a culturally informed specialist court to assist in the rehabilitative efforts of Aboriginal and/or Torres Strait Islander offenders within Queensland. While further changes could be made to the program to improve its efficacy and efficiency, the widespread community respect for the Murri Court and the accounts of lives being changed through the program demonstrate its fruitfulness for Aboriginal and/or Torres Strait Islander people in Queensland.

Investigate and comment on the availability of support services in the community and how this availability impacts on the operation of Murri Court

There were mixed beliefs across community as to whether support services were readily available to participants. While at some sites the support services were geographically close to the Murri Court, and some services provided transport or alternative means of receiving care (i.e. telephone counselling), this was not true of all sites. People from regional or remote sites were unable to access the services they required. Where support services were accessible to participants, this benefited the Murri Court and its operations.



Determine if Murri Court is achieving program outcomes

Determination of outcome achievement was evaluated from the perspectives of staff and participants of the Murri Court and was approached through several lines of review matching the goals of the Murri Court, each briefly outlined below.

1. Reduce the frequency and seriousness of any subsequent contact Murri Court defendants might have with the criminal justice system

When examining the efficiency of problem-solving criminal justice programs, it is typical that attention is drawn to how criminogenic needs have been resolved and whether people desist from criminal activity. This is a difficult measure to apply to Aboriginal and/or Torres Strait Islander offenders in recognising the entrenched systemic inequality they experience and the subsequent criminogenic needs this produces. In light of this, it can be said that courts can only do so much to contribute to desistance of Queensland Aboriginal and/or Torres Strait Islander people. An examination of desistance requires relevant data about recidivism and desistance over greater lengths of time to determine if Murri Court has contributed to their reduction in the criminal justice system.

Interestingly, when asked how the success of Murri Court should be analysed, participants often suggested criteria such as decreases in deviation, incarceration and recidivism among Aboriginal and/or Torres Strait Islander people. Almost half of stakeholders (47%) and 12% of sampled community members suggested that recidivism should be the yardstick for the success of Murri Court. Both groups similarly viewed improvements in the lifestyles and wellbeing of participants as outcomes for Murri Court (24% and 27% respectively). The qualitative interviews revealed that Stakeholders felt that Murri Court had instigated change within the participants. Participants identified that Murri Court had led to a reunification of families; the instigation of a will for self-improvement and character change; the acquiring of employment/training and licences (e.g. car); and a reinvigorated respect for community, culture and the Eldership.


The Murri Court Sentence Reports of participants between 2016 and 2018 revealed that the vast majority believed that the specialist court had helped them avoid deviant and criminal behaviour. The provision of mentoring, having to appear before Elders and Respected Persons as well as before the Magistrate, access to rehabilitative options, and the prompting of reflection/awareness were cited as the means by which this was achieved. It was acknowledged that this was and could not be the case for all participants, and that such results should not discredit the overall efficacy of the Murri Court.

2. Encourage defendants to take responsibility for their offending and increase defendants' awareness of the consequences of their actions for victims and the community

Data gathered from Sentence Reports and qualitative interviews suggest that the Murri Court program has contributed to defendants both taking personal responsibility for their criminal conduct and increasing awareness of how their acts/omissions affected victims and their community. The presence of Elders and Respected Persons and the ability of defendants to interact more openly with the court was shown to be efficacious in stimulating change. Participant responses suggest a recognition of harm (especially to community), with themes of shame and the need for reparation present in participant responses.

3. Encourage Magistrates to consider at sentence how a defendant's cultural and personal circumstances contribute to their offending

Stakeholders and community members commented that there are varying degrees of interest, understanding and empathy among the Murri Court Magistrates. While some Magistrates expressed a desire to harness Aboriginal and Torres Strait Islander knowledge and perspectives to facilitate therapeutic outcomes for



offenders, the execution of this remains at their discretion. Enabling the consistency of serving Magistrates was identified as a way to create more efficient outcomes for offenders, as was more regular implementation of therapeutic jurisprudence across the Murri Court program overall.

4. Encourage defendants' attendance and engagement with support services while on bail

The unique structures of the Murri Court, with the presence of the Elders and Respected Persons, were found to encourage participants to fulfil bail requirements. The influence of the Elders' and Respected Persons' direction, alongside offenders not wanting to displease the Elders and Respected Persons, was noted to be the motivating source of offender compliance. It was acknowledged that the proviso to this was, as mentioned earlier, whether the services were accessible to the offender.

5. Facilitate improvements in defendants' self-reported physical and psychological health and quality of life

Initial findings suggest that Murri Court, through providing a less intimidating court system and through referral of offenders to needed support services, facilitates improvement in the quality of life and psychological and physical health of Aboriginal and/or Torres Strait Islander participants. Comments from offenders discussed improvements Murri Court had brought to their quality of life, such as being reunited with family and acquiring employment, and to their health, such as receiving counselling and freedom from substance addition.

6. Improve defendants' engagement with and understanding of the court process


It was found that Aboriginal and/or Torres Strait Islander participants wanted to be tried through Murri Court so they could access what they perceived as a culturally safe and fair process (free of racial bias), avoid incarceration and adhere to familial or community desires. This cultural safety of Murri Court improved participant engagement with the court process, though it did not necessarily improve understanding of the process overall. Stakeholders were found to expect defendants to be grounded in respect for Elders, Respected Persons and the more informal judicial system and process and to be willing to be corrected and reformed. The majority of participants did not express concern with the eligibility or referral process to Murri Court and were mostly satisfied that the bail conditions were fair. Not all Aboriginal and/or Torres Strait Islander offenders are eligible for Murri Court. However, some community members and stakeholders were concerned with the requirement that participants plead guilty, regarding it as a coercive referral process that used access to human services or perceptions of 'lighter sentencing' as enticements.

7. Improve Aboriginal and Torres Strait Islander Elders' and Respected Persons' confidence in and knowledge of the court process

Elders and Respected Persons were found both to be more knowledgeable about the criminal court process and subsequently to generally have greater degrees of confidence in the court process because of their service with Murri Court. Elders and Respected Persons discussed how they then brought this knowledge back to their communities.

Understand if Murri Court is cost-efficient

It is difficult to evaluate whether the Murri Court program is cost-efficient given its unique role and the difficulty of determining which evaluative criteria should be applied. Consideration should be given to the fact that a significant amount of work within the Murri Court program is undertaken voluntarily (by Elders and Respected Persons) or done out of good will (where budgets do not cover all staff). Without this unpaid labour, the Murri Court program would not operate successfully and would be unable to complete its mandate; in that respect, it



is not cost-efficient. This report questions whether a court system should be expected to operate on good will alone, where in other sectors this would not be feasible.

To be cost-efficient, Murri Court would require sufficient inputs (i.e. brokerage, funded staff, etc.) to produce the required outputs (i.e. manage the number of participants in the program). When survey participants were asked whether and how Murri Court could be improved in its operations, discussions typically moved to the subject of money. Overall, there was consensus between community members and relevant stakeholders that Murri Court was understaffed and that increased funding would help improve service provision and program outcomes. In this respect, it was the perspective of participants that Murri Court was not cost-efficient. While this evaluation did not address cost effectiveness, that is, whether program inputs are sufficient to produce good outcomes, survey participants felt that more resources would produce better outcomes. Recurring themes included the employment of additional professional and administrative staff to the Court, the inclusion of additional Elders and that Elders receive higher stipends/salaries. Additional funding was seen by both groups of participants as necessary to expand the capacity of Murri Court generally and so it could process offenders, particularly young offenders.

When asked about procedures, participants said that administrative processes attached to Murri Court (both for those being processed, as well as for its staff) required redrafting and/or streamlining to make paperwork more readily accessible and manageable; common complaints were that it was difficult to understand, time consuming and repetitive and should be more readily available to program Elders and Respected Persons.

1.3. Conclusions

This evaluation shows there is a widespread respect for the Murri Court program and the people who take part in it, both salaried and non-salaried personnel, Magistrates and lay people. Accounts have been shared of how Murri Court has facilitated change and the restoration of the lives of dozens of Aboriginal and/or Torres Strait Islander people, assisting in rehabilitative efforts, enabling the securing of employment and stabilising families (both through addressing domestic abuse and in preventing incarceration). Murri Court has been identified as a vehicle that reduces incarceration of Aboriginal and/or Torres Strait Islander people in Queensland as well as curbs the ‘revolving door of justice’.

It is acknowledged that the Murri Court alone cannot rectify the widespread and entrenched inequalities and variables stimulating criminogenic needs and risk factors for criminal decision-making among Aboriginal and/or Torres Strait Islander Australians. This is reflected in the fact that recidivism and desistance rates may not have fallen to the standard desired by some commentators; as mentioned above, more time and relevant data are needed before reassessing these criteria in Queensland. It is beyond the power of a court to overturn centuries of systemic inequality created by colonisation in Queensland. Notwithstanding this, Murri Court is an important component of restorative efforts to stimulate further positive change in the lives of and welfare for Aboriginal and/or Torres Strait Islander people in the state.

1.4. Recommendations

The empirical data demonstrates that the Murri Court system and its affiliated supportive services are welcomed, respected and deeply appreciated by Aboriginal and/or Torres Strait Islander communities across Queensland. Furthermore, the findings suggest that the Murri Courts are, in a number of respects, meeting their founding objectives and bearing fruit in the lives of Aboriginal and/or Torres Strait Islander people. In considering the empirical data, the literature review and the discussions of the Murri Court program 2016–2018 gathered here, Ipsos identifies the following 10 recommendations and an observation for consideration.

Recommendation 1: Length of bail and time in Murri Court

The extended time on bail and enrolment in the Murri Court program may have unintended consequences on participants. Other types of non-custodial (sentence of custody suspended) therapeutic orders (such as drug rehabilitation/treatment orders) be developed to serve participants better to minimise breaches of bail. In light of this it is advised:

1.1 To contribute to the reduction of bail breaches among participants within the Murri Court, follow the recommendation of the Australian Law Reform Commission (ALRC, 2017, p. 27) that bail laws be amended to require bail authorities to consider a person's Aboriginal and/or Torres Strait Islander cultural background, living circumstances and remoteness and obligations when setting bail conditions, as is the intent in Queensland, but more understanding of the context and how conditions impact on defendants' capacity to comply, is needed of legal representatives and the court.

1.2 Consider further investigation into why the process has not kept to the 12 weeks in some locations. This may mean further funding for CJGs to fund Indigenous bail support programs and additional support.

1.3 Consider establishing post-sentence Elder and Respected Persons circles, perhaps as part of community service orders, to provide ongoing post-sentence support to participants.

Recommendation 2: Remuneration of Elders and Respected Persons

The qualitative data sourced from this evaluation revealed a consensus of opinion that the Elders and Respected Persons involved in the Murri Court program should be paid both at a higher rate (perhaps equal to that of an expert witness) and for more than only court attendance. The current payment is insufficient to cover the costs that Elders and Respected Persons incur and should be increased to cover at least the expenses and time they provide. This may also address some of the barriers to increasing the number of Elders and Respected Persons available for Murri Court.

2.1 At the very least, fund reimbursement of the cost of volunteering (i.e. taxis, lunch, parking, etc.) in respect to the contribution Elders and Respected Persons provide to Murri Court. Payment could be issued by EFTPOS debit cards or store gift cards or vouchers as an honorarium.

2.2 To increase the number of Elders and Respected Persons available for Murri Court, implement succession planning.


Recommendation 3: Additional Murri Court Magistrates

Additional Aboriginal and/or Torres Strait Islander Murri Court Magistrates and consistent Magistrates who have a therapeutic jurisprudence approach were considered some of the key ways in which to ensure support of and proper consideration for personal and cultural factors of the participant.

3.1 As per actions contained in the Reconciliation Action Plan (RAP), the judiciary, including the Chief Magistrate, work with the Bar Association of Queensland and the Queensland Law Society to encourage suitably qualified Aboriginal and/or Torres Strait Islander people to submit expressions of interest to the Judicial Advisory Panel for judicial vacancies in Queensland. The Chief Magistrate could encourage Aboriginal and/or Torres Strait Islander Magistrates to consider time in service across Murri Court sites.

Recommendation 4: Portability of Murri Court

Many stakeholders and community members would value a Murri Court in all locations across Queensland or at least where a CJG exists. Participants had very poor experiences in mainstream courts, which could be improved through mechanisms similar to those in Murri Court without the full implementation of a Murri Court. This may be practical in areas where there are fewer Aboriginal and/or Torres Strait Islander offenders appearing in



Magistrates Courts. Therefore full portability of Murri Court may not be practical in every location, however changing Magistrates Courts is possible.

4.1 Consider implementing additional Murri Courts across Queensland or at least where this may not be achievable due to smaller offender populations, applying Murri Courts principles to mainstream courts.

4.2 Consider areas where higher numbers of Aboriginal and/or Torres Strait Islander offenders are appearing in Magistrates Courts.

4.3 To change the future approaches in mainstream Magistrates court, include more content in the legal training programs offered within Queensland Universities. Things to consider could include education on therapeutic jurisprudence as an admission requirement for barristers and solicitors in Queensland, such as for the Bar Exams and Practice Course for barristers and the practical legal training course or supervised traineeship for solicitors; for instance, set mandatory reading on the topic. This recommendation is outside the jurisdiction of DJAG but worth stating in this report.

4.4 Monitor and measure implementation of the Magistrate's RAP for effectiveness, to determine if changes in approaches by Magistrates are occurring in mainstream courts as well as Murri Court.

Recommendation 5: Eligibility criteria

To be eligible for Murri Court, participants must satisfy a number of eligibility criteria, including identifying as Aboriginal and/or Torres Strait Islander and having pled, or intending to plead, guilty. We recommend that the eligibility criteria be reassessed by DJAG in the following ways:

5.1 Remove requirement of submission of guilty plea.

5.2 Ensure that the Assessment Panel has a minimum of two Elders or Respected Persons.

Recommendation 6: Victim impact statements

6.1 Victims often involve offenders' families and community members. Investigate the role of victim impact statements and victim participation in Murri Court.

Recommendation 7: Ongoing engagement


The evaluation findings suggest that participants are in Murri Court for longer than the intended 12 weeks, which gives them more opportunities to engage with support services and demonstrate ability to change before the writing of the Sentence Reports. An unintended consequence is that participants are staying longer to get the services and support they need to improve their chances of not reoffending.

7.1 Take a whole-of-government approach to find where gaps exist in service delivery and address the funding need for ongoing case management or tracking services to provide support for Murri Court participants following sentence.

Recommendation 8: Case management

This evaluation and criminological literature more broadly show that enlisting defendants into case management can contribute to successful outcomes for those who appear before Murri Court (see White & Graham, 2014 ALRC, 2018).

8.1 Introduce culturally appropriate assessment in the Murri Court program, similar to that offered within Court Link, to assess the criminogenic and personal needs of participants to ensure rehabilitation.



8.2 Determine who should oversee the case management of offenders and investigate ways that the Murri Court program could increase the level of intensive case management based on a need's assessment of high-needs offenders.

Recommendation 9: Clearly articulating the mechanisms in the Murri Court model

This evaluation has shown that there is a logic failure in the way the Murri Court model is articulated because goals are too broad and there is confusion about which levels (systems or operational) of the program are responsible for its outcomes.

9.1 Conduct a review of the present project logic to identify 'what makes it work' and establish indicators/benchmarks of these mechanisms so that ongoing program monitoring can assess whether or not outcomes are being achieved.

9.2 When departmental reviews of the efficacy of the Murri Court program take place, weigh the output of the program against the goals and aims overall, rather than looking at individual measures such as expenditure and reductions in Aboriginal and/or Torres Strait Islander offending.

Recommendation 10: Data collection from reports

It is acknowledged that the data for the segmentation analysis pertains to less than half of the overall cohort and only includes those who completed the Murri Court Sentence Report and Sentence Questionnaire, that is, they were sentenced in Murri Court. Less is known about Murri Court participants who were adjourned back to mainstream court or who breached bail and exited the program. The analysis also does not have any subsequent information about how the participants are progressing with service use or feeling after final sentencing when they exit the program. Complete datasets are vital to building a more complete understanding of the Murri Court program and participant experiences.

10.1 To improve understanding of the purpose of the Sentence Report and Sentence Questionnaire by participants (and others), communicate stories (with due consideration for confidentiality) from each of the segments (and not just those where change is most evident) to key audiences.

10.2 Empower participants by sharing with them the information collected about them. This places participants at the centre of their own future, encouraging them to identify their existing strengths and any supports and barriers to making change. Use visual tools, symbols and cues to communicate and connect with participants so they can map their journey and plan for the future. Track this journey's success or otherwise to provide valuable evaluation measures for program effectiveness. An example of more accessible discussion prompts is the Blurred Borders Program undertaken by Legal Aid in Western Australia and the Northern Territory.

Observation

Throughout the interviews with stakeholders and community members, requests for additional Youth Murri Courts were raised a number of times. A limitation of this evaluation is that it was not able to investigate Youth Murri Courts in detail with participants, and further youth specific research should be undertaken with relevant ethical approvals. Given that Aboriginal and/or Torres Strait Islander youth are known to be highly represented within the criminal justice system, we advise investigation into what will work best for young offenders, as they have significantly different needs and service requirements.

Reform measures of raising the minimum age of criminal responsibility to 12, not sentencing children aged 10–12 to youth detention and making youth justice conferences mandatory for children aged 10–12, along with adoption of a therapeutic jurisprudence approach that has empathy and cultural safety, could improve the experience and outcomes for young Aboriginal and/or Torres Strait Islander defendants.



Observation

Increasing access to support services that are culturally safe and effective is vital to the success of Indigenous Sentencing Courts (ALRC 2018). The evaluation finds that not all services were accessible or culturally appropriate. We agree that Murri Court participants would benefit from additional support services, in particular ones that are developed specifically for their cultural and unique therapeutic needs. We recommend investigation be undertaken via a survey of each of the Murri Court sites to ascertain which services are not readily available to ensure consistency in access state-wide.

1.5. Considerations when reading this report

The primary data collection in this evaluation was conducted in four locations by local Aboriginal and/or Torres Strait Islander researchers. Analysis of individual communities have not been written up for those community residents, stakeholders and Murri Court participants who chose to speak to us; this is to protect their anonymity, which is particularly important for Aboriginal and/or Torres Strait Islander communities, as individuals are sometimes easily identifiable in such small populations.

This report describes the research findings at a level of abstraction broad enough to inform policy change across Murri Court locations but specific enough that some learnings can be applied at a practice level by other Magistrates Courts where the contexts may be similar to those in this report and a CJG is funded.

This evaluation is not a prevalence study. The findings are mostly qualitative, which means they are complex, contextual, sometimes consistent and sometimes contradictory. Defendants and community members want their diversity understood. There is no simplistic 'Aboriginal and Torres Strait Islander voice' nor is there one 'Community' voice. This report contains many strong voices and diverse views that together make up a story about the Murri Court. The authors caution against using a single finding in isolation without consideration of the broader context of Aboriginal and/or Torres Strait Islander communities.



BACKGROUND

2. Evaluation purpose and approach

The purpose of this report is to provide an early evaluation of whether there are initial indications of the effectiveness of the newly implemented Murri Court program. This evaluation sought to provide an *impact assessment* in measuring the changes that have occurred and the relationship between program inputs and outcomes, thereby to identify whether the investment in the program was sufficient to deliver services as per its aims. Guided by a *realist ontological perspective* (see below) the report comments on what has happened to date and how this can be improved in understanding the complexity of crime and deviance.

This report acknowledges that Murri Court operates within a complex and multifaceted criminal justice system, encompassing multiple stakeholders (e.g. Magistracy, Murri Court program staff; community and non-government service providers; community members; and government staff in multiple agencies) across a number of locations. It is recognised that Murri Court operates on principles for cultural courts established in other jurisdictions (see literature review) and involves participants who are in the program while awaiting sentencing with considered bail conditions (e.g. support service referral), each guided by the aim to achieve meaningful and lasting personal and communal change.

2.1. Governance and communication

This evaluation project had two governance structures: Stakeholder Group and Cultural Reference Group. A Stakeholder Group was convened by DJAG. Its membership comprised government and non-government stakeholders (Aboriginal & Torres Strait Islander Legal Service). Table 1 contains details of the Stakeholder Group membership.

Table 1 Evaluation Stakeholder Group

	Organisation (number of representatives)
	Magistrates Courts Service
Courts Innovation Program	Research and Evaluation, Indigenous Justice Program, Policy and Programs
	Department of Aboriginal and Torres Strait Islander Partnerships
	Department of Housing and Public Works
	Youth Justice, Department of Child Safety, Youth and Women
	Queensland Corrective Services and QPS
Community Justice Groups	Brisbane, Richlands, Toowoomba
	Department of the Premier and Cabinet
	Aboriginal & Torres Strait Islander Legal Service
Murri Court Magistrates	Brisbane, Cairns
	Queensland Health
	Queensland Treasury
	Ipsos

The Evaluation Cultural Reference Group (CRG) was convened by Ipsos as the main mechanism to ensure the cultural integrity of the evaluation. The CRG co-designed the interview and focus group schedules and provided advice in three meetings during the evaluation. Table contains details of the CRG members.

Table 2 Evaluation of Cultural Reference Group

Location	Aboriginal and/or Torres Strait Islander
Townsville	Aboriginal
Mackay	Aboriginal and/or Torres Strait Islander
Rockhampton	Aboriginal
Cherbourg	Aboriginal
Brisbane	Aboriginal
Brisbane	Aboriginal
Toowoomba	Aboriginal
Brisbane	Aboriginal

DJAG facilitated the communication and correspondence between relevant stakeholders on behalf of the research team for this evaluation.

2.2. Ethics


An ethics review was required for the undertaking and completion of this report. A submission was made to and approved by the Australian Institute of Aboriginal and Torres Strait Islander Studies, Research Ethics Committee in August 2018. Updates were provided to the Ethics Committee in September 2018, which finalised approval to conduct the research (HREC Reference Number: EO92-19072018).

2.3. Research team

The Ipsos research team for this project included personnel from Brisbane, Mt Isa, Cherbourg, Cairns and Hobart as outlined in Table 3.

Table 3 Ipsos research team

Name	Main roles
Sharon Barnes	Project lead, methodology design, stakeholder management, fieldwork coordination, data collection, review of documents, interpretation of findings
Michael Barnes	Methodology design, development and coding of primary database, data collection, code frame development, review of documents
Kylie Brosnan	Coordination of secondary and quantitative data descriptive analysis, development of analytical frameworks for segmentation analysis, report writing
Michael A. Guerzoni	Report writing
Karen Martin	Data analysis (primary and secondary data), synthesis of evidence, report writing
Zabowie Nona	Data collection, coding of primary data
Cyndi O'Loughlin	Data collection
Jen Toonen	Stakeholder phone interviews



3. Murri Court program contexts: Aboriginal and Torres Strait Islander people and the criminal justice system

From 1987 to 1991, a Royal Commission into Aboriginal Deaths in Custody (hereafter ‘Royal Commission’) investigated and condemned the over-representation of Aboriginal and/or Torres Strait Islander people within the criminal justice system. Many of the 339 Royal Commission’s recommendations identified systemic factors that caused or perpetuated intergenerational disadvantage among Aboriginal and/or Torres Strait Islander Australians and thereafter contributed to criminal behaviour.

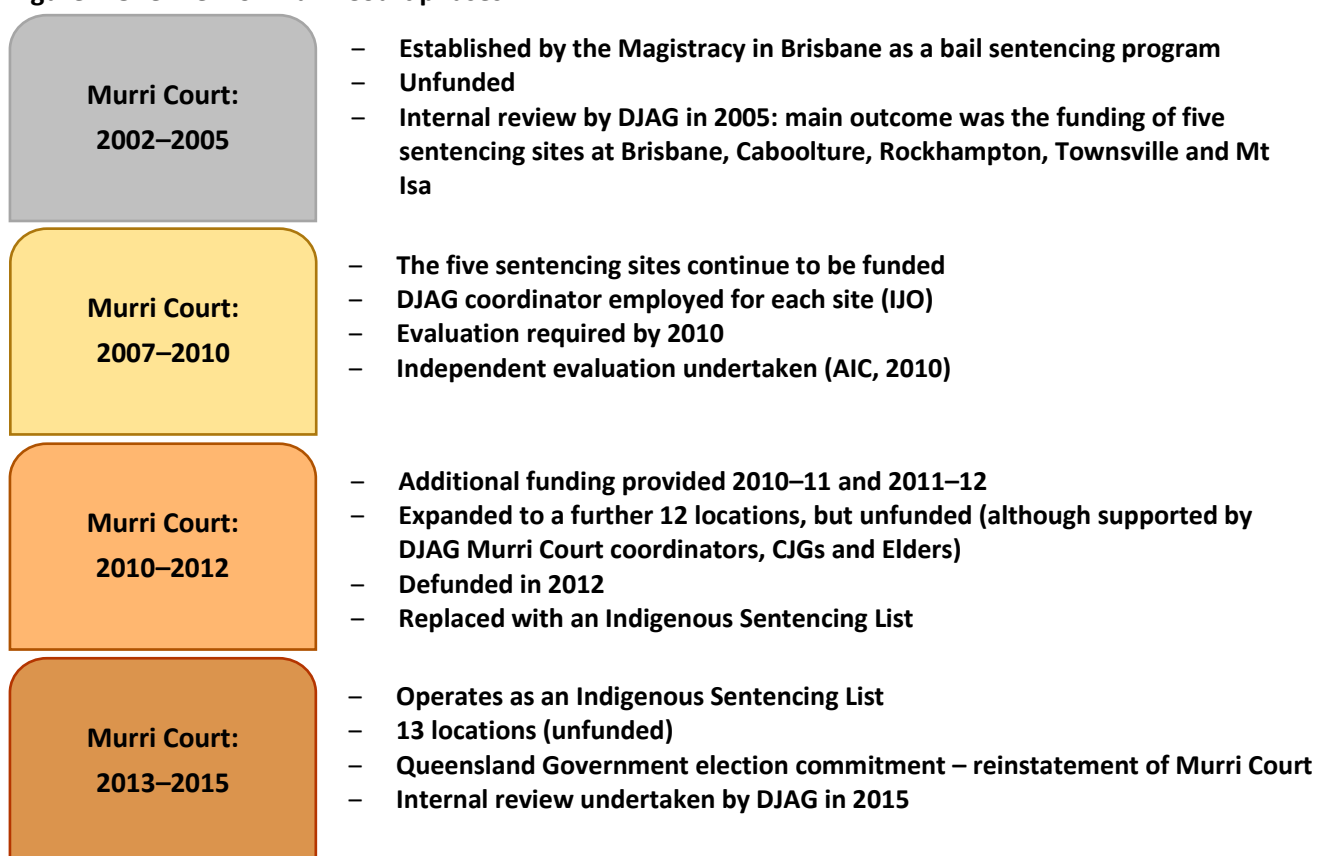
When Aboriginal and/or Torres Strait Islander people enter the criminal justice system, they are further disadvantaged by adversarial procedures that are alien to them and are difficult to interpret and understand. Such barriers perpetuate incarceration and conviction of Aboriginal and/or Torres Strait Islander people as they increase the likelihood of self-representation, self-incrimination and being held in contempt of court. Such concerns were instrumental in the establishment of the first Murri Court in 2002, a collaborative initiative between the Queensland Magistracy and members of the Brisbane Aboriginal and/or Torres Strait Islander community (Irwin, 2002). Murri Court seeks to provide alternate sentencing models guided by therapeutic jurisprudence.

Murri Court is just one of a suite of specialist courts that have been introduced for Aboriginal and/or Torres Strait Islander people in Australia. Economic modelling of incarceration of Aboriginal and/or Torres Strait Islander people by PwC Indigenous Consulting (2017) estimated that the cost to the Australian economy is almost \$8 billion per year. For Queensland alone, the 2016 budget estimated that the fiscal costs of the criminal justice system totalled at \$991 million. Governments are reconsidering justice expenditure, considering that it has been estimated that the average annual cost of imprisonment (per person per year in 2014–15) was \$61,179 per prisoner (Morgan, 2018) compared to the estimated cost of community corrections, which is \$6,516 per offender for their reference episode. This means that the imprisonment cohort incurred costs to the offender, government and wider community that were more than nine times those for the community cohort.

Our evaluation contributes to a review of justice expenditure within Queensland. In 2018, the Queensland Productivity Commission was charged to conduct an inquiry on recidivism and imprisonment within the state (QPC, 2018). The final report, which is expected to also comment on the factors behind the imprisonment and recidivism rates of Aboriginal and/or Torres Strait Islander peoples, is expected to be released in August 2019. The work in this evaluation contributes towards understanding the effectiveness of the Murri Court program in supporting Aboriginal and/or Torres Strait Islander defendants as they engage with the criminal justice system.

The present Murri Court is one of several versions of the program initiated since 2002 (as shown in Figure).

Figure 1 Overview of Murri Court phases




3.1. The Murri Court intent

The Murri Court operates as a subset of the Queensland Magistrate Courts and operates across 14 sites: Brisbane, Caboolture, Cairns, Cherbourg, Cleveland, Mackay, Maroochydore, Mt Isa, Richlands, Rockhampton, St George, Toowoomba, Townsville and Wynnum. These sites reflect the location of Aboriginal and/or Torres Strait Islander communities, CJGs, key justice stakeholders and service providers.

Murri Court operates in collaboration with a number of stakeholder groups, a partnership which is essential to its function and success. At the systemic level, this includes QPS, Queensland Corrective Services, and Judiciary and Legal Services. At the program level, this includes support services, treatment programs and health services. The Murri Court program is therefore a multi-departmental and multi-agency model.

Aims and program logic

Murri Court was established to help minimise over-representation of Aboriginal and/or Torres Strait Islander people within the criminal justice system in Queensland by providing a culturally sensitive and informed judiciary within a court that is structured to be more approachable and less intimidating (King, 2010; Daly & Sarre, 2017). In its sentencing, Murri Court is conscious of inequality and justice issues affecting Aboriginal and/or Torres Strait Islander people. It operates through a therapeutic jurisprudence framework to, where possible, address underlying criminogenic needs and the rehabilitation of participants to prevent reoffending (Denning-Cotter, 2008; Willis, 2017).



According to Murri Court documentation, these goals, aims and desired outcomes are as follows (DJAG, 2015; Queensland Courts, 2016).

Aims

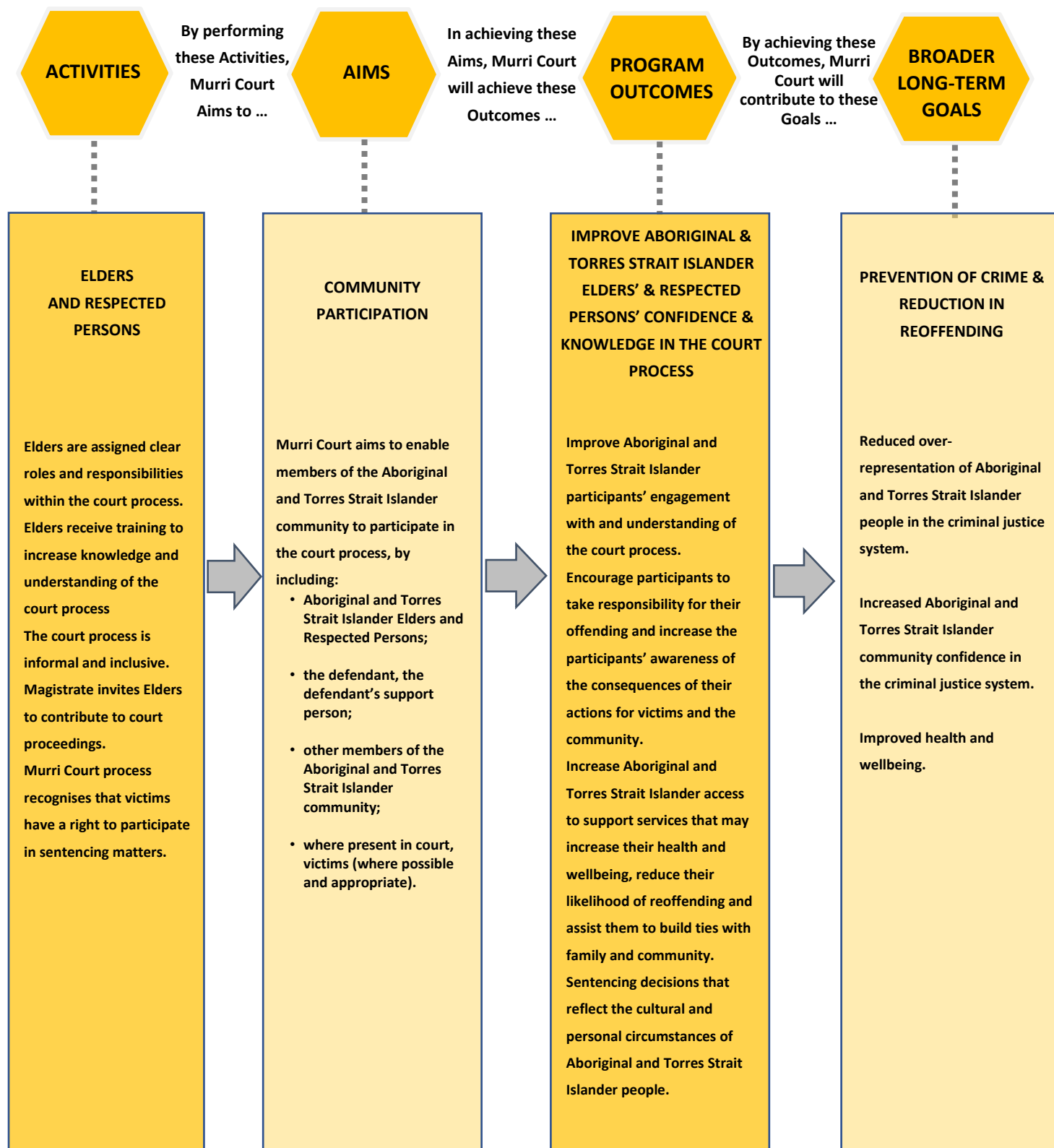
- Engage members of the Aboriginal and Torres Strait Islander community in Murri Court
- Administer a court process that respects and acknowledges Aboriginal and Torres Strait Islander culture
- Refer defendants to services and other support in the community in order to address the underlying contributors to their offending
- Ensure that, at sentence, Magistrates are informed regarding the defendant's cultural and personal circumstances, treatment progress, and his or her ongoing support needs

Desired outcomes

- Improve Aboriginal and Torres Strait Islander Elders' and Respected Persons' confidence and knowledge in the court process
- Improve Aboriginal and Torres Strait Islander defendants' engagement with and understanding of the court process
- Encourage defendants to take responsibility for their offending, and increase defendants' awareness of the consequences of their actions for victims and the community
- Encourage defendants' attendance and engagement with support services while on bail
- Encourage Magistrates to consider at sentence how a defendant's cultural and personal circumstances contribute to his or her offending
- Facilitate improvements in defendants' self-reported physical and psychological health and quality of life
- Reduce the frequency and seriousness of any subsequent contact Murri Court defendants might have with the criminal justice system

The Murri Court program logic aligns with the strategic objective DJAG has for a fair, safe and just Queensland. Figure 2 depicts the four components of the Murri Court program logic (Activities; Aims; Outcomes; Broader, long-term goals).

Figure 2 Overview of Murri Court program logic



3.2. The Murri Court processes

Figure 3 outlines the three stages of the Murri Court process: 1) Referral and assessment phase, 2) Pre-sentence referral process, and 3) Sentencing phase.

Once charged, defendants may be referred to Murri Court by their legal representative, the CJG or the Magistrate, or they may refer themselves. Where possible, this should be done at their first court appearance.

An Eligibility Assessment Form must be completed by the referring party and signed by the defendant. To be eligible to participate in Murri Court, a defendant must:

- have a matter in a district where there is a Murri Court;
- have current charges which are to be dealt with summarily;
- be on bail or have been granted bail but be yet to sign an undertaking as to bail;
- identify as an Aboriginal person, Torres Strait Islander person, or have a kinship or appropriate connection to the Aboriginal and/or Torres Strait Islander community;
- intend to plead guilty or have entered a guilty plea to the charge(s) they intend to refer to Murri Court;
- consent to participate fully in the Murri Court process;
- consent to the disclosure and exchange of their personal information between the Court and other relevant agencies or persons.

The Magistrate considers the Eligibility Assessment Form and any other relevant information and decides if a defendant is eligible. If so, the Magistrate then adjourns the matter for approximately two to four weeks to allow an assessment to occur. The Court Services Officer provides a copy of the Eligibility Assessment Form and the bail undertaking to the CJG, Courts Innovation Program, prosecutor and the defendant's legal representative (if any).

The CJG contacts the defendant during the adjournment period and arranges an Assessment Panel to complete a Murri Court Entry Report.

At the first Murri Court mention, the Magistrate will determine the defendant's suitability to participate in the Murri Court pre-sentence referral process. The Magistrate considers the Murri Court Entry Report, any relevant facts and circumstances and any submissions by participants such as the CJG.

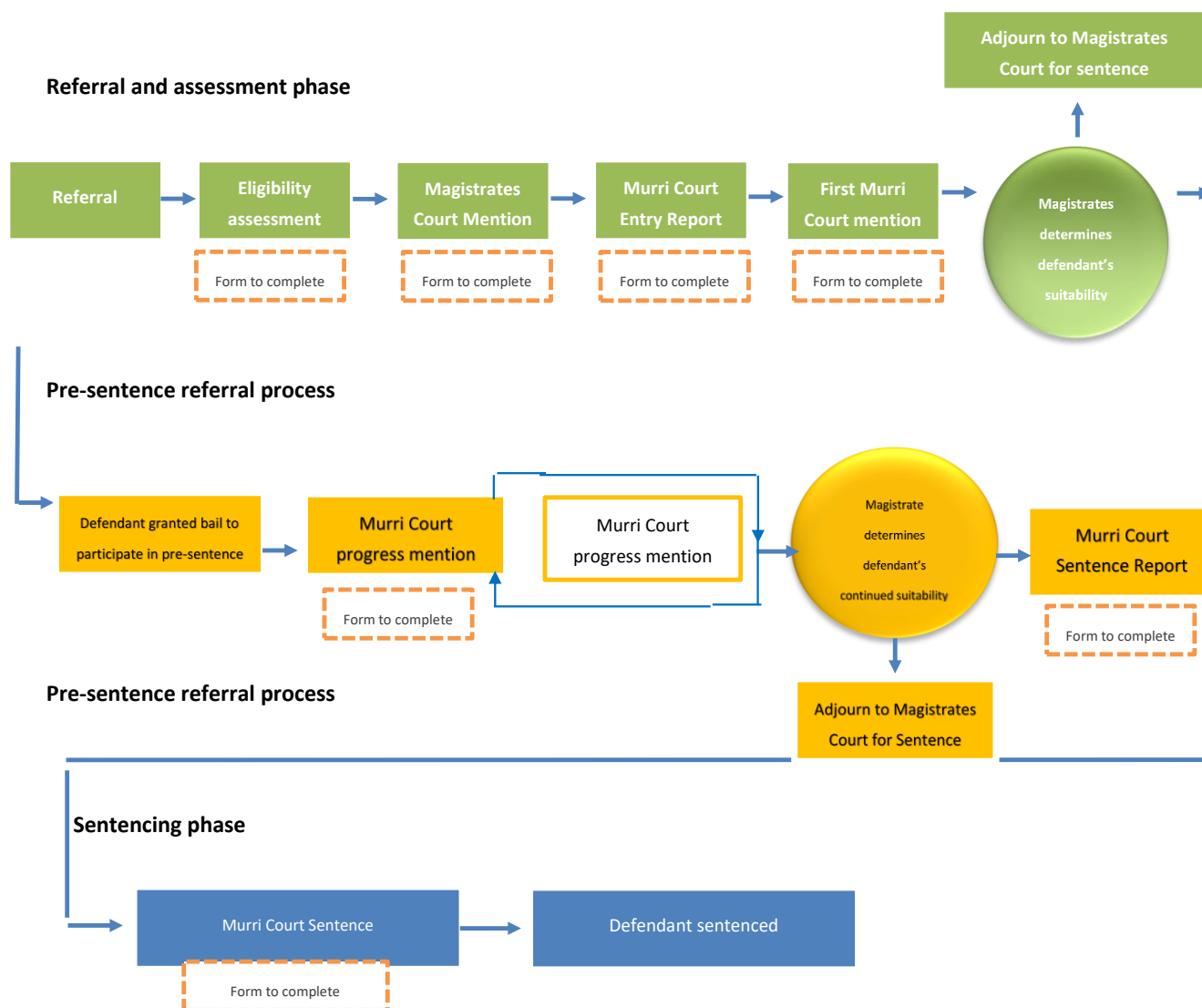
During the pre-sentence referral process, the defendant works with the CJG and support services to address underlying contributors to their offending. Progress mentions will be set down by the Murri Court Magistrate. The number of progress mentions will vary depending on a number of factors, including the needs of the defendant and court availability.

At one of the progress mentions, the Magistrate will request that a Murri Court Progress Report be prepared by the service provider(s) or CJG assisting the defendant.

At the end of the pre-sentence referral process, the Magistrate will ask that a Murri Court Sentence Report be prepared by the Assessment Panel, and the matter will be set down for sentence.

The Magistrate will consider the Sentence Report, any submissions by the participants and any victim impact statements and then will sentence the defendant according to law.

Figure 3 Overview of Murri Court process



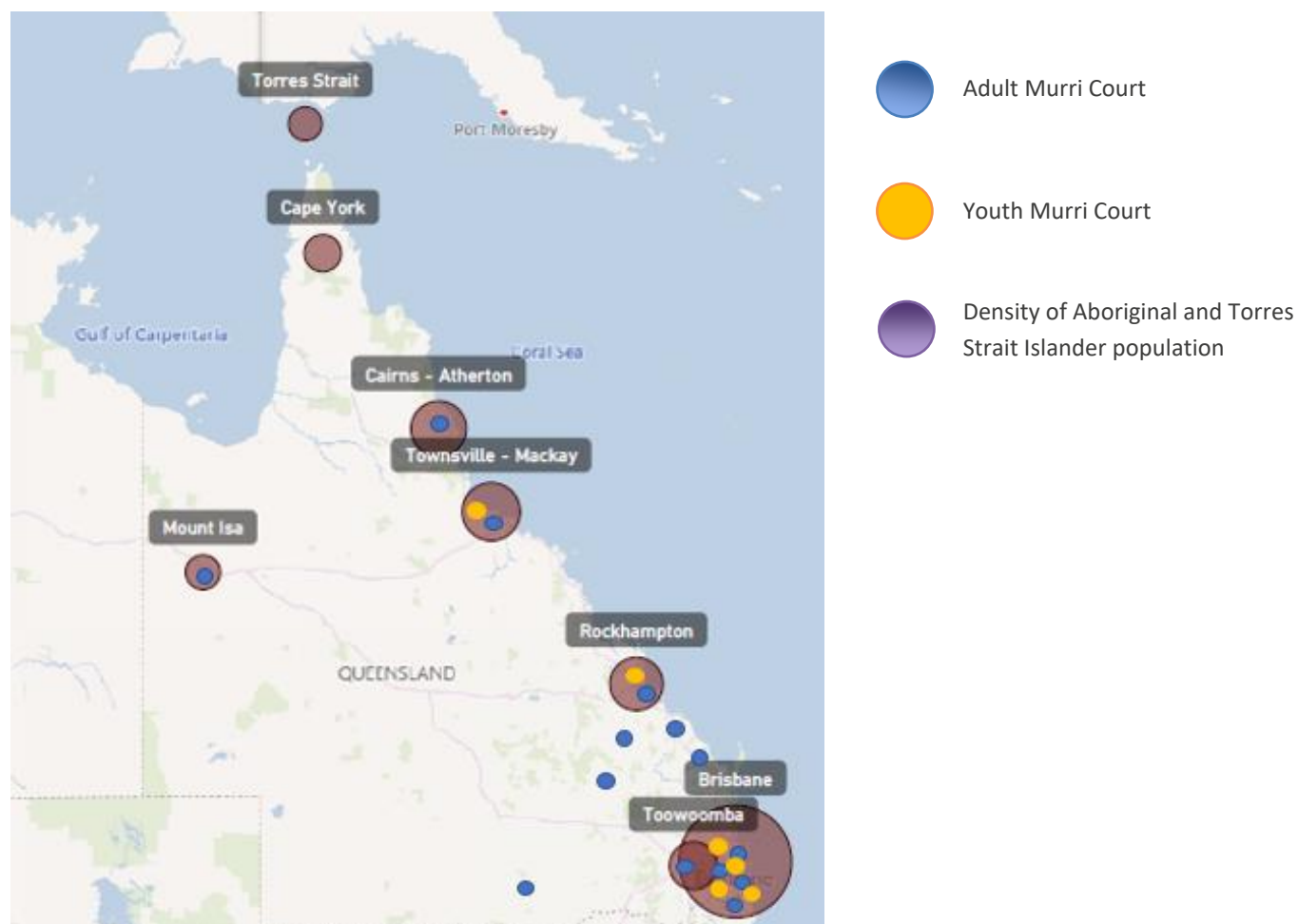
3.3. Murri Court locations

The 2016 Census recorded that 4.0% of Queensland residents identified as being of Aboriginal and/or Torres Strait Islander origin (186,482 people) (ABS 2016). Of the 649,171 Aboriginal and/or Torres Strait Islander people counted Australia-wide, more than a quarter (28.7%) were residents of Queensland. In the five years to 2016, the census count of Aboriginal and/or Torres Strait Islander Queenslanders increased by 30,658 (or 19.7%), faster than the increase in the decade earlier (13.3%). This growth can be attributed to a combination of factors, including natural population increase, an increasing propensity for people to identify as being of Aboriginal and/or Torres Strait Islander origin and improved data collection methods. Brisbane had the highest count of Aboriginal

and/or Torres Strait Islander persons of all Census Indigenous Regions in Australia, with 70,734 (or 10.9% of the population). More than a third (37.9%) of Queensland's Aboriginal and/or Torres Strait Islander population lived in Brisbane (Queensland Government Statisticians Office, 2017).

There are 112 places where Magistrates Court hearings are held in Queensland, and not all can refer persons to Murri Court. Of the 14 locations where Murri Court operates (see section 3.1), Brisbane, Cleveland, Mackay, Richlands, Rockhampton and Wynnum also have a Youth Murri Court. Figure shows these locations in the context of the Aboriginal and/or Torres Strait Islander population of Queensland.

Figure 4 Murri Court locations



3.4. Key roles in the Murri Court

The following section identifies and explains the key roles involved in the Murri Court program, including those of the Elders and Respected Persons, CJGs, Indigenous Justice Officers (IJOs) and the Magistrates.

Elders and Respected Persons

Elders and Respected Persons are widely recognised as central to the appropriateness and effectiveness of the Murri Court program. Elders and Respected Persons are held in high esteem among participants for the wisdom acquired from their life experiences and the status afforded by Aboriginal and/or Torres Strait Islander people and communities. This is true even though participants may not be from the same community as the Elder or Respected Person. Holding largely an honorary role within the Court, Elders and Respected Persons have a collection of responsibilities, including:

- assessing a participant's eligibility and suitability to participate in Murri Court;
- yarning with / interviewing participants to prepare the Murri Court Entry Report and Sentence Reports;
- advising the Magistrate in relation to the participant's personal and cultural circumstances (as a member of the Murri Court Panel);
- supporting and encouraging participants to meet bail conditions as they progress through Murri Court procedures.


Murri Court Elders and Respected Persons often find themselves in the role of supporting Aboriginal and/or Torres Strait Islander people who are in dire and, at times, emotionally distressing circumstances. This complexity necessitates the possession of honed pastoral care skills to provide adequate support and cultural counsel to Murri Court participants. As discussed later in this document, this emotional labour raises concerns for the physical health, spiritual strength and cultural wellbeing of Elders and Respected Persons in the Murri Court.

One or both of the participants and the Elders/ Respected Persons may be living and working away from their own Country. This complexity is they often work with participants who are not from the local area and may be living and working away from their own Country.

Elders and Respected Persons are nominated by the CJG from the local community. The CJG assigns Elders and Respected Persons to the Murri Court assessment panels and coordinates and supports them to attend court and meetings.

Community Justice Groups

The CJG program provides funding to Aboriginal and/or Torres Strait Islander organisations dedicated to supporting Aboriginal and/or Torres Strait Islander people who have come into contact with the criminal justice system. CJGs were first established in 1993 in North Queensland, and the program has since expanded across the state to 39 groups. DJAG funds the CJG program, supporting these groups to work with their local community to develop strategies for dealing with justice-related issues and reduce the over-representation of Aboriginal and/or Torres Strait Islander people in the justice system. Some CJGs operate within their own right as independent incorporated entities; others operate under the auspices of an overarching entity, although all are funded by DJAG. The main activities of CJGs are to make cultural submissions to the Magistrates Court on behalf of participants and refer participants to treatment and support programs. CJGs encourage diversionary processes, and they develop networks with government and non-government agencies to ensure issues affecting Aboriginal and/or Torres Strait Islander communities are addressed.



In Murri Court locations, the CJG also assists and directs participants on bail as they progress from a guilty plea to sentencing, which is critical to the operations and success of the Murri Court program. CJGs have a diverse role, providing cultural support to engage with and oversee the interaction of participants in court and supporting the participants to understand the court process. CJGs collaborate with other key agents such as Magistrates, legal officers and support service providers (e.g. health and accommodation services) and the local Aboriginal and/or Torres Strait Islander community to help address the participants' underlying criminological factors or social problems. As part of the CJG program, the CJGs are funded to deliver Murri Court program activities in the 14 locations. Ten CJGs provide support only to Murri Court, whereas four CJGs provide support to both Murri Court and the mainstream Magistrate Court.

The structures of the CJGs differ across the 14 sites (see Table 4), but broadly they fall into three groups:

- a) small Aboriginal and/or Torres Strait Islander community-controlled organisations;
- b) those sponsored by a larger Aboriginal and/or Torres Strait Islander community-controlled organisation (e.g. Aboriginal and Torres Strait Islander Community Health Service);
- c) those sponsored by a not-for-profit organisation (e.g. Catholic Social Services).

The organisational (and governance) structures of each CJG influence how it operates in terms of:

- how it is constituted;
- the length of time it has been operating;
- how Elders and Respected Persons are selected and supported;
- how traditional leadership structures guide it;
- contract management with DJAG and the relationship it has with IJOs;
- other funding / government support that it attracts;
- training and support it provides to its CJG Coordinator outside the funded training within the DJAG contract;
- infrastructure and resources available within it and how this may complement and support the Murri Court program where this funding is not covered in the contract.

Table 4 Community Justice Groups


Murri Court site	Organisational details	Murri Court site	Organisational details
Brisbane	Brisbane Murri Elders CJG: Five Bridges – JPC Group	Mount Isa	North West Queensland Indigenous Catholic Social Services
Caboolture	Buranga Widjung Justice Group	Richlands	Inala Wangarra Inc.
Cairns	Amaroo Aboriginal & Torres Strait Islander Elders Justice Group	Rockhampton	Yoombooda gNugeena Aboriginal and Islander Justice Panel / Juwarki Kapu-Lug Ltd
Cherbourg	Barambah Local Justice Group Aboriginal & Torres Strait Island Corporation	St George	St George Aboriginal Housing Company
Cleveland	Bayside Community Justice Group	Toowoomba	Toowoomba Indigenous CatholicCare Social Services
Mackay	Pioneer Murri Court Elders	Townsville	Townsville Community Justice Group
Maroochydore	Five Bridges Inc.	Wynnum	Bayside Community Justice Group

Figure 5 provides an overview of the responsibilities of the CJG Coordinator in both Murri Court and the mainstream Magistrates Court. Each location's court may vary in the number of sittings.

Figure 5 Community Justice Group Coordinator roles and responsibilities

Murri Court support tasks	Mainstream Magistrates Court* support tasks
<ul style="list-style-type: none"> • Convene a Murri Court assessment panel • Prepare and present Murri Court Entry Reports and Sentence Reports for each participant • Attend, support and coordinate Murri Court sittings • Support victims and offenders through court processes • Proactively refer victims and offenders to support and legal services • Attend and provide support at quarterly Murri Court stakeholder meetings • Convene CJG events and support cultural activities undertaken by CJG • Complete administrative tasks (i.e. quarterly reporting) • Providing support to the participant to meet bail conditions 	<ul style="list-style-type: none"> • Prepare and present bail submissions and sentence submissions to the court • Attend court sittings when Aboriginal and/or Torres Strait Islander offenders and victims are attending • Support victims and offenders through court processes • Proactively refer victims and offenders to support and legal services • Attend inter-agency working group meetings and community events to provide advice on cultural issues and communicate community views on justice-related issues • Complete administrative tasks (i.e. quarterly reporting)

The workload, as set out in Figure 5, of the CJG Coordinators is large and complex, which is compounded by the varying participant caseloads and requisite administration tasks. The CJG Coordinators are pivotal to the success of Murri Court as their role contributes to the cultural safety of the overall Murri Court program. The CJG Coordinator is remunerated under the Community Services Award.



The role of the CJG Coordinator is predominately between referral and pre-sentencing stages of the Murri Court program, with no specific role with the participant after sentencing.

1) Pre-sentencing phase

- Convening Elders/ Respected Persons to interview the participant and assess suitability
- Completing the Entry Report
- Attending Murri Court
- Referring participant to support services / treatment programs
- Providing support to the participant to meet bail conditions

2) Sentencing phase

- Completing Sentence Report


Murri Court Magistrates

There are 99 Magistrates in Queensland and at least 14 of whom currently sit in Murri Court. The Magistrate is responsible for convening Murri Court and has the authority to impose bail conditions, warrants and sentences. The Magistrate serves as the judicial officer in the Murri Court with all of the power and responsibility of a 'traditional' Magistrate (hearing the progress mentions, sentencing, granting bail) and the additional role of determining eligibility into Murri Court. Magistrates are encouraged to participate in cultural training and to engage with the Elders and Respected Persons and local community so that everyone understands the impact of legal processes on participant wellbeing and its implications for attaining justice system objectives.

Murri Court is an example of therapeutic jurisprudence (Spencer, 2012), where the processes used by courts, judicial officers, lawyers and other justice system personnel aim to promote outcomes connected with participant wellbeing, in particular the cultural safety of participants and sentencing approaches that seek to address the underlying causes for offending. Magistrates in Murri Court aim to achieve therapeutic jurisprudence by engaging the Aboriginal and/or Torres Strait Islander community in the court process, having culturally relevant and respectful processes and ensuring that at sentencing they have information about the participant's culture, personal history and efforts at rehabilitation.

There is flexibility in regard to the wearing of formal uniforms, language and the seating arrangements in Murri Court. QPS representatives may choose to wear civilian clothes, and Magistrates may choose to de-robe. Elders and Respected Persons may choose to wear a Murri Court uniform or sash. Alternatively, a Magistrate may choose to wear specially painted robes featuring the artwork of Aboriginal and/or Torres Strait Islander individuals. This is to present as a more personable and encouraging figure than she/he otherwise would in traditional Magistrate Courts. Magistrates are to speak in more conversational language and directly with the participants throughout, for instance to confirm that the participant understands the court process and are to permit the Elders to talk with the defendant in the court room. Magistrates also receive information from the panel about the personal circumstances of the defendant.

Ideally, to encourage communication and participation, the Murri Court Magistrate, the prosecutor, the participant, the participant's legal representative and the CJG representative will all be seated at the same level and in a circle when hearing Murri Court matters. Whether this seating is possible will depend on the physical



features of each courtroom and the needs and wishes of participants. Regardless of the seating arrangements, less formal set-ups are encouraged to support open communication between all parties.

The layout of Murri Court is intended to reflect the Court's aims of delivering a process that is culturally appropriate, that respects and acknowledges Aboriginal and/or Torres Strait Islander culture and that encourages all parties to fully engage in the court process. Wherever possible, symbols, flags, artwork and artefacts of significance to the Aboriginal and/or Torres Strait Islander community will be present in the room where Murri Court is held. The Courts Innovation Program has supplied each location with one or two sets of three flags – an Aboriginal flag, a Torres Strait Islander flag and an Australian flag: one small set for positioning on the bench and/or one tall set to be placed where practicable in the court room.

Indigenous Justice Officers

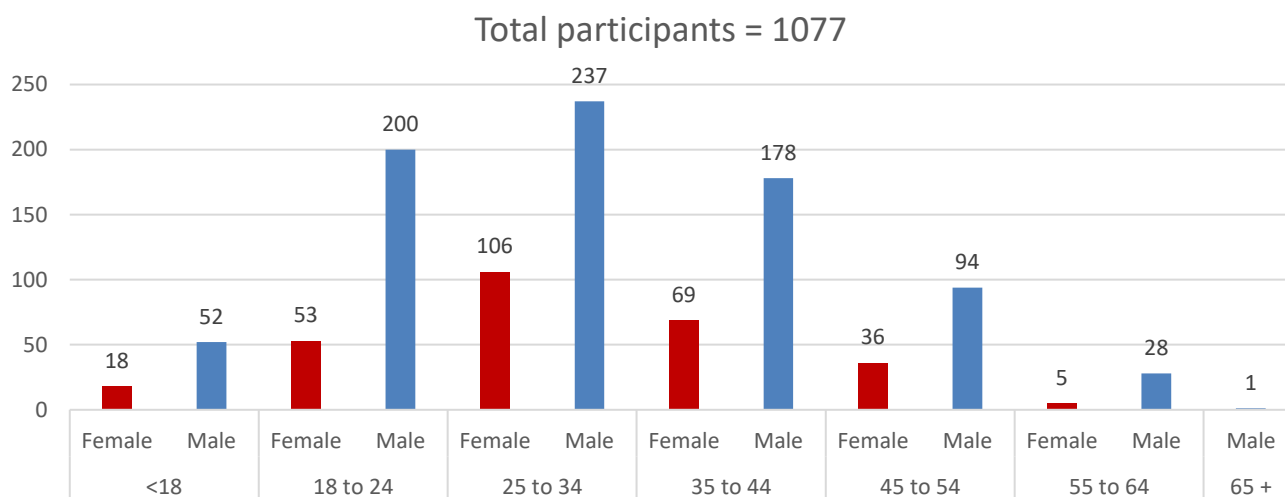
IJOs are employed within DJAG and assist the CJG Coordinator to conduct their duties and facilitate the operations of the CJG overall. At present there are 10 serving IJOs, each assigned a portfolio of several CJG across the 39 funded entities. Two managers and one executive manager support the IJOs. The responsibilities of the IJO are rather extensive, including but not limited to:

- provide advice and support to the Community Justice Group members to assist in their support of Aboriginal and Torres Strait Islander victims and offenders in contact with the criminal justice system;
- provide assistance to the Community Justice Groups and other organisations and monitor compliance and accountability in the preparation of reports, records and accounts as required under the Service Agreement;
- organise, facilitate and deliver education and program specific training to stakeholders;
- build and maintain effective working networks and information sharing mechanisms with government and non-government contacts with the aim of addressing community justice group needs, as well as representing the Department at Interdepartmental meetings and on working groups dealing with Indigenous justice issues;
- facilitate the efficient progress of Aboriginal and Torres Strait Islander offenders through the Murri Court, promote assessment processes to identify appropriate responses to address offending behaviour, and monitor and report on the outcomes of case intervention strategies developed in the Murri Court;
- support, contribute and cultivate cultural capability within the operations of other programs established under the Courts Innovation Program to assist vulnerable people coming into contact with the justice system.

3.5. Murri Court participants

Based on data from DJAG, from 1 July 2016 to 30 June 2018, 1077 Aboriginal and/or Torres Strait Islander people were referred to Murri Court. Almost three-quarters (73%) were male, and 41% were males aged 18–34 years. Figure shows the age and gender of participants referred to Murri Court.

Figure 6 Number of male and female participants by age



Source: DJAG, Courts Innovation Program Evaluation System data management system – Murri Court module as at January 2019

Just over three-quarters (76%) of participants were referred to Murri Court once, 20% twice and 4% three or more times, making 1232 episodes in Murri Court over the two years between 1 July 2016 and 30 June 2018. The most episodes (231) occurred in Brisbane Murri Court. There were 169 in Mt Isa, 168 in Toowoomba, 147 in Cairns, 123 in Rockhampton and 106 in Townsville, with other locations each having fewer than 100 episodes (Table 5).

Table 5 Number of Murri Court episodes 1 July 2016 to 30 June 2018 at each location

Court location	Number of episodes
Brisbane	231
Mt Isa	169
Toowoomba	168
Cairns	147
Rockhampton ¹	123
Townsville	106
Mackay ¹	53
Caboolture	47
Richlands	47
St George	36
Cleveland	34
Wynnum	25
Cherbourg	27
Maroochydore	19
Total participant episodes	1232

Source: DJAG, Courts Innovation Program Evaluation System data management system: Murri Court module as at January 2019

¹ includes Youth Court

Before colonisation, the reciprocal relationship between people and the land underpinned all aspects of life for Aboriginal and/or Torres Strait Islander people. Today, Aboriginal and/or Torres Strait Islander people's relationship to their traditional lands remains of central importance to their identity, cultural wellbeing and better life outcomes. A homeland may be where a cultural connection, birthplace or family is from and therefore identity formed. This may or may not be traditional land related through the kinship system. The Murri Court Entry Report asks participants about their 'traditional homelands'; however, most named their state or territory of origin. Where two homelands were identified, the first named location was used for this analysis. Figure shows the number of participants at each location. For both time frames (2016–17 and 2017–18), most Murri Court participants identified Homelands in Queensland. For the 2016–17-year, 180 people identified as coming from Queensland, 35 from New South Wales, 15 from the Northern Territory and fewer than 10 from Western Australia. For the 2017–18 year, 193 were from Queensland, 25 from New South Wales, 16 from the Northern Territory and again fewer than 10 from Western Australia. Figure shows the regions that participants come from, using the 'tribal names' they gave. Notionally, these regions include New South Wales (north-west), the border region of Queensland and New South Wales, and Queensland (south-east, south-west, central and north-west).

Murri Court Elders and Respected Persons are drawn from the local area, which may not be their traditional land or homelands. Similarly, participants in Murri Court may also identify their traditional land or homelands as being somewhere other than the location of the Court. This demonstrates some diversity and geographic dispersion of the Aboriginal and/or Torres Strait Islander Elders, Respected Persons and participants in Murri Court.

Figure 7 Participants' Homelands

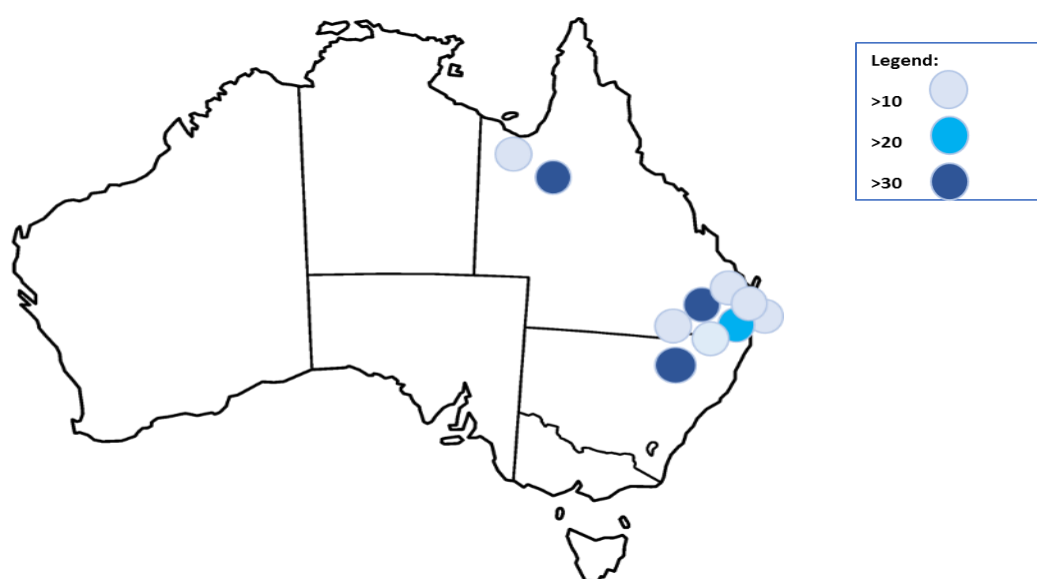


Table 6 shows the outcomes of Murri Court proceedings. There were 1232 episodes opened and 1025 closed, with 207 still active in the system as at 10 January 2019. Of the 1025 closed episodes, 524 (51%) participants completed the program and were sentenced in Murri Court.

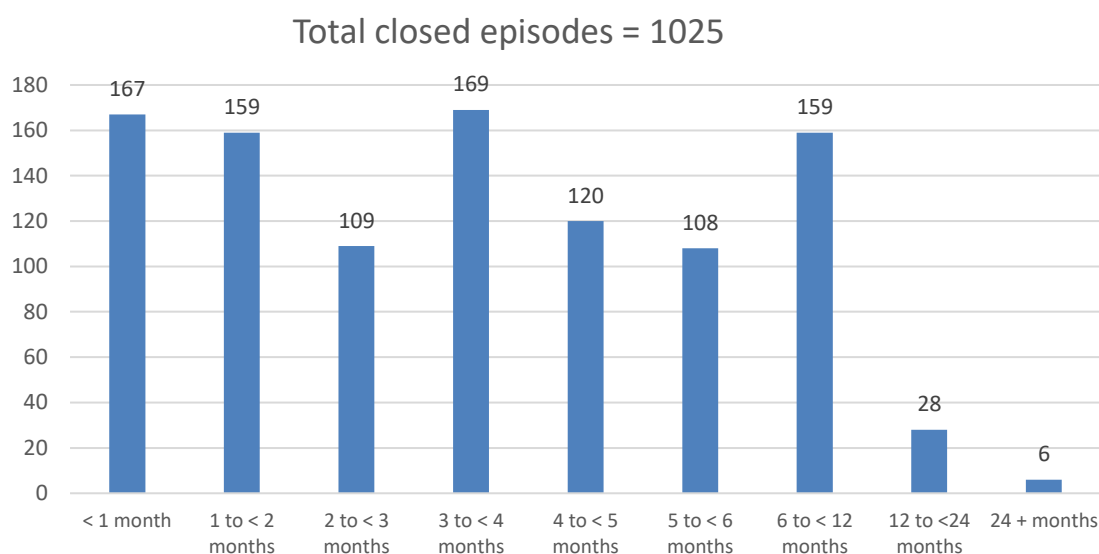
Table 6 Number of participants by court events and outcomes as at 10 January 2019

Murri Court finalisations	As at 10 January 2019
Finalised in Murri Court: sentenced	524
Finalised in Murri Court: exited for other reason	35
Adjourned back to Magistrates Court / Children's Court Magistrate	233
Bail warrant issued – defendant failed to appear	233
Matter not finalised at 30 June 2018 (considered active)	207
TOTAL	1232

Source: DJAG Courts Innovation Program Evaluation System data management system: Murri Court module as at January 2019

Figure 8 shows the length of time for the 1025 closed episodes in Murri Court. The Murri Court program is designed to be a 12-week program with flexibility for ending early or extending as necessary for good participant outcomes. Of the closed episodes, 42% closed in under three months, with half (51%) being adjourned back to Magistrates Court or being issued a bail warrant. Over half (58%) closed after three months, with a third (38%) being sentenced in Murri Court and two-thirds either being adjourned or still in progress.

Figure 8 Length of time participating in Murri Court for completed episodes



Source: DJAG, Courts Innovation Program Evaluation System data management system: Murri Court module as at January 2019

Murri Court participants are invited to complete a survey on entry and on exit. The entry survey elicits feedback from participants who have previously appeared in a mainstream Magistrates Court. The exit survey asks a matched set of questions about their experience and feelings during their involvement with Murri Court and their expectations of the effect of Murri Court on their future.

CJGs compile Entry, Progress and Sentence Reports for each Murri Court participant to provide information to the Court. The Entry Report is used to:

- assess the suitability of the defendant to be referred to Murri Court;
- describe the defendant's cultural and personal circumstances;
- pinpoint those things that contribute to the defendant offending;
- identify the treatment and support services from which the defendant may benefit.

The Sentence Report is used to:

- provide an update on the defendant's progress with treatment and support services;
- describe how the defendant's circumstances have changed after being involved in Murri Court.

The participant may choose not to answer any questions. CJGs are trained to use the templates as a guide to gathering information informally through a yarning circle and to omit questions that are not relevant or may be too intrusive. Table shows the number of surveys and reports that were submitted for the period 1 July 2016 to 30 June 2018.

Table 7 Number of participant surveys and Murri Court reports submitted 1 July 2016 to 30 June 2018

Report type	Entry Questionnaire	Sentence Questionnaire	Entry Report	Sentence Report
2016–17	247	159	339	226
2017–18	208	67	376	124
Total	455	226	715	350

Source: DJAG, Courts Innovation Program Evaluation System data management system: Murri Court module as at Dec 2018

4. Literature review

A literature review was conducted to inform the evaluation (e.g. inform the development of the interview questions and other main components of this evaluation). This process involved searching for evidence-based literature, professional literature and grey literature where these provided insights from the policy level to the community level.

4.1. What is known about specialised sentencing courts?

Indigenous sentencing courts have been established across Australia since 1999, when the first one opened in Port Adelaide (Marchetti, 2009). The Nunga Court was established in response to the mistrust and alienation Aboriginal people expressed about the justice system and their lack of input in the process, particularly sentencing deliberations (Department of Attorney-General, 2010). The courts were seen as isolating, unwelcoming to family and community groups, difficult to understand and frustrating, as defendants could not say what they wanted to (Marchetti, 2009).

These courts use Australian criminal laws and procedures rather than Aboriginal and/or Torres Strait Islander customary laws, but allow Elders and Respected Persons to create a more culturally appropriate forum for sentencing Aboriginal and/or Torres Strait Islander offenders who plead guilty or have been found guilty (Marchetti, 2009). Queensland's first Murri Court opened in 2002 (Parker & Pathé, 2006).


Common features of Australian Indigenous sentencing courts include the involvement of Elders and Respected Persons in the court, Aboriginal and/or Torres Strait Islander artwork and symbolism on display, culturally appropriate practices, the encouragement of participation and discussion, the use of informal processes and plain English and a focus on rehabilitative outcomes (Queensland Courts, 2016). There are broadly two models in Australia: those based on the Nunga Court model, including the Murri Court and Koori Court; and the Circle Court model used in NSW and the ACT. Marchetti and Daly (2007) identify features particular to the Circle Court model: hearings are held in places of cultural significance rather than a courtroom; participants are seated in a circle rather than at the Bar table; victims have a clear role in the process; and Elders and Respected Persons are directly involved in imposing penalties.

A number of evaluations of specialised sentencing courts have been conducted in various jurisdictions. In Queensland, most respondents in Parker and Pathé's 2006 qualitative study reported that Murri Court was a culturally appropriate sentencing court. Respondents to the review said that the involvement in the process of Elders and Respected Persons from their communities assisted the participant to develop trust in the court, undertake rehabilitation, stop offending, be more responsible for their offending behaviour and be more aware of the impact of their offending on the victim and their own community.

Murri Court stakeholders also said that the Murri Court is an effective mechanism for increased participation and ownership by the Aboriginal and/or Torres Strait Islander community in the criminal justice process, and that an additional goal of the Murri Court should be community building and collaboration.

On the strength of the review, additional funding was secured for the Murri Court, and the authors recommended further evaluation be conducted when there were 'better mechanisms in place for collecting data' (Parker & Pathé, 2006).

In 2010, Morgan and Louis, from the Australian Institute of Criminology, conducted an evaluation of Murri Court using both quantitative and qualitative analysis. Their evaluation found that Murri Court had improved relationships with Aboriginal and/or Torres Strait Islander communities and DJAG, delivered a range of benefits



to those in the program and was ‘highly valued’ among stakeholders. Using quantitative methods, Morgan and Louis found improved court appearance rates for adults and juveniles and greater opportunities for adults to undertake rehabilitation in their communities.

Although Morgan and Louis found no statistically significant difference between Murri Courts and mainstream Magistrate or Children’s Courts in recidivism or the seriousness or frequency of offences, they did not recommend closing Murri Courts. They did, however, make 30 recommendations to improve the operation and effectiveness of the Murri Court program. It is unclear whether those recommendations were acted upon, as Murri Courts were abolished in 2012 on the basis that they did not reduce recidivism rates, although they were re-established with a change of government (ALRC, 2017). The Australian Law Reform Commission (ALRC, 2017) noted that ‘recidivism is only one of a number of aims for such courts’, suggesting that the other aims of Murri Court should be considered in any evaluation.

The reinstatement of Murri Court was preceded by a consultation paper and stakeholder consultation across 13 sites. Findings summarising 105 responses were published in the *Murri Court Reinstatement Feedback Report* by the Queensland Courts (2015). The report identifies six critical elements for success of the Murri Court model (Queensland Courts, 2015, p. 3):


1. The involvement of Elders and Respected Persons including the CJGs both in the court process and after court
2. Access to treatment, intervention and rehabilitation programs to address the causes of offending behaviour, including health, drug and alcohol services, training and education
3. Culturally appropriate processes to facilitate sharing of cultural knowledge and information in order to improve sentencing decisions, including providing cultural awareness training for key stakeholders
4. A specially trained Magistrate, skilled in encouraging dialogue and supporting culturally appropriate processes
5. Recognition of the expertise of and contribution made by Court Elders and Respected Persons through fee provision
6. Clear and consistent operating procedures that allow for local flexibility

The report also notes that an evaluation framework is being developed ‘in order to build monitoring and evaluation into the operation of Murri Court’ (Queensland Courts, 2016, p. 5).

As part of their 2017 *Pathways to Justice – An Inquiry into the incarceration rate of Aboriginal and Torres Strait Islander peoples*, the ALRC was asked to consider the pathways of Aboriginal and Torres Strait Islander people through the criminal justice system and alternatives to custody to reduce Aboriginal and Torres Strait Islander incarceration and/or offending (ALRC, 2017). Two of the ALRC recommendations (ALRC, 2017, p. 328) are worth noting here:

Recommendation 10–2 Where needed, state and territory governments should establish specialist Aboriginal and Torres Strait Islander sentencing courts. These courts should incorporate individualised case management, wraparound services, and be culturally competent, culturally safe and culturally appropriate.

Recommendation 10–3 Relevant Aboriginal Torres Strait Islander organisations should play a central role in the design, implementation and evaluation of specialist Aboriginal and Torres Strait Islander sentencing courts.



These recommendations propose that the Murri Court evaluation framework needs input from relevant Aboriginal and Torres Strait Islander organisations. Indeed, the Feedback Report summarises ways respondents suggested measuring the Murri Court's effectiveness. Recidivism rates and engagement with support services were most often reported; however, personal outcomes and feedback from participants and stakeholders were also mentioned (Queensland Courts, 2015).

Policy context


Justice reinvestment (Willis & Kapira, 2018):

- Is relatively new to Australia and has no fixed definition; it is influenced by place-based models (i.e. knowledge of local contexts).
- Holds criminal justice objectives and community-level objectives.
- Requires rigorous evaluation and monitoring of interventions and their outcomes to demonstrate positive outcomes and cost savings.
- Where focused on the over-representation of Aboriginal and/or Torres Strait Islander people in the criminal justice system, strategies have included:
 - Increasing the range of parole options (to reduce beaches of parole or declined offers of parole based on an inability to satisfy parole orders)
 - Increasing capacity of communities to provide community correction options (to reduce the imprisonment rate)
 - Building up existing community capacity and mechanisms; improving sustainability of long-term funded programs that are owned and led by communities
 - Not focusing solely on crimes, but also addressing broader disadvantage and results in over-representation in the criminal justice system
- Requires cross-sector stakeholder involvement; greater progress has occurred where governments, service providers, community members and academics collaborate.
- Has some challenges, such as limited knowledge of 'what works' (at this stage); systemic, societal and intergenerational impacts that cause offending and reoffending (particularly by Aboriginal and Torres Strait Islander people); need to develop rigour in monitoring and evaluation.

Theory context

Therapeutic jurisprudence (AIJA, nd):

- At one level, therapeutic jurisprudence focuses on court proceedings and the role of the Magistrate/judge to understand factors that influence or impact offending behaviours.
- The main concepts of therapeutic jurisprudence are voice, validation, respect and self-determination of the defendant during court proceedings.
- The incorporation of therapeutic justice principles serves to address power imbalances.
- An understanding of the impact of legal processes on defendants (i.e. emotional wellbeing and cultural safety) is critical.



Court models

Specialist courts (Hennessy, 2006; King, 2010)

- A notable change in how courts operate is evident from the early 2000s. The term ‘specialist courts’ was prominent at that time but has since evolved to reflect philosophy and operations.
- Terms such as ‘problem-solving courts’ signified change to the sentencing options by Magistrates, in particular. Options included diversion to treatment programs and bail support programs.
- Judging in these courts requires an involved judicial officer; some collaborative processes; and increased interaction between the judicial officer, defendants and community members. These changes do not impede judicial function or values of independence, impartiality and integrity.

Problem-solving courts (Stobbs & Mackenzie, 2009; King, 2010)

- This is an umbrella term that describes specialist courts that use their authority to address the underlying factors of offending.
- These courts use processes such as judicial supervision of defendants, involvement of a multidisciplinary team, collaborative decision-making and the support of agencies.

Bail support models (Denning-Cotter, 2008)

- These are defined as the provision of services, support or interventions to help a defendant complete bail conditions.
- Aims include reducing recidivism, increasing court appearance rates and providing Magistrates and police with a viable alternative to remand or incarceration.
- General principles include:
 - voluntary participation;
 - support and intervention (vs. supervision, monitoring);
 - holistic (based on defendant’s assessed needs to identify required interventions, support and services);
 - interdepartmental and inter-agency coordination;
 - being adaptive and responsive to local contexts and conditions.

Willis (2015) adds:

- The client needs to be motivated and willing to make changes to his/her life and engage with treatment.
- Treatment, or similar support, must be available upon bail being granted.
- This model needs a strong philosophy at the case-manager level.
- Guidelines and principles are developed to help defendants understand the requirements of bail and to engage with the structured procedures of the courts.

Indigenous courts

(Hennessy, 2006; Clare, 2009; AIC, 2015)


- The aims of these courts encompass four domains:

- judicial procedures and outcomes;
- criminal justice goals and outcomes;
- community aims such as building existing knowledge and engagement;
- cultural components.
- ‘Cultural components’ means things such as changing the culture of the court to facilitate the role of Aboriginal and/or Torres Strait Islander culture (via Elders and Respected Persons, communication styles, employment of Aboriginal and/or Torres Strait Islander court workers, or similar).
- Goals are often broad and lack evidence-based indicators by which to measure performance with rigour (i.e. goals are either aspirational or ambitious).

Evaluating mainstream courts

(Denning-Cotter, 2008; Marchetti, 2009; Stobbs & Mackenzie, 2009)

- Evaluation indicators are used at three levels:
 - policy objectives;
 - progress (achievement of program goals and aims);
 - practice (measuring the day-to-day actions through which both policy objectives and program goals and aims are realised).
- Measures of quality exist for:
 - service/s;
 - costed and non-costed measures;
 - intangible measures (e.g. stress, racism);
 - procedural quality (e.g. informational fairness – in the explanation of procedures and conditions);
 - restorative justice;
 - transformational justice (Willis, 2010).
- Yearly evaluations of mainstream courts typically report on functional efficiency (Stobbs & Mackenzie, 2009), namely:
 - case load and clearance rates;
 - length of time involved in reaching judgement;
 - timing between first hearing and reserved judgements;
 - number of judgements delivered;
 - training undertaken by judges and court staff.
- Types of evaluations undertaken of mainstream courts are (Payne, 2006):
 - process evaluations – measuring the extent to which the operations of the court reflect the way it was intended to operate;

- 
- outcomes evaluations – measuring the extent to which the court has achieved its intended goals and aims;
 - cost evaluations – the quantification of operational costs of the court and efficiency in use of resources.

Evaluating Indigenous court programs

Marchetti (2009) describes how a limited number of evaluations have been undertaken of Indigenous court programs since their inception in the early 2000s:

- Methodological concerns: It is not possible to control for effect (control groups were inappropriate, or groups were non-comparable); the diversity of programs is not accounted for in the design of evaluations
- Data concerns: Only limited data is available; data is inaccurate or incomplete; there is a reliance on anecdotal evidence (often skewed to the positive)
- Quantitative data: There have been measurements of the impact of courts on recidivism
- Other aims and goals were often not evaluated (e.g. community building)

Stobbs & Mackenzie (2009) describe how process evaluations with cost evaluations are the more common approaches used:

- The evaluation of Indigenous courts needs to be more rigorous and broadly based and to occur more frequently (including processes for monitoring performance).
- Change is incremental, and this must be taken into account when considering the timing of monitoring and evaluation.
- This has implications for the way the program goals, aims and outcomes are articulated.
- Qualitative evaluations, especially with regards to cultural components of Indigenous court programs, should be less difficult to develop and conduct.

4.2. Prior Murri Court evaluations

The Murri Court has undergone:

- two internal reviews: Parker and Pathé (2006) and Queensland Courts (2016)
- one external evaluation: Morgan and Louis (2010)

Parker and Pathé (2006)

Commissioned by the then Minister for Justice, this review aimed to assist the Attorney-General in assessing whether Murri Court should be formalised in Queensland Government policy and whether additional resources for it should be sought.

- Via a consultation process, the review found that Murri Court was relevant but that respondents did not indicate whether the objectives had been met.
- The concept of Murri Court was supported. The role of Elders and Respected Persons was especially noted.

Queensland Courts (2016)

This review undertook an extensive consultation to inform the re-establishment of the Murri Court program. Findings pertained to continuing to work with and deliver on the aims of the previous Murri Court model and that aims should also include:

- community participation;
- culturally appropriate processes;
- facilitation of referrals to support services;
- support to improve outcomes for defendants.

Morgan and Louis (2010)

This evaluation used mixed methods to understand the extent to which Murri Court was meeting stated aims in:

- reducing the over-representation of Aboriginal and/or Torres Strait Islander offenders in prison and juvenile detention;
- improving court appearance rates;
- reducing reoffending;
- strengthening the partnership between the court and community in dealing with Aboriginal and/or Torres Strait Islander justice issues.

The main findings were that Murri Court has:

- had considerable success in strengthening partnerships to deal with justice issues;
- improved court appearance rates;
- not had a short-term impact on reducing reoffending rates;
- not produced a statistically significant difference in length of time in reoffending between Murri Court and Mainstream and Children's Courts.

The Review did not recommend closing the Murri Court program and made 30 recommendations to improve its operations and effectiveness.

Availability of support services and impact on Murri Court operations

The literature reviewed commented on the role of support services but did not discuss their availability. This is an identified gap in the literature, especially in the professional papers and reporting on evidence-based research.

Defendant's engagement with and understanding of the court process

(Clare, 2009; Marchetti, 2009; King, 2010)

- Values that defendants respect when going through the court process include neutrality of court officers, being treated with respect and the judicial officer being trustworthy.
- Direct communication between the judicial officer and defendant is regarded to engender the perception that the circumstances of the latter had been taken into consideration by the former.

- In Murri Court, the defendant is directly involved in the processes of resolving the impact of the offence and strategising to prevent further offending.

Defendants taking responsibility for offending and awareness of harm to victims and the community

(Marchetti, 2009)

- The interactions in the court room, particularly between the Magistrate and defendant, was found to have a two-fold effect:
 - increased accountability of the offender to his/her community;
 - provision of community support to the defendant (via the Elders, Respected Persons and CJG).

Access to support services

The literature reviewed commented on the role of support services but did not discuss matters regarding access. Questions regarding access to support services were not evident in any evaluations or reviews. This is an identified gap in the literature, especially in the professional papers and reporting on evidence-based research.

Elders' and Respected Persons' understanding of the Court Processes

- All evaluations and reviews found that the role of the Elders and Respected Persons was fundamental to the operations of Murri Court.
- However, the evaluations and reviews did not explore the level of knowledge and understanding of Elders and Respected Persons regarding court processes.

Supporting the reduction of participant offending

- All evaluations and reviews examined the role of the Murri Court in reducing participant offending.
- Most referred to this only as a judicial outcome and not a program outcome. That is, they measured incidences of offending, and not evidence where defendants did not reoffend.

King (2010) says: 'The court is more of a facilitator and a change agent than an institution that makes change.'


Ways to improve the operations of the Murri Court program

The literature identified four main areas in relation to improving Indigenous bail support programs:

- Elders and Respected Persons: remuneration, provision of support
- Judicial procedures: eligibility requirements, bail conditions, Magistrates
- Partnerships
- Data: incomplete datasets, infrequent evaluation and lack of monitoring

4.3. Insights for this evaluation

The review of literature found that recommendations pertained to three main program areas: Elders, court procedures, and Magistrates. While the recommendations in previous evaluations related to the core operations



of the Murri Court program and its effectiveness in achieving program goals and aims, many recommendations were not under the direct influence (nor responsibility) of DJAG. Consequently, the roles and responsibilities of CJGs were constantly overlooked.

The commonly discussed topics pertained to three levels of the Murri Court program: departmental level, program level and the community level. Discussions regarding defendants was limited, as was the discussion of support services and treatment programs.

Three main insights have been gained from the literature review for this evaluation:

1. For the most part, the goals, aims, practices and outcomes of Indigenous sentencing courts have not changed since their inception in the early 2000s. These remain strongly aligned to criminal justice goals and outcomes. Some pertain to therapeutic jurisprudence goals and few pertain to cultural components. The program logic provided for this evaluation, as an overarching structure, appears to have been contained at a micro level and further iterations of the Murri Court program may need to be revised and developed with the Murri Court CJGs.
2. As recommended by Morgan and Louis (2010), a framework is needed to work at the macro and micro levels of the program. The macro level consists of DJAG and other government departments and any interdepartmental arrangements. The micro level consists of the Elders and Respected Persons, defendants, victims, families and community. Located between these levels are the CJGs, the Court and the services and treatment programs. Of these, DJAG has a direct role with the Courts. The relationship with services and treatment programs (i.e. inter-agency) is more the responsibility of the CJGs. However, this can be formalised by DJAG.
3. The CJGs are critical for achieving some of the program's goals, aims and outcomes. Discussions often overlook the relationship between DJAG and the CJGs, which are funded to set up and facilitate relationships with services, defendants, families and the community.



5. Methodology

5.1. Evaluation approach

Evaluation purpose

Evidence is required to demonstrate the effectiveness of the Murri Court program, identify where improvements can be made and assess the program's portability to locations other than the 14 already served.

Evaluation objectives

The evaluation provides an early indication of the effectiveness of Murri Court. It involved:


- investigating if Murri Court is operating as intended (this includes commenting on the availability of support services in the community and how this availability impacts on the operation of Murri Court);
- identifying ways to improve the operation of Murri Court;
- determining if Murri Court is achieving program outcomes;
- assessing if Murri Court supports a reduction in participant reoffending;
- understanding if Murri Court is cost-efficient;
- seeking independent research ethics approval;
- using sound and culturally appropriate research strategies.

The evaluation did not explore the efficacy of the services and other support mechanisms to which defendants are referred as part of the operation of Murri Court.

Evaluation approach

The context in which the Murri Court program is implemented matters because it:

- works within a complex criminal justice system and interacts with several other such systems: inter-agency, health, social services, community and non-government services;
- involves multiple stakeholders (Murri Court program staff, community and non-government service providers, community members and government staff in multiple agencies);
- has intensive delivery in the court process but there is an assumption that it is also working with a range of unique and varied ongoing supports across multiple sites while participants are on bail (depending on the location of participants and their circumstances);
- has the theory trialled and evaluated under different circumstances in different jurisdictions and countries;
- aims to achieve multiple social and wellbeing outcomes, and is expected not only to have individual participant outcomes but also to have a ripple effect on healing of families and communities;
- has a variety of customised interventions as part of the intensive case management referral to services and other supports in the community in order to address the underlying contributors to offending.



The design is taken from best practice evaluation methods that incorporate theory such as realist evaluation, participatory action research, complexity theory and the behavioural sciences but have been refined for practicality given how the research is framed and the budget and timeline constraints.

A realist research hypothesis is that a set of resources (intervention factors that make up the Murri Court program such as the CJG Coordinator, information on court processes, ongoing counselling for participants while on bail, support and mentoring by staff) can be applied to each individual participant (who has strengths, skills, personality, aspirations and goals). The Murri Court program resources on their own do not cause change. That is, programs do not always work for everyone, but they may work for some people in certain contexts under certain circumstances. Other things supporting the resources of the program in the participant's environment include social influences (peers, family), reconnection with culture, strong therapeutic services and community norms. The interplay between the program resources, the individual's strengths and the environmental supports triggers or strengthens the mechanisms of change.

This evaluation examined not only the resources of the Murri Court program and how it is implemented to determine if it works or not. The evaluation attempted also to determine which group of participants in what types of contexts (individual and environmental) have or do not have successful outcomes when the program is implemented in this way. Does this interplay give participants enough reason to make change? Do participants have the environment in which they are enabled to change? This is what realist evaluators aim to uncover to better understand what the mechanisms are that cause change and evidence the program theory.

Understanding this requires an investigation of the way the program affected a participant, their family, their community, program staff or the broader justice environment that led to the participant making different choices, perhaps without being aware of why, and in doing so allowed them to gain the benefits of the program.

A realist perspective expects that the Murri Court program works for some people, but not others. This is extremely important for policymakers and sponsors to understand. The evaluation must be designed to provide learnings that can be used to better refine the program logic, better inform the practice and delivery of the program and advocate for culturally sound, strengths-based, human-centric approaches with robust and rigorous evidence. This evaluation was designed to answer the questions 'To what extent did it work?' and 'Why, when and for whom did it work?' so that the program can be refined to be more effective if funded in the future or if rolled out to more courts.

The evaluation framework was developed through a co-design process with the Murri Court Evaluation Cultural Reference Group (CRG). The framework guided the evaluation of the initiative and described a program logic, key evaluation questions, indicators and data collection methods and timelines for the conduct of the evaluation.

There are three phases in the realist informed approach: 1) theory gleaning, 2) theory refining, and 3) theory consolidation. The research process consisted of the following activities in each of the three phases.

1) Theory gleaning

A literature review was conducted to determine what measures matter when evaluating similar programs, for example:

- How can participant wellbeing be measured in terms of therapeutic jurisprudence?
- What does the community value and how can restorative justice, social justice and fairness be measured?
- What does best practice look like in terms of culturally appropriate delivery as determined by Queensland Aboriginal and/or Torres Strait Islander expectations?

- What is the level of wraparound support provided for participants (e.g. drug and alcohol treatment, housing support, relationship support, licensing issues)
- What is the impact of other similar programs in other jurisdictions, and what can be learned from their evaluations?
- What are the relevant attitudinal and psychological characteristics of participants?

A range of policy and procedural documents from the Murri Court program were reviewed to:

- test the literature against the program logic
- test the program logic against the program practice to determine if it has been implemented as intended

An initial review of data was conducted to determine what trends and patterns may need further investigation in the next phases:

- entry Reports and Sentence Reports from administration data;
- characteristics of Aboriginal and/or Torres Strait Islander Murri Court participants who have served their sentence;
- characteristics of recidivism for Aboriginal and/or Torres Strait Islander participants in Murri Court who are on bail;
- analysis of pre- and post-intervention participant survey forms.

Focus groups with funders and sponsors of the program were also held to elicit what they value from the Murri Court program.

Qualitative interviews with key department stakeholders (in-depth interviews by phone or face to face) were held to draw out emerging themes or areas that should be investigated and the feasibility of evidencing them in the later stages.

2) Theory refining

In-depth interviews with justice stakeholders and service providers across Queensland as well as focus groups or small peer group discussion were held with CJGs and/or families of eligible participants of Murri Court in four locations to determine what recipients of the program and their community value about it.

3) Theory consolidation

Financial records were examined to allow analysis of costs from both justice and service provider contracts.

A final review of data was carried out to determine what trends and patterns may need further investigation in the next phases.

- Entry Reports and Sentence Reports from administration data
- Characteristics of Aboriginal and/or Torres Strait Islander Murri Court participants who have served their sentence
- Characteristics of recidivism for Aboriginal and/or Torres Strait Islander participants in Murri Court who are on bail
- Analysis of pre- and post-intervention participant survey forms

The evaluation approach, survey instruments, discussion guides and methods were refined with the Murri Court Evaluation CRG and agreed to by DJAG. The co-design process was used to develop all the evaluation questions and the questions of interest to ensure they were appropriate questions to ask and to determine if there were other questions the community had or things the community valued that needed to be included in the evaluation. The approach acknowledges that open dialogue is the preferred research tool for Aboriginal and/or Torres Strait Islander people, and this consideration was incorporated into the design of the data collection tools. A deeper explanation of the various sources of primary and secondary data used to inform this evaluation is given in the remainder of this section of the report.

Literature that guided the evaluation approach

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5.2. Primary data

Consultation process

A number of consultation meetings with stakeholders occurred in the initial stage of the evaluation. The purpose was to gain insights to Murri Court that would then inform aspects of the evaluation, particularly the development of the data collection tools (i.e. interview, focus group questions).

Primary data

There were two primary data sources:

a) Community:

- Comprising: CJG members (Elders and Respected Persons, CJG Coordinator), community members, present and past Murri Court participants, relatives of present/past participants

- **Method:** Focus group undertaken in the following Murri Court sites: Cairns, Cherbourg and Mt Isa (October to November 2018). The focus group for Brisbane did not occur due to Sorry Business

Local researchers were employed in Cairns, Mt Isa and Cherbourg. They were supported by members of the Ipsos Aboriginal and Torres Strait Islander Research Unit.

- **Data collection tool:** Semi-structured interview of 23 questions (eight open-ended; 14 closed and open-ended – i.e. requiring both a ‘yes/no’ response and further details)

This provided both quantitative and qualitative data.

b) Stakeholders:

- **Comprising:** Justice stakeholders (i.e. Murri Court Magistrates, legal representatives, DJAG staff, QPS staff, DCS staff) and service providers (i.e. drug and alcohol treatment programs, rehabilitation centres, government agencies)
- **Method:** Interviews (undertaken October to November 2018)

Members of the Ipsos Aboriginal and Torres Strait Islander Research Unit conducted interviews with stakeholders.

- **Data collection tool:** Semi-structured interview of 23 questions (eight open-ended; 14 closed and open-ended – i.e. requiring both a ‘yes/no’ response and further details)

A webpage was set up by Ipsos to host an online survey which was developed to allow participation from people who were not available for the interviews or wanted privacy.

This provided both quantitative and qualitative data.

Table contains details of the primary data sample.


Table 8 Primary data sample

	Community Members		Stakeholders			
	Elders and Respected Persons	Past participants, family/friends and community members	Murri Court Magistrates	Government officers, government agencies, service providers	CJG coordinators, organisations hosting CJG	Focus group participants
	13	82	10	DJAG (17) Other gov. (9) Service providers (18)	11	3 sites
TOTAL:	13	82	10	44	11	35

Considerations when reading this report

The primary data collection in this evaluation was conducted in four locations by local Aboriginal and/or Torres Strait Islander researchers. Analysis of individual communities has not been written up for those community residents, stakeholders and Murri Court participants who chose to speak to us; this is to protect their anonymity, which is particularly important for Aboriginal and/or Torres Strait Islander communities, as individuals are sometimes easily identifiable in such small populations.

This report describes the research findings at a level of abstraction broad enough to inform policy change across Murri Court locations but specific enough that some learnings can be applied at a practice level by other Magistrates Courts where the contexts may be similar to those in this report and a CJG is funded.



The findings of this evaluation are mostly qualitative, which means they are complex, contextual, sometimes consistent and sometimes contradictory. Defendants and community members want their diversity understood. There is no simplistic ‘Aboriginal and Torres Strait Islander voice’ nor is there one ‘Community’ voice. This report contains many strong voices and diverse views that together make up a story about the Murri Court. The authors caution against using a single finding in isolation without consideration of the broader context of Aboriginal and/or Torres Strait Islander communities.

How the primary data was used

The inclusion of primary data from all the people who interact in the Murri Court program is important when evaluating the meaningfulness, application and usefulness of Murri Court on the ground. Values-based evaluation has an ethical basis for seeking to reflect deeply held values and beliefs about what should be done: people most affected by Murri Court should be involved in selecting, designing and evaluating it. This principle is also known as ‘nothing about us without us’. A values-based evaluation aims to improve the chances of making progress on complex issues (e.g. providing housing first for vulnerable persons so they are safe before they can be expected to wrestle with their other vulnerabilities which are the underlying causes for ending up in Murri Court program).

The directed evaluation questions posed by DJAG, as the evaluation funder, for accountability and transparency, as the Murri Court funder, are mostly answered by secondary data sources where possible. The primary data collection seeks to answer the question ‘What do people value about Murri Court?’ The research questions, surveys and methods were co-designed with the Murri Court Evaluation CRG. Where no primary data has been collected to answer specific evaluation questions, this is expected and intentional. Where primary data has been collected that answers questions not posed by DJAG, this is also expected and intentional.

This evaluation did not just seek to measure outcomes like reduction in reoffending, but rather looked at how substantial, valuable and equitable do outcomes like ‘being heard’, ‘feeling safe’ and ‘understanding what is happening’ feel for Aboriginal and/or Torres Strait Islander people going through the justice system.

This evaluation goes beyond reporting on implementation fidelity (‘Did DJAG do what they said they would do?’) to examine how appropriate and valued the reinstatement of Murri Court was to Aboriginal and/or Torres Strait Islander people going through the justice system.

The evaluation gives voice to the value of Murri Court to build trust between the justice system and Aboriginal and/or Torres Strait Islander people and communities. It reports not only on whether Murri Court was cost-efficient, but also on how reasonable the cost was based on how much it is valued.

5.3. Secondary data

Five sources of secondary data were used in the evaluation:

- i. Murri Court Entry and Sentence Reports (outlined below in Figure 2)
- ii. Murri Court Entry and Sentencing Questionnaires (outlined below in Figure 2)
- iii. CJG quarterly reporting
- iv. Queensland-Wide Interlinked Court data management system (QWIC)
- v. QPS database

Figure 2 Murri Court reports and questionnaire details

Entry Report Part of the pre-sentencing process, this report elicits personal and cultural details, offending history and causes/triggers. The Assessment Panel is involved at the referral stage and records the defendant's suitability for Murri Court and identifies support services/treatment programs.
Entry Questionnaire This additional survey (matched to the Entry Report and comprising one open question and 20 Likert-scale items) was introduced in 2016 for evaluation purposes for participants who have previously appeared in a mainstream Magistrate Court. It asks questions about their identity, lives and needs. The data are used to assist Elders, DJAG and Magistrates to improve Murri Court.
Sentence Report Written before the Murri Court sentence, this report provides an update on the defendant's progress with treatment and support services and describes how the defendant's circumstances have changed after being involved in Murri Court. It shows how life has changed for the defendant and what things worked (or did not work) for him/her.
Sentence Questionnaire This additional survey (matched to the Sentence Questionnaire) asks about participants' experiences with Murri Court, their beliefs and their expectations about the effect Murri Court will have on their future. It comprises three open questions and 15 Likert-scale items.

Table shows details of the number of actual completed reports and questionnaires.

Table 9 Murri Court data sources – completed reports and questionnaires

How has Murri Court Helped make your life better?	2016–17	2017–18	Total
Entry Report	339	376	715
Entry Questionnaire	247	208	455
Sentence Report	226	124	350
Sentence Questionnaire	159	67	226


(*based on coded responses)

It may be noted; the completion of the surveys is voluntary. The entry and sentence reports are required for the court therefore are mandatory, however the questions within those reports are not mandatory. These reports and questionnaires contain both qualitative and quantitative data.

How the Murri Court reports and questionnaires were used

The Elders and Respected Persons Assessment Panel determine whether the defendant is suitable for Murri Court, taking into account their Indigeneity and their agreement to participate. The Elders and Respected Persons talk to the defendant to find out their personal and cultural details, the person's view on the underlying causes of their offending behaviour and what services might help them address their offending behaviour. This information is compiled on the Entry Report by the CJG Coordinator and submitted to the Court. The data is used in this evaluation to better understand the contexts and circumstances of Murri Court participants.

The Entry Questionnaire is not for evaluation purposes directly. It is a mechanism of feedback to the program as a whole and at the court location about how the program is working. However, this is not yet optimised by the CJG or IJO as a feedback tool. 'Being heard' is a key building block of social inclusion initiatives; asking participants for their perspectives enables them to participate and be connected to their community. It also helps them create



a sense of their own agency. Some participants expressed how important it was for them to share their story and be heard. The Entry Questionnaire asks participants how they felt about previous court experiences and about what they want to get out of Murri Court. Their responses show what mindset they have at the beginning of the program and are used to help measure how well Murri Court is working to improve their motivation to change their life and how differently they experience Murri Court from mainstream Magistrates Court.

The primary purpose of the Sentence Report is to provide the Court with information that can be considered in sentencing. It provides an insight into the type of changes participants have made during their participation in Murri Court and what information is important for Magistrates. This data helps capture the qualitative outcomes of Murri Court through a narrative collected by the Elders and Respected Persons from the participants.

The Sentence Questionnaire asks participants when they leave Murri Court about their experience. Their responses show what mindset they have at the end of the program and are used to help measure how well Murri Court is working to improve their motivation to change their life and how differently they experience Murri Court from mainstream Magistrates Court.

The Entry Report and Sentence Report are essential tools for Elders and Respected Persons to give to the Court. The text is a free-flowing narrative recorded against a list of potential questions that have been drafted to provide guidance but are only asked if relevant.


These data sources are not designed for evaluation purposes, as individual records have unanswered questions and sets of records are incomplete. Also, the format of the reports and questionnaires changed between 2016–17 and 2017–18; therefore, there are some consistency issues in attempting to merge the records for analysis purposes. However, the available records do form part of a valuable dataset that informed the evaluation.

These court process data sources are used for process tracing to understand how change occurs over time from snapshots at different times. Using an understanding of necessary and sufficient conditions (support to comply with bail, attend services and not reoffend) and considering rival hypothesis (thinking about the underlying issues that may influence the defendant if there was no support or alternative support like Court Link) what would have happened when they went to court? Using these techniques may assist in helping to understand the potential impact of the program on participants instead of using counterfactual data where data does not exist, or strict control data is not possible due to difficulty of matching a location with a Murri Court along with another of the same context. This qualitative comparative analysis technique identifies the potential impacts, by gathering data from lots of stories from a number of people to identify and test patterns of success or other unintended consequences. A realist impact evaluation then seeks to understand the causal mechanisms and context in which impact occurs or does not occur by looking at the patterns or groups.

The changes to the reports necessitated some data cleaning to merge the two years of data. This involved:

- Compiling participant cases into a single record from the different data sources, although not all records could be linked. For example, Murri Court participants who were adjourned to mainstream Magistrate Court prior to sentence were likely to have neither a Murri Court Sentence Report nor an Entry Questionnaire; and they may have had an incomplete Murri Court Entry Report.
- Reviewing matching cases using systematic content analysis based on the qualitative coding frame and audit fields. The qualitative and quantitative data from the reports and questionnaires was used to identify the contexts, mechanisms and outcomes for participants through a segmentation analysis. Limitations of the statistical modelling are detailed in Appendix A.

A segmentation analysis involving a statistical multivariate approach (i.e. latent class) was used to identify groups of participants based on their experiences within both the Magistrates Court and the Murri Court. There were



465 Murri Court participants with sufficient data records to be included in the analysis. A four-class solution had the best fit.

Best fit analysis involves:

- **Log-likelihood:** Given a sample and a parametric family of distributions (i.e. a set of distributions indexed by a parameter) that could have generated the sample, the log-likelihood is a function that associates to each parameter the probability (or probability density) of observing the given sample. Log-likelihood values cannot be used alone as an index of fit because they are a function of sample size but can be used to compare the fit of different coefficients. Higher values are better. For example, a log-likelihood value of -3 is better than one of -7.
- **BIC:** In statistics, the Bayesian information criterion (BIC) is a criterion for model selection among a finite set of models. It is based, in part, on the log-likelihood function. A good model is the one that has minimum BIC among all the other models. A lower BIC value indicates a better fit.
- **McFadden's R-squared change:** This is an effect size measurement for the model comparison test. It measures the extent to which the full model improves model accuracy when compared to the reduced model. Where the effect size is greater than > 0.2 , the effect is strong.
- **Entropy:** In information theory, this is a measure of the uncertainty associated with a random variable. When the probability is 1, there is zero surprise at seeing the result. As the probability gets smaller and smaller, the surprisal goes up, with positive infinity as the maximum value.
- **Iteration:** This is the repetition of the process. More iterations are better.

5.4. Discussion of findings and recommendations

The qualitative and quantitative empirical data acquired for this review is presented and analysed in order to provide an evaluation of the effectiveness of the Murri Court network and whether it is operating as intended. Privileging the voices of community members and key stakeholders across the network of Murri Court sites, the following text frames the evaluation through both a micro-level analysis (from the perspectives of those who work and engage in Murri Court) and a macro-level analysis (from statistical data about operational outcomes such as offender processing and budget costs).

The five areas of inquiry will be addressed to provide discussion on the effectiveness of Murri Court:

- Investigate and comment on the availability of support services in the community and how this availability impacts on the operation of Murri Court (Chapter 6)
- Determine if Murri Court is achieving program outcomes as identified from its program logic (Chapter 7)
- Understand if Murri Court is cost-efficient (Chapter 8)
- Assess if Murri Court supports a reduction in participant reoffending (Chapter 9)
- Understand the various contexts of Murri Court (Chapter 10)

Recommendations on potential measures for further refinement and improvement of the Court are discussed to cover the sixth area of inquiry:

- Identify ways to improve the operation of Murri Court (Chapter 11)

Limitations and considerations when reading this report are outlined in Appendix A, and materials used in the evaluation are in Appendix B.



DISCUSSION OF FINDINGS

6. Investigate and comment on the availability of support services in the community and how this availability impacts on the operation of Murri Court

The efficacy of a specialised sentencing court is directly tied to its ability to offer and refer offenders into rehabilitative services as a means of addressing their underlying criminogenic needs (White & Graham, 2010; Graham & White, 2015). This recognises that unless these precipitating factors are addressed, the penalties imposed by a court of law will be unlikely to stimulate lasting change in the life of an offender. A punitive approach will not manage the offender addicted to illicit drugs inciting unlawful behaviour; a restorative approach with a mandated drug rehabilitation order may (Johnstone, 2011). In the case of the Murri Court, unless there is sufficient access to facilitate referrals to the specialist services required, the effect of the presence of other beneficial components of the system (i.e. Elders and Respected Persons) will likely be small.

A number of circumstantial and health-related issues affect Aboriginal and/or Torres Strait Islander people across Queensland, each requiring a specific treatment service. Figure 3 illustrates the services to which Murri Court refers its participants in response to their particular issues and situations.

Figure 3 Services/treatment programs



Data about referral and support services in this evaluation has come from the Entry Reports and Sentence Report developed to inform the Courts, as well as entry and exit participant surveys that provide feedback on the participant's experience, in court prior to Murri Court, and as they leave Murri Court (Table 9).

Entry Reports were completed for 715 participants. Two-thirds of the participants identified as needing assistance for their drug and alcohol dependency, counselling (anger management, relationships and family and domestic violence) and connection to their culture. Individual case plans were prepared, and referrals were made to support services.

Sentence reports were completed for 350 participants. In response to the question: *How has Murri Court helped make your life better?* 52% of these participants nominated support services. Participants referred specifically to benefiting from cultural services including Men's and Women's Groups (22%), Drug and Alcohol support (9%), Counselling (9%) and generally to the value of community services (14%). Others referred to the benefit as being a reduction in needs without specifying how it occurred.

Exit surveys were completed by 226 participants. Of these, 88% responded that they were likely or very likely to attend treatment after Murri Court and 79% stated that they were likely or very likely to meet with Elders after leaving Murri Court.

It should be acknowledged that there is a demand for human services in most locations in Queensland and that availability of rehabilitation and other counselling can be limited even if the service exists. The Assessment Panel outcomes were examined for four of the 14 Murri Court locations. On at least 50% of occasions, services identified for the participant were not available. The service gaps were in drug and alcohol counselling, cultural activities, financial assistance for medication, non-discriminatory health services, counselling services, domestic violence services, job-readiness support, intensive assistance (similar to that offered to youth at the Aboriginal and Torres Strait Islander Community Controlled Health Services), housing/accommodation, life skills, and services to help with interstate debts.

There is a lack of accessible counselling and drug and alcohol rehabilitation services in Cairns and Brisbane. This is of concern in that Brisbane, as a capital city, would be expected to be well resourced, but also because it can only be expected that these services are also unavailable across the less resourced, more regional and rural Murri Court metropolitan centres.

From the primary data, it was found that the majority of people knew about the available services (84% of community members; 87% of stakeholders). One of the questions asked in interviews and focus groups was about accessibility of services to the Murri Court. People expressed satisfaction that services were available to Murri Court defendants:

'ATODS, parole, gambling help; we have a counsellor available; provide an appointment at a safe location. We always attend Murri Court. The most valuable conversations we have is before Murri Court; they talk to us on Fridays. If they go back to remote we can stay in touch with them ... We provide phone appointments, counsellor over the phone, zoom.'

'Yes, CJG through the men's and women's groups with bus. Or phone calls.'

'We have a good networking system where all services have an opportunity to be involved.'

Despite comments that a number of services were available for participants within ‘walking distance’ of the Murri Court, it was acknowledged that this did not mean that they were readily *accessible* for individuals. Participants expressed that it was difficult to cater to the needs of everyone; some individuals are from regional or remote centres, or could not attend during certain hours, or the service required was not available locally:

‘Locally, transport is a big issue. And the hours – not all are on a benefit; some people work and there are not services available for them outside of work. Would be good for some services to go out to the people rather than the people go out to the services ... this can make it quite unachievable ... trying to tick boxes but they are single mothers or workers trying their hardest.’

‘In general, we have a lot of trouble getting along to particular locations, and transport and the ability to link in.’

‘Remote may not have the service; the further you get away from Brisbane might be harder to get into. Being able to access services and access Murri Court should be looked into a little more. Like the high fuel prices does play. That service might have to consider providing transport to people coming to their programs.’

Some sites and/or services, in recognising the logistical limitations for some offenders, sought to rectify the situation by offering transport or having the service make house visits:

‘We have a bus to transport clients and we have visiting services, such as Deadly Choices program, anti-smoking and also visiting a GP.’

‘Yes, any of the clients are able to access service through our transport services.’

‘Most services are here in [redacted location]. But if clients need to go in [redacted location], we transport them to appointments.’

In these circumstances where transport or alternative access measures are provided (such as telephone counselling) participants said that this did not always guarantee attendance if the defendant was unwilling. This could be due to the participant not establishing rapport with the service provider, or apathy or defiance:

‘It can be a hit-and-miss approach sometimes. You may need to try several services before you find the right fit for the client.’

‘Yes, but if someone doesn’t turn up at court or services, as we are located far and we try to help participants to get to various services.’

Others expressed a dissatisfaction with or disapproval of the provision of services alongside Murri Court. In some instances, participants were frustrated by the limited capacity of services to cater for the workload provided by

Murri Court. This has detrimental consequences on the rehabilitation of offenders, particularly when services of high importance are delayed or otherwise unavailable:

'No. They are there; we can't access it whenever we want though, so in answering the services are THERE but not always ready; therefore people fall off and we cannot help participants to a high degree due to funding, etc.'

'Housing is the big thing – housing is the first priority. Hard to do much of anything when you are not safe, nowhere to shower, etc.'

'Not all of them, the AICCHS [Aboriginal and Torres Strait Islander Community Controlled Health Services] are more accessible than the other health service. They provide pickups for those who don't drive or can't get in to town. The transport system here is pretty bad and doesn't run all the time.'

From the 95 community members, participants and Elders and Respected Persons surveyed (see Table), 84% were aware of the services that Murri Court refers participants to; however, just over half (57%) felt that the services are culturally appropriate. Some say they need more services run by Aboriginal and/or Torres Strait Islander organisations or funds for them. Others say that the processes with the Elders and Respected Persons are culturally appropriate, but that services are not always appropriate.

Only 14% said that the services are accessible. Some say it depends on transport availability and money for transport. Others say there is a need for more Aboriginal and/or Torres Strait Islander staff and translators, or that availability of times and minimal staff makes it hard to attend.

Almost a third (30%) say that the services are difficult to work with. Some complaints were directed at the organisational and administrative level, rather than at the services themselves, but it still reduced participant trust in these agencies:


'Complaints are not addressed – sometimes complaints have no response whatsoever. No improvements have been noted despite our constant feedback, suggestions and complaints.'

'There are a number of Indigenous services available locally, though, that have been supporting Murri Court; however, the down side is the difficulty of obtaining regular progress reports for individual Murri Court clients.'

Interestingly, 43% of sampled community members and 40% of stakeholders felt that Aboriginal and/or Torres Strait Islander people would be less likely to access the same services outside of the Murri Court program. It was identified that transport was a leading contributor to this apprehension, as well as the trust for and rapport with the Murri Court process that defendants had.

6.1. Commentary

The above qualitative data presents mixed attitudes as to whether or not support services are readily available to defendants as they process through the Murri Court system. Participants discussed that the issue of availability was threefold: the presence of services, the cultural appropriateness and capacity of the services, and the accessibility of these services. Some services (such as drug and alcohol counselling) were not made available



within the general area of the Murri Court, while some services may be present but have a waiting list or limited human resources (such as with housing).

Even where services were available, it was noted that with Aboriginal and/or Torres Strait Islander offenders, particularly those in regional and rural centres, there was an issue of accessibility. Though services do offer transport assistance or alternative communicative options (i.e. telephone, internet counselling) this was not standardised. Consequently, sentenced defendants are not equally able to access the support needed to work to rectify their criminogenic needs that create their pattern of offending. This frustrates the operation of the Murri Court in not addressing the underlying factors stimulating offender criminality as per its program logic, and thereby furthers the likelihood of individuals reoffending at a later date.

The CJGs have limited authority in the sector; however, offender placement in support services could be strengthened through formalising service agreements and interdepartmental relationships to ensure services are provided to participants in a timely manner and, where applicable, issues regarding access to public transport can be resolved. To facilitate this, community service mapping may be a mechanism to facilitate better collaboration among service providers in each of the sites to establish what services are presently available and what opportunities exist to meet participant needs. While brokerage is available for use, it is often not optimised or accessed properly or administration processes are not timely; however, service agreements or more collaboration with services may facilitate better use of brokerage funding. While there are services working closely with CJGs in some areas, others could benefit from more sector stakeholder meetings to facilitate better collaboration and address gaps in service needs. Subsequent evaluations could then determine the required measures to implement equity in access pathways across all Murri Court centres and improve advocacy where some services may have ceased operations due to budgetary restrictions (e.g. financial counselling services or perpetrator programs). Less than half of Murri Court participants who were accessing services say that they will continue to after exiting Murri Court (see Chapter 10). There is no systematic way of tracking participants to determine if they had continued treatment after conclusion of the program.

6.2. Extent to which the Murri Court program supports access to services

The provision of support services is outside the jurisdiction of the Murri Court program. Referral mechanisms to effective support services are needed to achieve the outcomes of Murri Court; however, whether there is access to and availability of such services is an identified gap in the literature. Previous evaluations of Murri Court suggest that more capacity building and collaboration within the support services sector is needed to better provide the services participants need. This evaluation finds that Murri Court administration data is inconclusive in determining the prevalence of service use by participants, and where participant records did indicate they were referred to services only half felt it had been helpful. This evaluation finds there are limitations in access to and availability of support services due to the presence, cultural appropriateness and capacity of services.

Murri Court program intends that 1) the Elders and Respected Persons from their communities assist the participant through the court process and encourage them to make positive life choices and seek rehabilitation services or counselling to address the underlying causes of their criminal behaviour, 2) the CJGs will collaborate with support service providers (e.g. health services, accommodation services) and the local Aboriginal and/or Torres Strait Islander community to help address the defendant's underlying criminological factors or social problems.

The barriers to Murri Court supporting these outcomes are:

- limited funding or organisational resources (e.g. transportation of Elders and Respected Persons or participants);
- sufficient capacity in the CJGs to undertake the administration tasks associated with tracking participants' progress with each service and follow-up services for progress reports;
- lack of mechanisms to ensure progress reporting from support services or accountability for service provision (e.g. service agreements or MOUs);
- limited cultural capacity or knowledge in the provision of these services for Aboriginal and/or Torres Strait Islander people (e.g. perpetrator programs, assessments for fetal alcohol spectrum disorder and other cognitive assessments);
- limited cooperation from services or willingness to engage with Murri Court participants;
- limited community capacity and systems structures to support collaboration.

The enablers to Murri Court supporting these outcome are:

- where CJGs have economies of scale (a number of funding agreements) and economic integration (they are funded for a range of interconnected or related services) and therefore more capacity to provide administration support, transport and support networking in the sector or even their own programs;
- where the support service sector is supported to actively collaborate through a number of other reform areas (e.g. domestic and family violence or child safety or housing);
- where service providers are Aboriginal and/or Torres Strait Islander-controlled organisations or have culturally safe programs or services;
- when the Magistrates, legal representatives and police prosecutors take a personal interest to inform themselves about the services the defendants are referred to (shown to be beneficial to the defendants and to instil confidence in the defendants that they were being referred to services that the Magistrates, legal representatives and police prosecutors had knowledge of);
- when the service providers are actively engaged in working with individual participants and support them by attending Murri Court;
- when the support service sector has good working relationships and trust and is focused on the collective goals for community wellbeing and safety.

Murri Court program inputs and activities alone cannot increase the availability or use of services; however, where additional resources, existing capacity and individuals' inclination are drawn upon, then collaboration, casework and caring will drive successful outcomes.

7. Determine if Murri Court is achieving program outcomes

A program logic describes the overarching goals and aims that guide the formulation and execution of an institution's or entity's programs. The program logic for Murri Court is shown in Figure 2. As discussed earlier in this report, Murri Court aims to meet seven primary outcomes. This section will draw from the qualitative data to discuss whether each of the outcomes of Murri Court are being achieved, addressing each in turn.

7.1. Improve Elders' and Respected Persons' confidence in and knowledge of the court process

Several of the questions raised during the interviews pertained to whether participants believed that Murri Court was effective and whether it had stimulated change in those participating in it. Across these questions, the 13 Elders and Respected Persons interviewed shared their perspectives, which reflected shifts in their confidence and knowledge of the court process as a result of the operation of Murri Court.

Some expressed confidence in Murri Court, in both the perceived competence of judicial officers and in the ability of Aboriginal and/or Torres Strait Islander voices to be heard in the Murri Court process:

'It's about trying to assist Aboriginal and Torres Strait Islander people in every way I can, within the court system; a lot of people get in to trouble and not many of them know the processes. It gives them confidence if there are Elders there with them, talking to Magistrate on their behalf.'

'My sentencing process, is culturally appropriate and just for offenders and victims and [to] prevent further reoffending – Murri expectations and the community itself, as well as expectations in the justice system ensure the offender abides within cultural boundaries and common law.'

'Yes, I'm pretty sure that I have. The Magistrate up here is great; she makes sure that a lot of what is in the RAP is being achieved, works really well with the CJG. They are getting a painting by a former inmate to go up here; I mean that's really good.'

'Well to me, I'm glad that we have the Murri Court; helps all our people.'

Some Elders and Respected Persons demonstrated an improvement in their understanding of the Court process when they shared with the interviewer their knowledge of the sentencing and referral process of Murri Court. These dialogues were coupled with accounts of how their acquisition of knowledge has in turn led to the subsequent education of their communities:

'Positive – in myself [I] understand how the law works and what you can be charged for. This has helped me educate other Murri's in other community programs, for instance when I do driver training, can tell them the law.'

'Alternative education – KMG Head and hand we bring – accreditation in education department at the moment. They can be referred back to normal schools so that they can't get into mischief. It's a laid-back environment; everyone is treated equal, all kids, no barriers. Applying the principles of our culture and giving it every other kid.'

Other Elders and Respected Persons admitted to not fully understanding the Court process and described how there are issues with the participants communicating with Elders and Respected Persons.

Interviewees support the current running of Murri Court but feel that changes could be made. Additional funding would open more opportunities for Murri Court to better serve the Aboriginal and/or Torres Strait Islander communities by having more staff and lightening the load for current personnel. Streamlining of administrative processes and paperwork was raised; while some acknowledged that bureaucratic processes are often burdensome, it was clear that they need to be more manageable to people with a range of education levels.

Consistency in Magistrates was suggested by the respondents, which makes sense from a practical and efficiency perspective. Magistrates who serve longer periods will become better acquainted with the people and build rapport (as does a local GP). Further, having Magistrates serve for longer terms with the Murri Court removes the need for training expenditure.

Structural changes suggested for the Murri Court program included rendering it to automatically be the first point of interest for Aboriginal and/or Torres Strait Islander people within Queensland, enlisting Aboriginal and/or Torres Strait Islander Magistrates to sit in Murri Court. If so, then the volume of Aboriginal and/or Torres Strait Islander offenders the court would need to be sitting more regularly to meet demand where required (e.g. from monthly to fortnightly). An example of some of the sitting days for some courts is provided Table 4 as an example.

Table 4 Sitting days in some courts


Location	Murri Court sittings	Elders sit on Murri Court	Elders conduct report interviews	Active Elders in CJG
Brisbane	Every Wednesday	Once every five weeks	Once every five weeks	10
Townsville	Once per fortnight	Once per month (although due to family obligations, etc., this sometimes becomes twice per month for some Elders)	Interviews (held weekly on a Monday) Twice per month	5
Mackay	Once per fortnight	Once per month	Once per month	9
Cairns	Once per fortnight	Four Elders attend each Murri Court sitting; however, as per the practice direction, two Elders are paid	Every Monday all four Elders attend defendant interviews	4

The evaluation asked community members and stakeholders for their opinions about how Murri Court could be further refined and improved. A quarter (25%) of the stakeholders said they wanted more Elders and Respected Persons involved in Murri Court, and 7% felt that more training was required for Elders and Respected Persons.

Elders and Respected Persons are trained formally by the IJOs and informally by interactions with the Magistrates in the operation of Murri Court. Elders and Respected Persons did not feel their training was intrinsically linked to what made Murri Court work as intended. Some Elders and Respected Persons stated that their relationship with the Magistrate, how the Magistrate worked with them and explained things, and the Magistrate's relationship with the Aboriginal and/or Torres Strait Islander community were much more likely to gain their confidence and increase their knowledge of court processes.

Commentary

Findings suggest that Elders and Respected Persons are more confident in and knowledgeable about the court process as a result of Murri Court. The involvement of Elders and Respected Persons within Murri Court is educational for both the Elders and Respected Persons and, thereafter, their local communities. Their presence is a source of confidence, as the Court is no longer solely a 'whitefella' court, but one where Aboriginal and/or



Torres Strait Islander voices are heard, considered and respected. Having judiciary who are more culturally informed and respectful is also a source of confidence for Aboriginal and/or Torres Strait Islander people. It could be said that the way to improve confidence in Murri Court among Elders, Respected Persons and their communities is by continuing to provide Magistrates who are culturally competent and empathetic.

The extent to which the Murri Court program supports confidence

Murri Court assumes that training Elders and Respected Persons in court processes will increase their confidence that these processes are fair and just. If Elders and Respected Persons are confident, then community members and participants will, in turn, have more confidence in the court process. This evaluation finds that the assumption of training as the mechanism to increase confidence in court processes is a logic error.

The literature and the qualitative data suggest that it is the cultural competence and safety of an Indigenous sentencing court that will increase defendants', Elders' and Respected Persons' and the community's confidence in the court process and justice system. Changing the culture of the court to facilitate the role of Aboriginal and/or Torres Strait Islander culture (via Elders and Respected Persons, communication styles, employment of Aboriginal and/or Torres Strait Islander court workers – or similar) is all part of a therapeutic jurisprudence approach. The extent to which Murri Court supports changing the culture of the court will determine whether increased confidence is achieved. Therefore, the Murri Court program logic should be reconsidered to include cultural safety of the court as well as training of Elders and Respected Persons to build confidence in the court process. Future evaluations could redefine the logic of what builds confidence in court processes and measure Elders' and Respected Persons' perceptions of the cultural competence of Magistrates and the culture of the court.

The barriers to changing the culture of the courts are:

- when the Magistrate's approach is not one of therapeutic jurisprudence and the culture of the court remains traditional and mainstream;
- where Magistrates are not culturally competent or have not undertaken cultural safety training;
- where Magistrates and the Elders and Respected Persons do not have a reciprocal relationship built on respect for each other's knowledge.

The enablers to changing the culture of the courts are:

- where IJOs and CJG Coordinators support Magistrates and Elders and Respected Persons and community to build better relationships;
- when the Magistrate's RAP produces outcomes which increase the cultural competence and empathy of Magistrates.

Murri Court program inputs and activities alone cannot increase confidence in the court process; however, where increased cultural capacity is supported through mechanisms like the RAP, and relationships are facilitated through individual Magistrates' desire for a therapeutic jurisprudence approach, then the culture of the court will change to improve confidence in court processes and outcomes for Aboriginal and/or Torres Strait Islander defendants.

7.2. Improve defendants' engagement with and understanding of the court process

The operations and procedures of the court system are multifaceted and sophisticated, complexity which can impede and frustrate defendants trying to comprehend judicial process and their responsibilities within it. This is particularly the case for defendants who cannot acquire legal counsel and appear at court without representation, which is known commonly to be the case among Aboriginal and/or Torres Strait Islander offenders (Snowball & Weatherburn, 2007).

Recognising the detrimental consequences that lack of knowledge about legal processes can have for defendants, Murri Court seeks to improve understanding of and engagement with court processes through its unique structures and through integrating the involvement of Aboriginal and/or Torres Strait Islander communities at each stage of the process. Given historical failure of judicial officers to consider Aboriginal and/or Torres Strait Islander culture and contexts that contribute to criminal decision-making, measurement has been focused on the comfort and safety of participants through a therapeutic jurisprudence approach to increase engagement with and understanding of the court processes.

Engagement in court processes

Findings from the secondary data demonstrate that defendants did feel that Murri Court improved their engagement with the court process. They expressed that they felt welcomed in Murri Court and treated fairly, an experience which gave them the courage to detail their accounts before the Court. Indeed, three-quarters reported feeling 'very welcome' and that their degrees of anxiety were not as severe as when within the Magistrates Court:

"[I] feel comfortable; I have been through Murri Court before."

"I understand what is needed from me."

"I feel more comfortable to work among my own people."

Similar responses were provided that distinguished more clearly their positive experience in Murri Court compared to their negative experience within the Magistrate Court. Most participants were able to engage with the Magistrate and detail their case in Murri Court, while only less than a third felt confident to do so within the Magistrate Court.

"To learn things and to try and change my life around."

The underlying theme is a perception of cultural safety within Murri Court, that respect is given to Aboriginal and/or Torres Strait Islander culture and that the Court is interested in defendants on a personal level; this

"I've noticed over time people who engage in the court system are more positive in the court process."

stimulates rapport and engagement. This engagement by participants was mentioned throughout the interview process with stakeholders and community members:

Conversely, it was found that a number of defendants (75%) did not believe that the Magistrates Court respected Aboriginal and/or Torres Strait Islander culture and, subsequently, defendants had no respect for the Magistrates Court overall:

'I have support from the Elders.'

'Because they're more supportive than the Magistrates Court.'

In the primary data stakeholders and community members reflected on the values attributed to Murri Court by participants to determine why they engage. Table 1 shows that two-thirds (68%) value the opportunity to connect with culture or be culturally safe, and just over half felt that they have respect for their Elders (57%).

Table 1 Values attributed to Murri Court

Culture – Connection to community / cultural safety / respect Elders and Tradition	68%
Respect for others, court, Elders, themselves	57%
Reduction in offending behaviours / working together collaboratively	53%
Accountability to others, themselves, court, Elders	52%
Responsibility to others, themselves, community	51%
Trust of program, other people	48%
Personal qualities: integrity, optimism, compassion, confidence, self-esteem, pride	48%
Self-determination / autonomy	48%

Knowledge of court processes

It is acknowledged that a lack of knowledge about the court system has led to unfavourable consequences for Aboriginal and/or Torres Strait Islander Australians, such as self-incrimination, being held in contempt of court, and not seeking legal advice or representation prior to a court appearance. Though education in this regard is vital, it can be argued that the onus should be on legal and judicial officers to become trained in therapeutic jurisprudence and the overarching issues facing Aboriginal and/or Torres Strait Islander people to facilitate greater legal outcomes.

It is not clear from the dataset whether defendants have improved their understanding of court processes as a result of Murri Court being established. Though it was observed that defendants recognised the therapeutic goals of the Court in seeking to minimise Aboriginal and/or Torres Strait Islander sentences of imprisonment and provide access to rehabilitative services, as well as the legal consequences of their behaviour (covered elsewhere in this document), it was not clear that they comprehend the place of Murri Court in the broader judicial framework of the Magistrate Courts or the consequences of sentencing (e.g. criminal records). It is not clear whether defendants were aware of the role of Elders and Respected Persons in assisting Magistrates, rather than serving as judicial officers in their own right.

Notwithstanding this, it is acknowledged that the data was drawn from Entry Reports rather than Sentence Reports. Therefore, this report does not claim that Murri Court has necessarily assisted with defendant understandings of court processes. This differs to the findings expounded below.

Defendants were asked in the Entry Reports why they want to 'go to Murri Court' (enter the Murri Court program) (

Table 2). Three broad themes emerged from the responses of participants across both years: Fairness (therapeutic jurisprudence), cultural aims and judicial goals, with other responses being grouped into 'miscellaneous'.

Table 2 Why go to Murri Court?

	2016–17 (n = 248)	2017–18 (n = 208)
Therapeutic jurisprudence	<i>Address issues; to tell my story; to learn; to get support; to get help; to change; another chance; to go to programs.</i>	<i>To be treated fairly; you get a fair process; my story would be heard; they get an understanding of me; you get help; they support you; a chance to make changes; to learn some new things.</i>
Cultural aims	<i>It's safe; they're culturally aware; the Elders.</i>	<i>To be with the Elders.</i>
Judicial goals	<i>Avoid jail.</i>	<i>To stay out of jail.</i>
Other	<i>For family; for children; wanted to try it; Magistrate referred me.</i>	

Fairness

It has been established within criminological literature that racial bias has been conducive to unfair progress mentions and unjust sentencing of Aboriginal and/or Torres Strait Islander people (Daly & Lincoln, 2006). This structural inequality has resulted in an embedded distrust of the criminal justice system and the judiciary in particular among sections of the Aboriginal and/or Torres Strait Islander community (Blagg, 1997; Balfour, 2008). Considering these cultures of distrust and fear, it is unsurprising that defendants felt that Murri Court was a way to secure a 'fair hearing':

'[To] get a fair hearing and having opportunity to get help.'

'To have a fair go and have people listen.'

This notion of 'fair hearing' was understood to incorporate the ability to both 'be heard' and 'be understood', each of which was ensured through the presence and role of Elders and Respected Persons within the progress mention and subsequent sentencing.

'[Murri Court is] more understanding, culturally appropriate to my needs.'

'The solicitor suggested that it would be helpful to me and give me an opportunity to talk about my issues.'

It is important to note that understandings of 'fairness' may differ between defendant and legal officer. For the former, it seems that speaking at a sentencing is conducive to greater equity and likelihood of success in a system

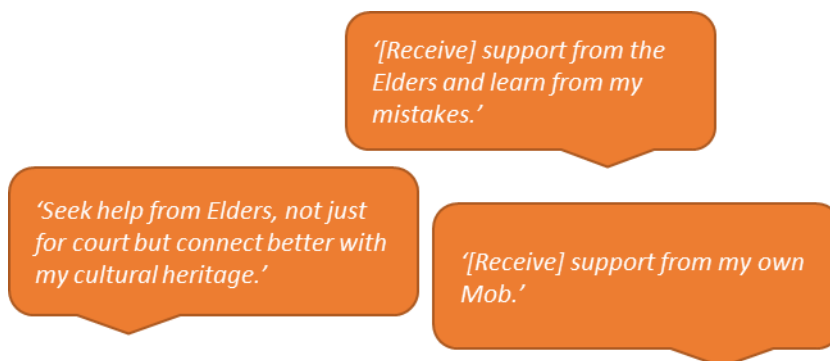
that is otherwise adversarial. For a legal or judicial officer, 'fairness' is likely to be understood as securing 'procedural fairness' or perhaps as facilitating greater voice to defendants to further therapeutic jurisprudence goals.

Cultural aims

A recurring theme from across the dataset was the recognition of the cultural sensitivity and security of Murri Court. Two variables were identified as facilitating this safe environment: the cultural awareness of the Court and the presence of Elders and Respected Persons. Participants expressed that the cultural awareness of officers within the Court, particularly that of the Magistrate, created greater degrees of confidence within them about both the Court and the sentencing itself:




In addition, it was common for defendants to cite the ability to access the support of the Elders and Respected Persons as a leading motivation for pursuing a hearing through Murri Court:



Judicial goals

A number of participants expressed that they wanted to go to Murri Court to avoid incarceration, almost to the point that it was seen as a guaranteed means of preventing a sentence of imprisonment.



'I see this as a last option to prevent being placed in prison.'

To keep [me] out of jail.'

'I don't want to go back to jail.'

Others were more of the view that Murri Court was the final avenue available to them to receive a more lenient sentence than they would otherwise receive under a traditional Magistrate trial:

'I would rather go to Murri Court than any other court.'

'It gives me a second chance at life; [I] don't want to go to jail.'

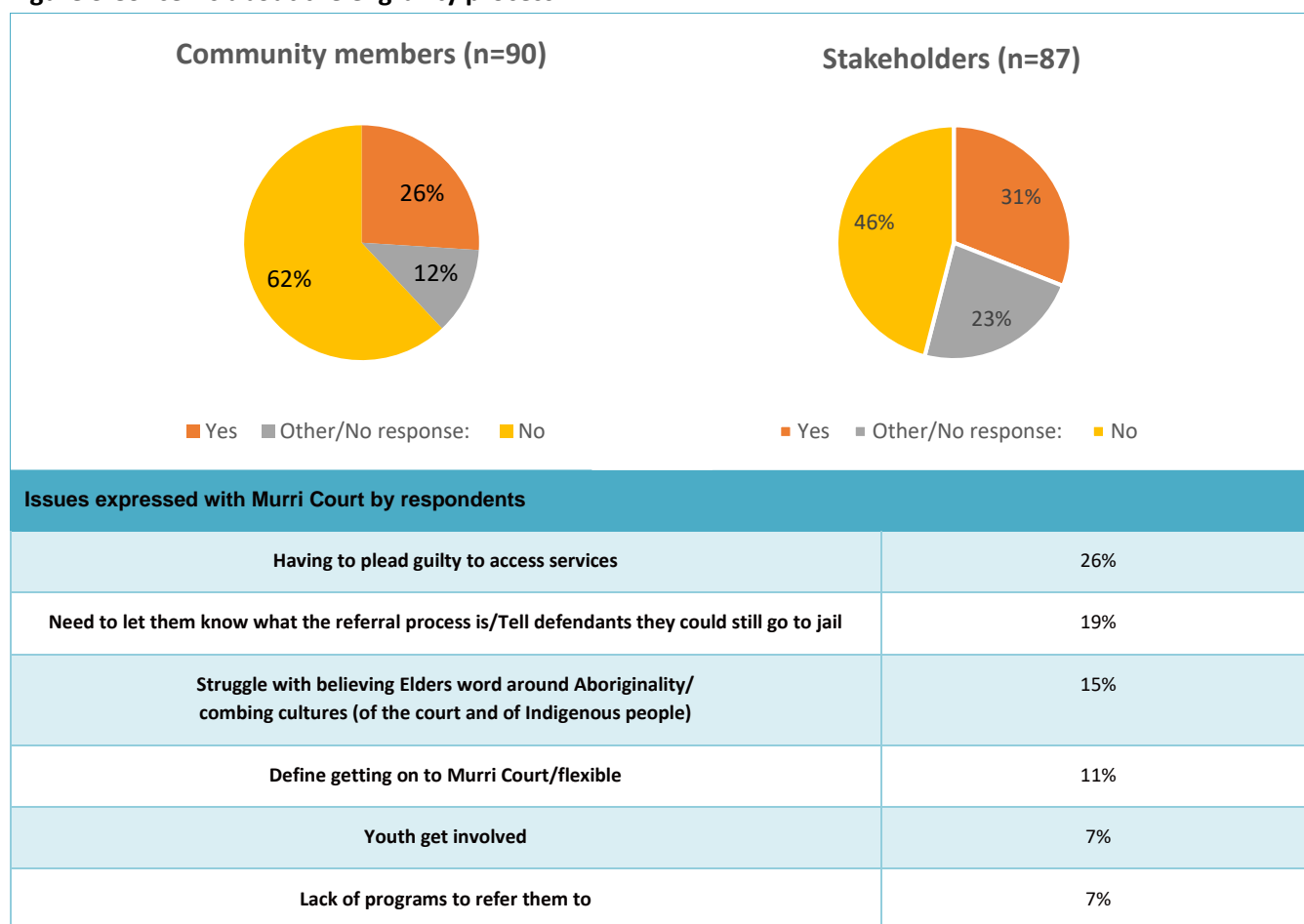
In this respect it can be said that Aboriginal and/or Torres Strait Islander defendants felt that Murri Court was more likely to offer lighter sentences due to being therapeutically oriented rather than punitive in its jurisprudential framework. It is not clear from the data whether defendants were motivated by contrition and thankfully acknowledge the grace offered by the Murri Court, or by attrition and seeking to avoid penalty alone. It is evident, however, that defendants viewed the ability to provide their account as giving rise to a fairer sentencing in their mind, as opposed to in a Magistrate Court where they may not have that opportunity.

Referral/eligibility process

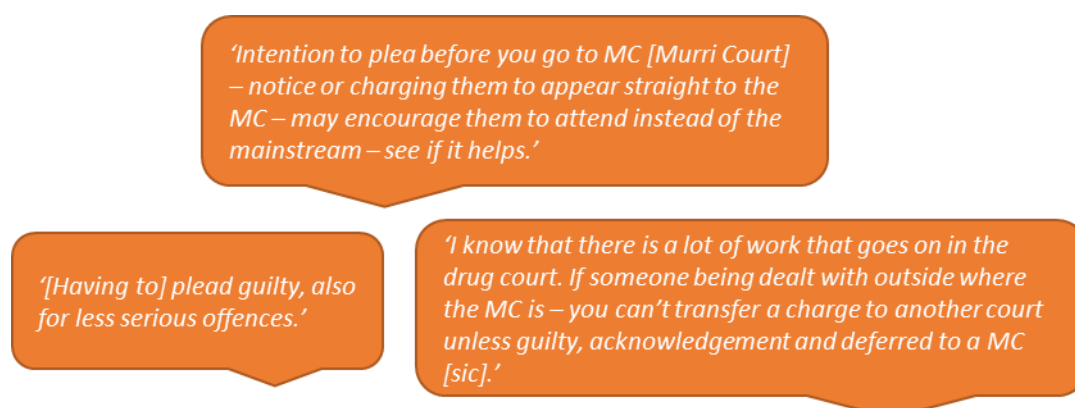
As part of access to Murri Court, participants must pass certain eligibility criteria. Two or three Elders or Respected Persons form an Assessment Panel to determine whether the defendant who is referred to Murri Court is suitable for Murri Court, taking into account their Indigeneity and their agreement to participate.

Interviewees seldom expressed concern about the Murri Court eligibility process, commenting that it was a 'comfortable process'. Only 26% of community members and 31% of stakeholders had issue (Figure 3).

Figure 3 Concerns about the eligibility process



Having to plead guilty to be eligible for Murri Court program was disliked by some participants. There are two main issues: 1) it limits access to therapeutic jurisprudence to defendants who may not wish to plead guilty, 2) it is potentially perverse to plead guilty to access a court with a therapeutic jurisprudence approach. It was suggested that this could be rectified by eliminating the plead guilty criteria for eligibility to Murri Court.



Another matter was the topic of Indigeneity, both in having to ‘prove’ it as well as in considering that a number of Aboriginal and/or Torres Strait Islander people may not declare their Indigeneity and not be able to access the Murri Court.

‘ATSILS lawyers talk to defendants but only offer MC if they think they are Indigenous. How do they know who is? So some of our people fall through the cracks.’

‘They all need to believe us when we say someone is who they are; we sometimes struggle with them believing us that a person is Indigenous.’

One in ten stakeholders commented that Murri Court would be better if the eligibility requirement that defendants should be in the program and should plead guilty was removed.

Commentary

From the responses in this section it can be said that defendants appear to recognise the overarching conceptual objectives of the Murri Court process, an understanding which encourages both applying for access to the Court’s services alongside feelings of security when within the Court itself. Participants indicated that the environment of Murri Court, in being perceived as safe for Aboriginal and/or Torres Strait Islander people due to the presence of Elders and Respected Persons, stimulated defendants to adopt a more proactive approach within the Court and share their accounts and engage with Magistrates, Elders and Respected Persons and victims/offended parties. Consequently, it can be said that Murri Court is successful in increasing defendant engagement with and within Murri Court.

Extent to which the Murri Court program supports increased understanding of court processes

The literature suggests that Elders and Respected Persons are vital to increasing participants’ engagement with and understanding of the court process. Increasing the feeling of cultural safety of the court is all part of a therapeutic jurisprudence approach. The extent to which Murri Court supports feelings of cultural safety will determine whether increased engagement and knowledge is achieved. One community member commented that the Murri Court was useful to ‘give the defendants better understanding of the legal system’. This comment was supported to varying extents (e.g. the ‘Needing support’ segment, of which 91% agreed; see Chapter 10) where some said they understood what the Murri Court Magistrate said to them and all were able to understand what was expected of them.

The barriers to increasing the cultural safety of the Magistrates Courts are:

- when the Magistrate’s approach is not one of therapeutic jurisprudence and culture of the court remains traditional and mainstream;
- where Magistrates are not culturally competent or have not undertaken cultural safety training;
- where Magistrate and the Elders and Respected Persons do not have a reciprocal relationship built on respect for each other’s knowledge;
- where there is limited capacity among the Elders and Respected Persons to meet the caseload.

The enablers to increasing the cultural safety of the courts are:

- where CJG Coordinators case manage participants and support Elders and Respected Persons to build rapport and relationships with participants;
- where the Magistrate show that Elders and Respected Persons are respected, participants have more respect for the court processes;
- when outcomes from the Magistrate's RAP increase the cultural competence and empathy of Magistrates.

Murri Court program inputs and activities alone cannot increase the participant's engagement and knowledge in the court process. Where increased cultural safety is supported through mechanisms like the RAP, and Magistrates who take a therapeutic jurisprudence approach, participants' experience of the court processes can be improved. But Murri Court inputs and activities plus a positive experience in a culturally safe court are not enough to improve the outcomes for Aboriginal and/or Torres Strait Islander defendants. The connection, belonging and support that the CJGs, Elders and Respected Persons provide are the catalysts for positive change and improving outcomes. The lived experience and cultural identity of the CJGs, Elders and Respected Persons should not be underestimated as the most important part of the Murri Court program. When the CJGs have the capacity and case management skills to support the Elders and Respected Persons and participants to spend time together, it extends the effectiveness of Murri Court.

7.3. Encourage defendants' attendance at and engagement with support services while on bail

Overall, Murri Court has been conducive to the fulfilment of bail requirements through both positive and negative motivational reinforcement. The literature identifies that applying conditions for bail works only when support services to help defendants meet those conditions are in place. For example, if a defendant must have a permanent address and be looking for work in order to stay within bail conditions, then housing and employment support services must be accessible to that defendant. The themes of not wanting to displease the Elders and Respected Persons and having tailored support were prevalent within the dataset.

Interviewees were asked to comment on whether Murri Court helped defendants attend and engage with support services as part of complying with bail. A number of participants said that it did support defendants in this regard:

'We support the clients to various appointments, remind of appointments. Also at men's group they get supported, re-enforced what they have been taught. Rapport building, which helps to assist them with their journey through Murri Court.'

'I think the MC can do differently is make the young person understand what they have to do; 14 bail conditions, one quite controversial – they not going to understand that, whereas the MC can break it down and make it much simpler. The understanding and the reality of what they have to do and the significance of what they have to do is a lot clear.'

'They transport participants to and from probation and parole; also track them down for court and also find people for visits to probation and parole.'

Such responses mentioned that some bail requirements are in force for long time, complicating compliance. The support services, both professional and from community, were reportedly essential in helping offenders maintain their legal obligations. As mentioned elsewhere in this report, defendants said in their Sentence Reports that the support services, especially the Elders and Respected Persons, helped them attend service providers. Again, the Elders and Respected Persons were cited as integral actors in this support process:

'A lot of work in regard to bail compliance and the Elders and Respected Persons. To have the Elder involvement... [the d... the [i

'Currently if they don't comply under this Magistrate you can be removed from the program ... if there was a slip up – they can't continue on the program.'

'To make sure they see the Elders and Respected Persons and to get counselling when they need it.'

'Provides incentive to comply to the bail conditions. Non-compliance results in the loss of support from the Murri Court process and the benefit associated with the process.'

Conversely, another observed motivator for defendants to comply with bail conditions was the potential loss of privilege to appear in Murri Court if obligations were not met:

Notwithstanding this, not all participants were satisfied with the bail conditions. Even with the support structures around Murri Court, bail conditions need to be realistic and achievable for the defendant. At times this was described as rather difficult and something that 'could be a bit easier'. Another issue gleaned from Sentence Reports is that the defendant cannot always easily attend support services, due to the service not being in their locale, or because they do not have access to transport (personal, public and offered). The provision of transport by these service providers and having branches located near the Murri Court were marked facilitators of success. Without access to these services or transport to them, it was difficult for defendants to comply with bail conditions.

Commentary

From the responses in this section it can be said that defendants in Murri Court appear to better understand their bail conditions and that Magistrates are better informed to make bail conditions that participants can comply with. With longer bail periods (for 52% of participants in Murri Court, it was longer than 12 weeks), there is more opportunity to breach conditions and often more CJG resources needed to help participants maintain their legal obligations.

Extent to which Murri Court supports bail adherence

Stobbs and Mackenzie (2009) and King (2010) argue that where program goals and aims are too broad, success can be claimed on achievements that are small in number and may have occurred only once. King, in particular, argues that there is a lack of concise success indicators regarding Indigenous sentencing programs. There is the expectation that Murri Court will achieve bail adherence, yet the model is not resourced to be a bail support program. For example, the CJGs have an indirect role in achieving outcomes of the bail support component of the program but do not have the resources or skills to directly influence this outcome (i.e. case management with holistic wraparound support services and treatment programs that are accessible and available). If the program intent is consistent with other bail support programs, then this cannot be achieved through funding only the CJGs at the operational level; a systems-level approach is required.

Murri Court can provide the opportunity for a Magistrate to better understand a participant and to consider bail conditions that will not disadvantage the participant or set them up to fail. The addition of brokerage and referral to support services can also improve bail adherence. These Murri Court program inputs and activities alone cannot increase all participants' bail adherence, and some participants need more support to be compliant with their conditions. Where the CJGs have the capacity and case management skills to support participants to use the support services that are accessible and available, then the larger system outside Murri Court may support a decrease in bail breaches for Aboriginal and/or Torres Strait Islander defendants.

7.4. Encourage defendants to take responsibility for their offending and increase defendants' awareness of the consequences of their actions for victims and the community

To ascertain whether Murri Court had been conducive to offenders taking responsibility for and understanding the consequences of their criminal conduct, data was drawn from both the Assessment Panel outcomes, Sentence Reports and the semi-structured interviews. From the former sources, it was found that a significant portion of offenders expressed remorse for their conduct (Table 4).

Table 4 Expressions of remorse (2016–17 and 2017–18)

	YES	NO	DON'T KNOW	OTHER
Entry Report: 2016–17 (n=248)	193	<10	40	12
Sentence Report: 2016–17 (n=226)	177	<10	37	10
Entry Report: 2017–18 (n=376)*	266	<10	78	27
Sentence Report: 2017–18 (n=124&)*	99	0	19	<10

*Ten months (July 2017 – April 2018)

Remorse was found to be linked both to the consequence of their action to victims and affected persons (shame), as well as to their own families and communities (regret). For some offenders it was an expressed consciousness of the subsequent suffering of victims, for instance in the case of domestic abuse:

'It caused physical, emotional and psychological harm to my partner and concerns with other family members.'

Often family are the victims of Murri Court defendants. Consequences for family appeared consistently throughout the reports, both in respect to daily life as well as collective identity and reputation:

'I have the victim [sic] and the consequences could have been more severe; my family are respected in the community and I brought shame to their name.'

'It has impacted on me and my immediate family.'

'It has affected myself, my family and those who care about me.'

A review of the comments provided within the Sentence Reports provides some degree of insight into defendant understanding of their offending.

Table 5 shows the range of responses within the dataset.

Table 5 Defendant responses: Impact of their offending

July 2016 – June 2017		July 2017 – April 2018	
<i>Disturbed and frustrated</i>	<i>Shame</i>	<i>Disappointment</i>	<i>Not good</i>
<i>Unsafe</i>	<i>A major impact</i>	<i>Worried</i>	<i>Very little (impact)</i>
<i>Not setting a good example</i>	<i>Had (my) children removed</i>	<i>Could have been harmed</i>	<i>Harm to family</i>
<i>Endangered others' lives</i>	<i>Scared</i>	<i>Sad</i>	<i>Serious impact</i>
<i>There were no real victims</i>	<i>Caused physical and psychological harm</i>	<i>Unsure of impact</i>	<i>Regret</i>
<i>They didn't deserve that treatment</i>	<i>(I) Feel stupid</i>	<i>Angry</i>	<i>Shame</i>
<i>Don't know</i>	<i>Traumatised</i>	<i>Don't know</i>	<i>Very much</i>

Interestingly, a number of responses mentioned the consequences of behaviour on the local Aboriginal and/or Torres Strait Islander community, raising the question of the involvement of Elders and Respected Persons in stimulating these reflections:

'She was sad and very emotional and disappointed. Community was disgusted with what we had done and was terribly ashamed with what he did.'

'My actions had the potential to cause harm to myself and other members of the community.'

'Not much on the aggrieved as we are still mates; however, the community of [town] would not have been impressed by our drunkenness and unruly behaviour.'

These positions were affirmed in the interviews with stakeholders who felt that the structure of Murri Court was fruitful in leading defendants to remorse:

'They are not just a passenger in the system; they have support, have guidance; they take responsibility.'

'For offenders to be held accountable by their community members. Accept punishment directed by the community members.'

'The defendants feel shame facing the Elders and Respected Persons; they get into a cycle of reoffending and can't break it, but the Elders and Respected Persons make them shame and this works. People can see that it works.'

One Magistrate gave a glowing review of Murri Court in facilitating change:

'Providing Aboriginal and Torres Strait Islander offenders with the opportunity to understand the causes of their offending and to address those causes in a culturally appropriate and supportive environment. Also, to be accountable to the criminal justice system in a way that recognises and respects relevant cultural considerations.'

This perspective was echoed by Elders and Respected Persons:

'Give the person a chance to take a good look at the offence they have committed. Also, how can they change to better themselves.'

'The benefit people get is a chance to take a step back and reflect and they get an opportunity to change that behaviour and issues.'

The primary data showed that there were values important to people accessing the Murri Court program such as respect, responsibility, trust, accountability, behavioural change and cultural connection. The reason for analysing this question is to understand the role of values held by potential Murri Court participants. (Table 1) Those answering the survey identified the values required of Murri Court participants. Many are also attributes and qualities.

Commentary

It appears that the Murri Court program is useful in guiding defendants to conceptualise and thereafter become remorseful for their criminality. Responses from defendants as well as from stakeholders and community members suggest that the cultural element of Murri Court is imperative in stimulating shifts in attitudes towards conduct.



Extent to which Murri Court program supports participants to take responsibility

The literature suggests that the Elders and Respected Persons are vital to increasing participants' awareness of and remorse for their offending. Murri Court supports this outcome because the participant is involved in the process of resolving any impacts and planning to minimise opportunities for further offending. Being able to tell their story and be heard is an important mechanism to motivate participants to change. Motivation for change varies across different participants and is discussed in more detail in Chapter 10. The environment of the court is what enables the participants to tell their story and be heard. The participant must feel safe and have confidence in the court process. Therefore, when the court is culturally safe, and the Elders and Respected Persons have confidence in the court process, participants are more likely to open up, tell their story and feel heard.

Murri Court directly supports the opportunity for Elders and Respected Persons and participants to yarn and talk about the consequences of offending, which is a vital mechanism for motivating change in Aboriginal and/or Torres Strait Islander defendants.

7.5. Facilitate improvements in defendants' self-reported physical and psychological health and quality of life

The Entry Reports, Sentence Reports, Entry Questionnaires and Sentence Questionnaires were analysed to ascertain defendant attitudes to and experiences of the Murri Court and any changes subsequent to their sentencing. From these responses, there is sufficient evidence to provide some comment as to how Murri Court has shaped defendants' self-reported physical and psychological health.

Improvements to physical and psychological wellbeing were reported to have been experienced by defendants as a product of being placed into support services such as drug and alcohol rehabilitation, men's groups and counselling:

'Positive, have a chance to change from smoking yandy [sic]; now I don't; as I went through counselling for that.'

'Positive – many are changed from stopping drinking alcohol and taking drugs.'

'Me, positive; it's made me [have] more mental strength and more motivation.'

Similarly, quality of life was shown to have improved for some offenders in acquiring accommodation, attaining employment and being reunited with their families:

'He got a ... job. This is massive and the best ... boost for him.'

'Positive, because I haven't really reoffended since coming through; I've got accommodation and baby inside me. Elders and Respected Persons have given me the best chance; if it wasn't for them I wouldn't last two weeks outside.'

'Positive; I'm with my kids, he is going to school. I've also completed a course since finishing Murri Court as well.'

One of the questions asked within the semi-structured interviews was whether participants had noticed any changes in those who had been processed through the Murri Court program. There were many stories of success and positive change presented within these responses, talking of the freedom from addictions and reformation in offending behaviour:

'Positive. They have connected back with their family. They are working now and living a normal life. Contributing to the community.'

'Keeping them busy and productive has kept them sober long enough to develop life goals and build recovery towards achieving.'

'I've seen so many clients get off of ice or alcohol, and these people turn their lives around. Seeing all the good things that people get out of it when they can put their minds to it.'

'When they are referred to us in that it is a positive, because we have been working with clients from the Murri Court program for a long time and we have had a lot of success with our DV [domestic violence] intervention program.'

Understandably, these success stories are not shared by all participants of the Murri Court program. For some, the criminogenic needs are not satisfied through the Court; the individual does not desire change; or they otherwise fall through the cracks. This is an unfortunate reality about all therapeutic and cultural courts:

'They still reoffend and are imprisoned because of this.'

'Negative – men's groups, can see that they are not interested. They look at their phones and not listening about how they can get help. They reoffend. Positive – They come to men's groups and they get involved in and seek help and talk about how they can get help to change.'

'It can be a mix, some accept they have done the wrong thing and want to change that; others come on to Murri Court without accepting what they have done. They think it's just a free easy ride until they have to comply and start spiralling out of control, they then get a warrant and start their process again or get booted from Murri Court.'


Commentary

Data gathered for this report suggests that Murri Court can facilitate improvement in the lives of defendants, as well as their physical and psychological health. This view was widely supported by stakeholders and community members, while recognising that it was not the case for all defendants.

Extent to which the Murri Court program supports better life outcomes

The extent to which Murri Court can facilitate improvements in defendants' self-reported physical and psychological health and quality of life will depend on their access to and the availability of support services to meet participants' needs. There is insufficient data to understand if significant changes in life outcomes have been made in the longer term after participation in Murri Court. However, it should be noted that Murri Court does give people the opportunity to be referred to programs and that participants have stated that they would not have accessed these services if not for Murri Court.

7.6. Encourage Magistrates to consider at sentence how a defendant's cultural and personal circumstances contribute to their offending



Ten Magistrates were interviewed for the writing of this report, some of whom commented on their interaction with Aboriginal and/or Torres Strait Islander culture within the sentencing process. Overall, the Magistrates expressed a sensitivity to Aboriginal and/or Torres Strait Islander culture and a desire to harness Aboriginal and/or Torres Strait Islander knowledge and perspectives to facilitate therapeutic outcomes for defendants. There is, however, no formalised cultural training or induction. The extent to which Magistrates educate themselves about Aboriginal and/or Torres Strait Islander culture and circumstance is entirely at their discretion. Stakeholders and community members comment that there are varying degrees of interest, understanding and empathy among the Murri Court Magistrates.

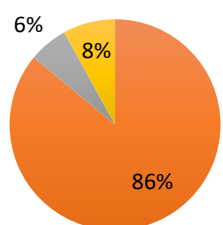
The Murri Court Entry and Sentence Reports and Questionnaires are meant to be used to document an informal, free-flowing yarn, rather than a question and answer format. However, there were varied uses of the forms and different approaches to collecting and collating information. There were some concerns about the amount of sensitive information recorded, retained and reused for other purposes, such as this evaluation. Cultural appropriateness and Indigenous data sovereignty are areas for further reflection by DJAG as to whether these forms are the right way to elicit information that Magistrates need to have a good understanding, and what this information is used for after that.

'The reports are not culturally appropriate – I need to ask them differently. If you don't want to answer it you don't have to – the more information you give to everyone, gives a little bit of an idea of what life you have had.'

The survey asked respondents about the impact on Murri Court of having a consistent Magistrate. A high number of community members (86%) and stakeholders (80%) agreed that having a consistent Magistrate would benefit Murri Court. Stakeholders, more so than community members, gave reasons for their response (see Figure 6).

Figure 6 Benefit of a consistent Magistrate

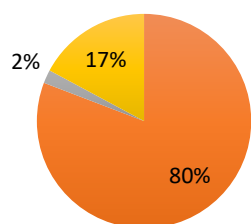
Community members (n=90)



■ Yes ■ No ■ Other

Consistent means better understanding of community/people/culture	45%
Consistent Magistrate provides trust/reliability/minimal shame/comfort	21%

Stakeholders (n=87)



■ Yes ■ No ■ Other

Consistent means better understanding of community/people/culture/support	34%
Consistent means cultural appropriateness – appreciation of reasons to offend/right sentencing then	21%
Consistent is good for the court/knows the clients/consistent approach	20%
Consistent Magistrate provides trust/reliability/minimal shame/comfort/care/value the defendant	10%
Must be culturally appropriate/trained	10%
Build rapport with defendants/trust	7%

Many of these reasons pertain to enabling greater consistency in the judgements given and developing rapport with the local communities:

'Yes, consistent in the way of abiding by bail conditions, etc.'

'Yes, a dedicated Magistrate is very important to establish a consistent approach to process. To build, develop working relationships for best outcomes. It can be very disruptive to the Elders and Respected Persons, defendants and stakeholders involved in the Murri Court process if a different Magistrate occurs each Murri Court as each Magistrate might have different processes compared to other Magistrates. For a Magistrate to take into account a defendant's personal and cultural circumstances they should be involved from the start of Murri Court to the finish.'

These views were affirmed by interviewed Magistrates:

'It would bring some balance if there is some need – consistency all courts, flexible – consistent court – obviously (location) is different in pace and locality in the (other) centres where you get a lot of churn.'

'Absolutely – I take notes of different people, and I can ask questions and get that personal thing going so that it becomes a real community. When people feel that they are cared about and loved, that's where their self-esteem increases. Build that rapport and you see that their face lights up ... and that's where I think we have the ability to get the change, and those one-on-one chats with everybody. And then you see them if they stuff up, and when they have committed further offences, etc., you already know everything about their lives, and then you can sort of tick off why they have gone backwards and try to put in place other conditions, where they are living through bail conditions, what they were trying to get their kids – made it very difficult to see the kids, because you are the consistent Magistrate you can then tailor bail conditions and your conversation to keep them on track.'

'Yes, definitely – consistent approach. All Magistrates differ, but some are good and some are bad. The same Magistrates will carry their attitudes and legal prejudices, etc.'

Though we have seen elsewhere the praise for the cultural sensitivity of Murri Court, some felt that Magistrates could be further trained in this regard:

'There could be better guidance for Magistrates. In particular, if they don't or are unwilling to fully support the Murri Court process, then it will not work.'

'Before they sit in front of Magistrate, talk to participants; take them aside to talk the process through. It's difficult sometimes because they need to talk to a social worker about issues or how to get them back on track. Talking to people in a non-judgemental way.'

'Before they sit in front of Magistrate, talk to participants; take them aside to talk the process through. It's difficult sometimes because they need to talk to a social worker about issues or how to get them back on track. Talking to people in a non-judgemental way.'

Others suggested changes to sentencing practices in Murri Court. Comments in this regard operated on a continuum, with some stakeholders (7%) calling for more 'rigour' in sentencing, while a quarter (24%) of community members desired more 'flexibility'. Some protested against the flexibility seen in the frequent adjournment of Court sessions, stating that this creates more difficulties for offenders attending Murri Court:

'Yes, I think looking at the above, different views about the length while on bail ... it comes a bit too much, particularly for our clients. They don't like coming to court, and the more you make them do that the more potential for them to go the wrong way.'

Other recommendations by participants touched on the operation of Murri Court, suggesting that perhaps the Elders and Respected Persons could take on more responsibility than that of only an advisory role, perhaps even be allowed more scope for leading the court:

'I would like to be less in court traditional, more a circle sentencing: be a bit more innovative. Be led a bit more by the Elders and Respected Persons.'

'[Have] more involvement from Elders and Respected Persons and possibly senior leaders. Elder engagement should be increased if possible and have more time to discuss matters including with their own advocates/supports present.'

'The other alternative is to really expand the program substantially so that the Elders and Respected Persons, actually two Elders and Respected Persons, sit with a judicial officer as the judiciary, like the mental health court; that would be the optimum program but would require extensive expense and time to legally train the Elders and Respected Persons.'

An acknowledged limitation of the system was the age and number of Elders and Respected Persons presently serving in Murri Court. Some expressed concern that there were insufficient numbers of Elders and Respected Persons in some locations, that more training for Elders and Respected Persons was necessary, and that there was a need to implement succession plans for when the Elders and Respected Persons (some aged over 70) were unable to continue:

'They need a succession plan; they are all very elderly, more than 70 years old; we need some young emerging respected people to work under them.'

7.7. Reduce the frequency and seriousness of any subsequent contact Murri Court defendants might have with the criminal justice system

A discussion on the frequency and seriousness of subsequent contact Murri Court defendants might have with the criminal justice system has been provided in Chapter 10 where participants have been grouped into segments rather than averaged. This evaluation does not draw any conclusions on the effectiveness of Murri Court according to this measure, as the literature and qualitative evidence indicate that frequency and seriousness of re-offence are the wrong measures of success.


8. Understand if Murri Court is cost-efficient

Government departments tend to evaluate the operations of criminal justice initiatives, particularly specialist courts, within an economic framework of 'cost efficiency' and 'cost effectiveness' as a means to determine whether to continue the program, although there is disagreement as to how these two terms can be understood and applied as evaluative tests. 'Cost efficiency' may be defined as determining how well a program minimises wastage in funds, labour and time. 'Cost effectiveness' may be defined as whether the system is working, given the expenditure. Commonly, in the discussion of criminal justice, a discussion about cost efficiency becomes a discussion of recidivism (Morgan & Brown, 2016).

It is estimated that the administrative oversight of the Murri Court program costs \$335,590 per year. This includes the salaries for IJOs, who serve as the key administrative and support personnel for Murri Court, as well as two Indigenous Justice Program managers. It does not include the cost of the CJGs, which each receive funding of \$100,000 per year; payments of \$100 per day to Elders and Respected Persons who take part in Murri Court; or brokerage support funding of \$50,000 per year, which covers all court locations to address defendants' emergency needs that cannot be met by other service providers. Sitting fees are paid only when Elders and Respected Persons attend the court, which occurs generally on a fortnightly basis. They are not given a stipend for the time they spend outside of the court, though they may be given other in-kind support (e.g. lunch). Figure 7 shows Murri Court costs as part of the Court Innovations Program within DJAG.

Table 7 Services/treatment programs

Year	Budget allocation	Court Innovation Program internal budget allocation	Murri Court cost
2016–17	\$641K	\$608K	\$395K <ul style="list-style-type: none"> Employee expenses, approximately \$252K Supplies and services, approximately \$142K, including: <ul style="list-style-type: none"> \$56K Elder and Respected Persons allowance \$35K travel \$24K CJG reports \$9K promotion and advertising \$6K stationery and postage \$1K brokerage
2017–18	\$653K	\$853K	\$478K <ul style="list-style-type: none"> Employee expenses, approximately \$289K Supplies and services, approximately \$189K, including: <ul style="list-style-type: none"> \$68K funding for evaluation (Ipsos) \$47K Elders and Respected Persons allowance \$28K CJG reports \$16K travel \$5K promotion and advertising \$5K brokerage \$3K stationery and postage



As stated within the Queensland Government's *Criminal Justice Evaluation Framework (CJEF): Cost and Efficiency Evaluations*, an evaluation of a program's efficiency should not be used when a multitude of factors exist (Rossi et al., 2004). Some of the reasons this is the case for the Murri Court program are:

1. Assigning economic values to the program outcomes may obfuscate their meaning (e.g. participant understanding of the court process, rather than measuring desistance outcomes).
2. Stakeholders may disagree on the costs and benefits of a program (e.g. how much an Elder should be paid).
3. Is it difficult to price Murri Court expenditure (e.g. it is difficult to price Murri Court expenditure from within the CJGs' diverse workload).
4. The evaluation criteria employed will determine the deemed efficiency of the program (e.g. it is difficult to test efficiency where there are few similar systems to which a comparison may be made).

A collection of difficulties arose when calculating the costs and benefits of Murri Court. For instance, not all of the costs and benefits may be relevant to the operation of Murri Court (e.g. the CJGs are funded under one agreement to run a range of programs and activities, including Murri Court; there are many influences on a defendant's life outside the program). It is also important to note that not all costings of the Murri Court program are readily available for analysis (i.e. the administration, managerial and operational costs of the Courts Innovation Program area that supports Murri Court program staff). Accordingly, it may be argued that any evaluation of the benefits of Murri Court will underestimate the cost of the program overall. It is for this reason that costs, or even proxy measures of costs, have not been used in this evaluation. Instead, stakeholders and community members were asked if the financial investment in Murri Court was sufficient to guarantee fruitful outcomes.

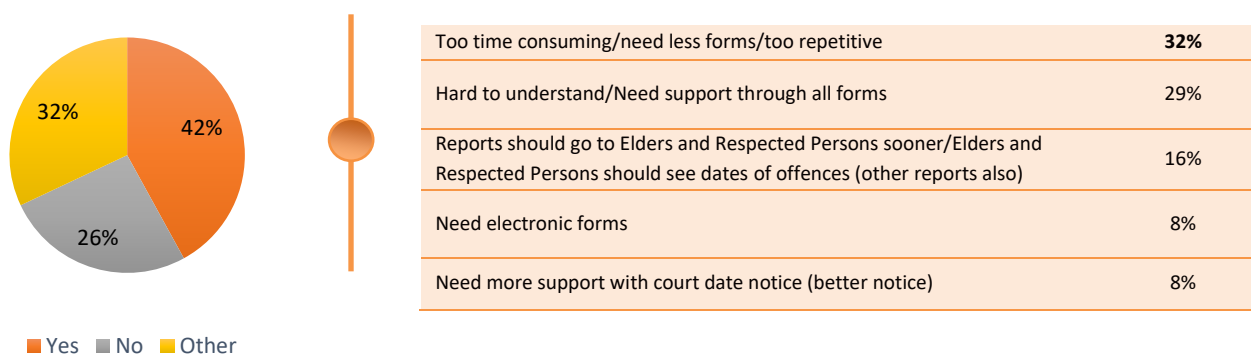
A similar question was asked during the primary data collection about the administrative processes of Murri Court and whether these could be improved. The responses are shown in



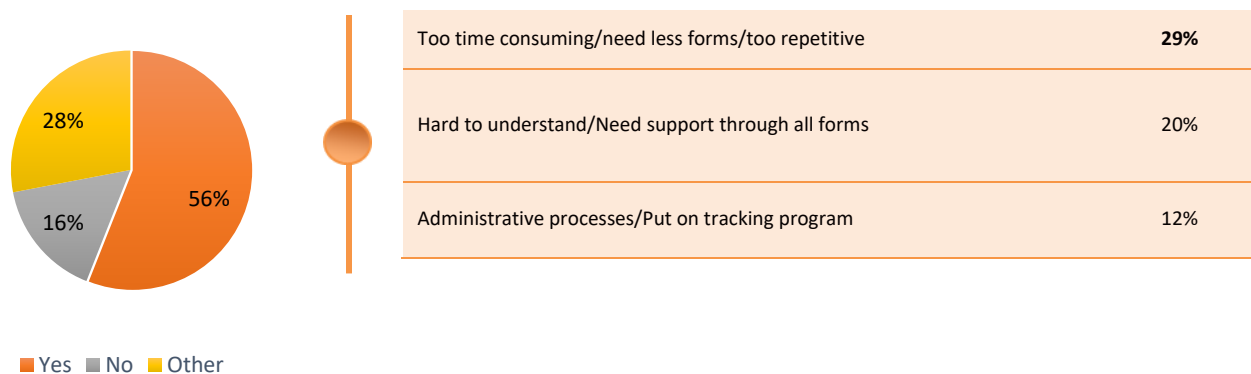
Figure 8.

Figure 8 Murri Court administration processes

Community members (n=90)



Stakeholders (n=87)



Across both groups interviewed, there was indication that the administration process of Murri Court could change, mostly to streamline them ('time consuming' and 'repetitive'), while recognising the limitations of such changes in regional and rural centres:

Yes, they could be streamlined, for example by converting them to electronic form.'

'Could be – but we have got to be mindful of the capacity and capability of the groups and the people in those positions. [For example] computer system, or online forms; when you have got people in communities when internet is so patchy, we can't be reliant on those systems.'

Another request was to make these forms more readily accessible to the lay person (less complicated, less jargon) with some people sharing that they sometimes need support to fill out the forms:

'I feel like I've already said this a lot – the forms need to be easier.'

'The Elders and Respected Persons do not understand all the reports. We just write up our way for the courts and Elders and Respected Persons. The Magistrates, police prosecutor, ATSILS; they prefer our plain English and easy-to-read reports. It is all too complicated and takes so much time.'

'The Elders and Respected Persons don't understand all the reports and administrative requirements.'

Some participants said that ‘administrative processes are always difficult’, irrespective of the system.

As mentioned elsewhere in this report, a number of participants felt that an increase in funding would improve the operation of Murri Court. Additional funding would enable more staff to be employed, to both lighten the load for presently overburdened staff and to offer more opportunities for defendants to access support services. It would also enable the running of Youth Murri Courts across the present sites, another requested feature by some participants. Participants frequently suggested that the Elders and Respected Persons should be paid more for their service:

‘Yes, with more money and support. We do so much more to try to reach our people before they get into trouble. We visit kids in schools and those at risk of harm or on the wrong path. We do all this due to our commitment to make our people's lives better. Our workloads are huge – the administration, the reports, etc. all takes time. I work up to 18 hours a day sometimes to be able to ensure everything is done. Our Elders and Respected Persons do all this for free – some might get \$100 for attending court once a fortnight.’

8.1. Was the investment into the Murri Court sufficient to deliver the intent of the program?

The primary data revealed a mixture of opinion as to whether or not the Murri Court program was sufficiently funded to achieve its desired outcomes. This was asked through the question ‘Was the investment into the Murri Court sufficient to deliver the intent of the program?’ Over half of the community members felt that program funding was sufficient to deliver the intended outcomes of Murri Court. However, fewer than a quarter of interviewed stakeholders had this perspective (Figure 5).

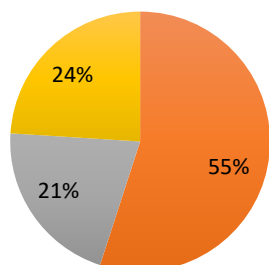
Although a number of participants across both the community member and stakeholder groups said that sufficient funding was in place, they also said that either:

- (I) the present programs are good but not reaching their full potential or meeting the community need, and that more funding would make the present programs more effective
- (II) the present system is efficient but only due to the non-paid work of volunteers (such as Elders and Respected Persons).

This was particularly the case among stakeholder responses.

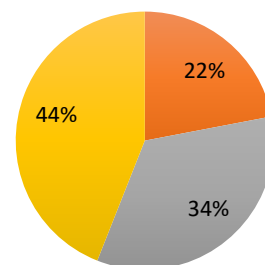
Figure 5 Opinion on sufficiency of funding

Community members (n=90)



Yes No Other (Don't know/unsure/Refused)

Stakeholders (n=87)



Yes No Other (Don't know/unsure/Refused)

It is important to note that it is unlikely that many people in the general community would understand the funding arrangements for Murri Court. What follows, therefore, is their perception rather than informed opinion or belief.

Community members

Community members who expressed satisfaction with the current program largely held this perspective because they know someone who has been through Murri Court:

'Yes. By keeping her out of jail and linked her into support services.'

'It was good, and it helped a lot of offenders. The Elders and Respected Persons are a good help to those that use the service.'

'Yes. An important investment for all communities in helping keep our people out the prison system.'

Other community members were able to comment more specifically on the question, referring to the structure and services offered as part of the Murri Court program:

'Yes, it was delivered to the intent of the program for the clients.'

'Yes, it was sufficient, although the process took a bit of time. It was well worth the investment, time spend.'

Among those who said that the investment in Murri Court is sufficient to deliver the intent of the program, some said that more funding was required to ensure its ongoing efficiency:

'Yes, but more financial things would be better, with Go Cards for buses.'

'Initially yes, but more is needed as many of our Elders and Respected Persons are rapidly disappearing.'

'Yes, the investment into the Murri Court is good; however, due to the success of the program more funding to the program is required to ensure the success and continued service.'

Some of the 21% of community members who felt that funding was insufficient described how the limited resources hindered the efficacy of Murri Court:

'We were only able to go out camping sometimes and do different things and it was comforting to listen to other people's stories, but the funding ran out and we couldn't do that activity anymore.'

'No, it needs more funding, need more money to do follow-up on people.'

'No, it requires more investment if it is to make a significant difference to the high number of Aboriginal and Torres Strait Islander people that come into conflict with the judicial system.'

'There was at the beginning of the program, but now there is not enough funding to do anything in the Murri Court program. We can't take our young offenders out to experience culture so that it can help them to understand that it is not our culture to commit crimes.'

Some responses given during the semi-structured interviews suggest that participants did not fully understand the function and role of Murri Court, that perhaps Murri Court was seen as the overarching body through which all support services were offered, rather than a sub-arm of the Magistrate Court:

'No, because they could no longer do other programs that are needed, like the bush healing program.'

'There should be more funding and there are more people in jail now. It costs a lot of money to keep someone in jail. Need money to prevent them from going to jail. At the moment it's a band-aid solution.'

Stakeholders

More of the interviewed stakeholders than community members did not believe that sufficient funding was presently afforded to the Murri Court program:

'No, it has always been like this. So none of the money comes back to support the system that helps the participant.'

'I think it needs more investment to deliver the positive outcomes.'

'It needs more funding – needs to have more programs to meet clients' needs, more groups, not just yarning circles.'

As with the above responses, some stakeholders said that the funding was sufficient, but only due to the costs that other parties were taking on in the absence of resources:

'No, Elders and Respected Persons do a hell of a lot out of love!'

'They don't put money back into building Justice Groups – we [Elders and Respected Persons] save them money.'

'NO, [Redacted organisation] carries a \$10K deficit to keep the program running at the level of demand in community.'

'There is a lack of funding; we do what we can with the limited funds we get.'

In other interviews, participants said while the current funding was sufficient to produce a program, with more funding, greater outcomes may be achieved:

'Yes and no – can do with three times more money.'

'Sufficient to deliver court program, and if we have more funding for another worker we could deliver more and spread the workload.'

'I believe so; I believe the investment, about financial investment could potential better. The social and support investment is certainly sufficient to deliver the intent of the program. Could always be better.'

'The investment so far – the future – further investment; the MC program can deliver a lot more.'

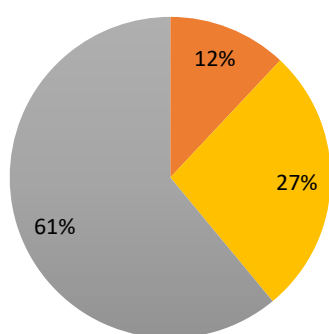
Those who believed that Murri Court was sufficiently funded to achieve its outcomes commented that the new program model was a cause for excitement, that the present model was installed ‘as best it could be’ and that they were funded without issue.

8.2. Do you think the Community Justice Groups are funded appropriately? What impacts did/does that have on the program for you?

This part of the evaluation asked whether people thought that CJGs received appropriate funding, and to comment on any subsequent impacts of this on the program.

Figure 6 CJG funding and impacts

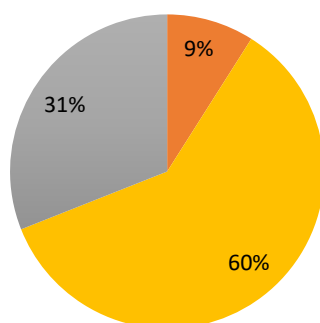
Community members



More funding is needed	96%
Elders and Respected Persons need more funds/to be paid properly (hourly)	54%
More services/programs are needed/need to be funded	54%
More staff are needed	33%
Their time/effort exceeds their pay	13%

■ Yes ■ No ■ Other (Don't know/unsure/Refused)

Stakeholders



More funding is needed	38%
Elders and Respected Persons need more funds/to be paid properly (hourly)	15%
More services/programs are needed/need to be funded	6%
More staff are needed/under-resourced	21%
NGO absorbs the cost and the CJG runs at deficit	8%
Paid fairly/appropriately for way they do/review	6%

■ Yes ■ No ■ Other (Don't know/unsure/Refused)

Few respondents in either group felt that the CJGs were funded appropriately. Just over a quarter of community members (27%) and up to 60% of stakeholders were not satisfied (Figure 6).

Both participant groups expressed a need for more funding, particularly in order to employ more staff and offer additional programs:

'Yes, they could always need funding. Or rather need more funding to employ more workers as they have a big case load which is a lot for three staff to juggle and they only get funded for one position.'

'No, the Coordinator, administration and Elder, and we have to share the funds of the positions. We have a big case load and only use to work on the Murri Court program. We need more funding to train another person up to help us with the workload. Sometimes we don't get a lunch break.'

A number of responses talked about financial support for the Elders and Respected Persons involved in the Murri Court program. This included both payment in-kind for service to Murri Court, as well as covering other expenses such as transport costs:

'No, it's not my understanding; much of their work is voluntary. To participate in such processes requires some remuneration for the hours that they invest to this work.'

'We can't afford anything – the Elders and Respected Persons do not get reimbursed for travel or fares or even parking; it is terrible.'

'They should get paid for everything, including activities and their time. It's pretty unfair for them to give up their time for free but I know they get paid for court.'

'Elder Groups are in need of more funding to improve work conditions, also to maintain and upgrade vehicles.'

Some respondents said that Elders and Respected Persons should be given more than the current small reimbursement for their 'good will' service, and instead be recognised and paid as an expert witness to the court:

'I don't believe that the CJGs are funded appropriately. I believe that the Elders and Respected Persons need to be paid as expert witnesses per hour for the amount of hours that they put into the services. The knowledge and the wisdom that the Elders and Respected Persons bring to these services is invaluable and they should be paid as such.'

'Elders and Respected Persons should be paid more appropriately for their time and effort.'

Of interest to this discussion is that it was reported that not all Elders and Respected Persons wanted to be paid for their contributions to Murri Court, because they see it as service to the community. This was raised in a number of conversations with stakeholders:

'No, I don't – people should get paid for the work that they do. Elders and Respected Persons should be remunerated – some Elders and Respected Persons don't want to get paid – it's a dilemma for all of our CJGs state-wide. I think it is very disrespectful to not be paying them for the work that they do, and I think that we will never truly achieve reconciliation with the community while we are not paying people appropriately.'

'The Elders and Respected Persons should be paid the same as "expert witnesses". We rely on them to provide us with expert advice, they vouch for the defendants and stand up for them in court. They say they don't want to be paid, they just want recognition, but it seems unfair ... [some are] very elderly, over 70 years old. This is hard as they are not paid and people that age need to be in paid employment.'

The question of funding for the CJGs produced similar comments as those about funding of Murri Court overall. That is, though they were operating sufficiently with the present funding, they could benefit from additional funding.

This section has raised several issues with budgeting considerations and the question of efficiency. Firstly, it was shown that though some people felt the system was working efficiently with the current budget arrangement, others said this efficiency was only possible due to volunteering, overloading and/or overtime efforts. A system should not be deemed 'cost-efficient' if it is operational largely due to unpaid labour. If the volunteer and *bona fide* labour were not present in the Murri Court program, the program would not be cost-efficient and would not be able to fulfil its mandate.

A second issue is that decisions about the remuneration of Elders and Respected Persons and community members require additional consultation due to the disparity of opinion. Though it has been reported that some Elders and Respected Persons do not want remuneration, this may be due to fear of being a drain on resources and jeopardising Murri Court in their community. Yet consultation rates of more than \$100/hr (instead of \$100 per court day) are offered to other persons of interest to courts within Queensland, which raises the matter of equity. Sufficient remuneration, according to interviewees, is an entitlement Elders and Respected Persons should have access to considering their recognised integral role within the Court and their age. One Elder commented:

'Yes, we work hard, us Elders and Respected Persons work darn hard to help our young ones get their lives back on track and to reconnect with community, be better, stronger people. Why do we not get funded right? We should be funded more as we are the link between so many services, so many agencies. We need at least three times more funding, then imagine what we could really do!'

Finally, it must be determined whether the evaluation criteria for Murri Court should be focused on recidivism, desistance or on the success of the defendant–court interaction itself. If recidivism is primarily to be the criteria of success, it is necessary to consider the broader socioeconomic framework. Criminality of Aboriginal and/or Torres Strait Islander people is inherently linked to ongoing systemic and intergenerational inequality, disadvantage and dispossession. As one stakeholder commented:



'In a lot of Aboriginal communities there is a lot of issues to deal with. Person to take responsibility and make changes. Each time they are to front at court with the same breaches it makes it hard on that person.'

8.3. Commentary

Where criminogenic needs are not rectified, criminality is likely to recur. However, expecting Murri Court to rectify criminogenic needs is placing expectations on it beyond its capacity and placing it at risk of having funding discontinued.

Though using desistance as the criterion for cost efficiency has similar issues, paying attention to desistance from specific crimes and criminality more broadly could be useful, particularly in response to specific crimes after which appropriate support services are used (e.g. drug rehabilitation).

The criterion of in-court engagement (elaborated on elsewhere in this report), particularly given the aims of Murri Court to improve court experiences for Aboriginal and/or Torres Strait Islander defendants, should be one of the measures when considering cost efficiency. The wellbeing and security of Aboriginal and/or Torres Strait Islander people within courts is key to ensuring a fair experience, minimisation of self-incrimination and being held in contempt.

There appear to be opportunities to streamline or reduce administrative processes so that people spend more time working with participants to support them through the program; to fund culturally safe programs and/or improve access and availability of programs; and to support volunteers such as Elders and Respected Persons to ensure their ongoing participation and sustainability.

9. Assess if Murri Court supports a reduction in participant reoffending

One of the aims of the Murri Court program is to increase desistance and reduce recidivism among offenders through facilitating access to support programs to address criminogenic needs with the assistance of Elder and Respected Person influence. In this evaluation the difference between recidivism (repeated criminality) and desistance (periods away from crime) is particularly important. There is an emerging argument in criminological research that more weight should be given to measuring offenders' dispositional change when considering recidivism and desistance from crime (Nakamura & Bucklen, 2014). It is worth noting that a difficulty in using recidivism for Aboriginal and/or Torres Strait Islander offenders is the issue of systemic inequality across Aboriginal and/or Torres Strait Islander communities, and the tendency for them to be subject to over-policing, each of which lead to higher convictions.

Focusing on changes in an offender's character and whether these developments have progressed into community service and betterment allows a consideration of desistance and of some of the factors known to mitigate criminogenic risk.

In terms of desistance, some authors have suggested that a 5–10-year period after conviction is too soon to comment on whether desistance has occurred (Hanson, 2018). It is not clear whether an individual requires several points of contact with Murri Court or, more importantly, with the Elders and Respected Persons and support services attached to Murri Court before desistance is achieved. For this reason, this section of the report discusses whether desistance has occurred. In Chapter 10 below, QWIC and QPS data are discussed, where participants have been grouped into segments for more meaningful analysis.

In the Sentence Reports of participants between 2016 and 2018, the vast majority conveyed that they believed that Murri Court had helped them 'stay out of trouble': avoid deviant and criminal behaviour. The provision of mentoring, having to appear before Elders and Respected Persons in addition to the Magistrate, access to rehabilitative options and the prompting of reflection/awareness were cited as the means by which this was achieved. Several themes emerged from these responses, including support services and rehabilitation, compliance and indifference.

9.1. Support services and rehabilitation

The referral of defendants to support services was reported as being one of the ways to limit reoffending. This involved findings programs such as counselling and one-to-one mentoring to address underlying issues and attitudes contributing to criminal decision-making:

'Murri Court has given [me] a better way of dealing with my offence instead of sending me to jail.'

'Helped me to realise what I have to live for and lining me into support services. Support received from Community Justice Group.'

'Referring me to programs, making me see that I need to be more responsible for my family.'

'I am more aware that alcohol is a big cause of my offending and leads to anger issues; I have access to programs that have given me some help.'

Such services, alongside the court processes itself, were said to have helped the defendant rethink their lives and behaviour. The formation of new skills through this process was referenced as being useful in this regard, which aligns with the strengths-based positive psychological approach advanced by the Good Lives Model (White & Perrone, 2010):

'[They were] guided to see [the] errors of one's own ways.'

'Making me more responsible for my actions and teaching me some new skills.'

'Murri Court has given me a chance to think about what I want for my future.'

9.2. Compliance and indifference

Compliance with the wishes of the court was noted throughout the dataset, where there were comments that Murri Court had been useful in keeping individuals 'focused' and in 'adhering to the conditions set'. For some participants, compliance with court directions was secured through the role of Elders and Respected Persons in the sentencing process. One defendant commented:

'Yes, knowing I would have to face the Elders and Respected Persons.'

However, this was not the experience of all defendants, and it is not realistic to assume that the positive features of Murri Court will be sufficient to prevent a return to criminal behaviour for everyone:

'Mostly, I have committed further minor offences while subject to Murri Court bail.'

'It has in a way, but I keep finding bad influences.'

9.3. Commentary

Recognising that the Sentence Report data was to be used to guide sentencing by judicial officers, and acknowledging that there is a distinction between words and deeds in expressing contrition, the data stimulate further conversation about the efficacy of Murri Court in changing behaviour. It appears that Murri Court enabled at least some defendants to desist from offender and criminal conduct by making them more aware of their wrongdoing. Elders and Respected Persons were reportedly key figures in leading defendants to this reflective state. This shows favourable support for the effectiveness of Murri Court in contributing to the reform of Aboriginal and/or Torres Strait Islander offenders in Queensland.

One stakeholder cautioned of the need to be realistic about the capacities of Murri Court to reform offenders, considering their entrenched inequality and criminogenic needs:

'I think the defendants who go to MC have very deep-seated problems, much more complicated than that – it's hard-expectations, who are being realistic - history is not someone who is usually changed. Where the courts [are] most successful and reach out to and get cooperation, with younger offenders who maybe change their ways. Having seen people come out of normal system....The Murri system with its Indigenous aspects respect that person, and the best chance and best outcomes. There are offending considerations, quite aside from rehabilitation – in a better way, more info what, when, why [sic].'

10. Understand the various contexts of Murri Court

This section uses secondary data sources created with participants during the Murri Court process to produce qualitative and quantitative segmentation modelling. A statistical multivariate approach to segmentation (latent class) identifies groups of participants based on their experiences within both the Magistrates Court and the Murri Court, as well as their beliefs and attitudes. There were 901 unique participants and 465 Murri Court participants who had sufficient data records to be included in the analysis. Four segments were identified within the data and are described in the next section. More information on how the segmentation was undertaken can be found in Chapter 5.


To continue initial discussions about whether Murri Court is working as intended, this section analyses why some Murri Court participants have better outcomes than others. Participants in Murri Court are described in a number of ways: their contexts, their experiences and motivations and their outcomes. As Murri Court draws on a therapeutic jurisprudence approach, it is practical to use grounded theory from behavioural sciences regarding motivation and behaviour change to help inform the underlying constructs of the segmentation model. That is, the belief about the culture of the court, the experience of the culture of the court and the self-reported changes in the participant are indicators of the impact of the court process on participants' wellbeing.

10.1. Differing contexts of Murri Court participants

An array of available data was included in a qualitative and quantitative segmentation of participants in the Murri Court process. This included:

- The Murri Court Entry Report
- The pre-intervention survey, the Entry Questionnaire including feedback about Magistrates Court experiences
- The post-intervention survey, the Sentencing Questionnaire including feedback about Magistrates Court experiences
- The Murri Court Sentence Report.

Out of 1077 Murri Court participants from July 2016 to June 2018, 465 Murri Court participants provided sufficient personal information and feedback on entry and exit to be included in the analysis. It should be noted that those included in the segmentation were more likely to have completed all four forms, indicating that they completed the program, but only 209 of the 465 were sentenced in Murri Court. The participants included in the segmentation are assumed to be more positive than those who did not engage in completing the forms. Those



who exited the program through bail breaches or adjournments to Magistrates Court and those sentenced do not have statistically significant differences in their responses. Considering the collection method there is likely to be social desirability bias present, with more favourable and positive responses given during questioning than if the questioning were undertaken by an objective interviewer outside the Murri Court program. This assumption cannot be tested.

Segmentation analysis is undertaken to investigate if participants cluster into groups depending upon their characteristics. This can serve to provide a greater depth of understanding of the diverse nature of participants in Murri Court and their responses to intervention of this nature.

The segmentation used a statistical multivariate approach to segmentation (latent class) to identify groups of participants based on their experiences in mainstream Magistrates Courts and the Murri Court. Analysis identified that four groups of participants varied based on the participants’:

- beliefs about Magistrate Court
- experiences in Murri Court compared to in Magistrate Court
- changes resultant from the Murri Court program and post–Murri Court.

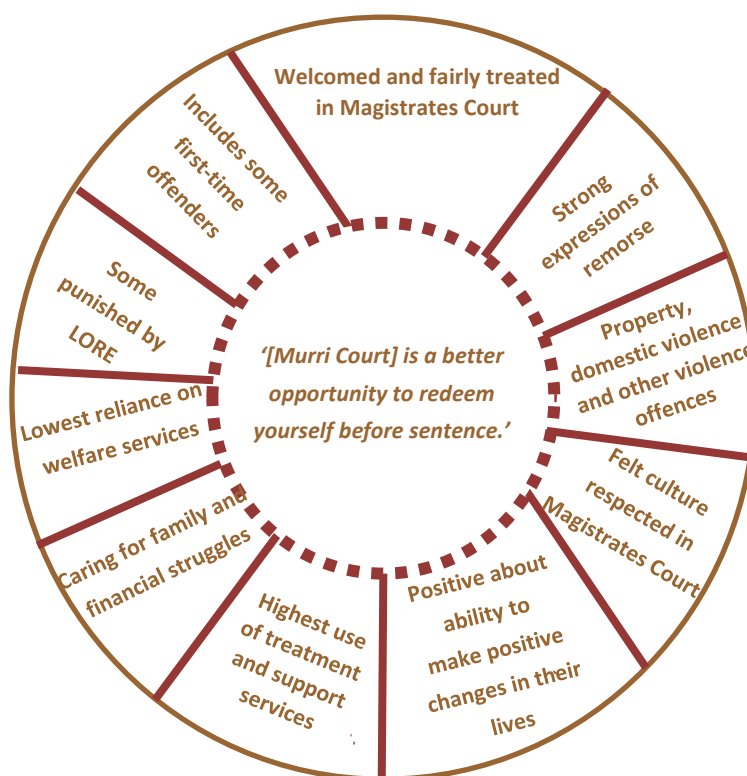
These four classes/segments were then labelled using the more common phrases participants used when asked about their experiences: ‘feeling strong’, ‘staying on track’, ‘a chance to change’ and ‘needing support’. Figure 7 gives an overview of the experiences and motivation for change in each category. Then each category is described in more detail in the following section.

Figure 7 Length of time participating in Murri Court for completed episodes

	'Feeling strong' 13% (n=57)	'Staying on track' 43% (n=187)	'A chance to change' 14% (n=61)	'Needing support' 29% (n=126)
I believe ... (going into the Magistrates Court)	Fair justice is available. I am recognised.	Fair justice is available. I hope I will be recognised.	Unwelcoming, unfair, inequitable justice systems. Discriminated against.	Unwelcoming, unfair, inequitable justice systems. I am not recognised.
I experienced... (Magistrates Court experience vs. Murri Court experience)	Good ↓ Better	Mixed ↓ Good	Poor ↓ Best	Poor ↓ Good
I changed ... (over the course of Murri Court intervention)	Was less nervous. Was more optimistic about outcomes and continuing with support services.	Fewer occasions of negative experiences in justice system. Better ability to tell my story. Stronger personal motivation to change.	Recognised – a voice, a culture. Stronger personal motivation to change and access support services. Treated fairly A strong desire to be connected to culture.	Recognised – a voice. Better cognitive understanding. Less nervous. Stronger personal motivation to change and access support services.

Figure 8 Segment: 'Feeling strong'

'Positive: Seeing lives change for the better, entering into workforce, some entering into professional workforce, less offending.'



In this category, participants display fewer conditions that may hinder their ability to realise positive outcomes.

They have the lowest incidence of abuse in childhood (21%), lowest reliance on receiving benefits (78%) and lowest incidence of SPER debt (76%). They are in mostly stable housing including their own accommodation, living with parents or having access to public housing. More than half (60%) are in treatment, which is the highest of all segments, and they are very optimistic about being able to make positive changes in their lives.

There are some potential hindrances (42% currently caring for a family member, and 42% self-report suffering financial difficulties).

While most had appeared in the Magistrates Court before, 15% had not and 10% have been punished by LORE on this charge.

This group of participants also had a strong expression of remorse (90%). One in five offences were 'simple' offences. Offences related mostly to violence (71%), property (48%) and domestic violence (43%).

They were even more positive about their experience with the Murri Court across most evaluation measures.

They felt welcomed, able to explain their side of the story and thought their treatment was fair.

Most notably, there was an improvement in the ease and comfort of interacting in the Murri Court context, with three-quarters feeling 'very welcome' and those who felt nervous in the Magistrates Court feeling less nervous in this context.

People in this participant group were even more positive about their experience with the Murri Court across most evaluation measures.

They felt welcomed, able to explain their side of the story and thought their treatment was fair.

Most notably, there was an improvement in the ease and comfort of interacting in the Murri Court context, with three-quarters feeling 'very welcome' and those who felt nervous in the Magistrates Court feeling less nervous in this context.

Participants were very optimistic about their ability to make positive changes in their lives (and attributing this as well to their experience in both the Magistrates Court and Murri Court).

Three-quarters stated life is much better after Murri Court.

Approximately half were required to attend support services from the Magistrates Court and felt these assisted them. Over two-thirds showed a strong inclination to continue with the support services received via the Murri Court.

Figure 9 Segment: 'Staying on track'

'Just being supportive, and hearing my story.'

Greatest male skew: over 85%. Approximately half were centred in the Mt Isa or Brisbane court region. Feel very connected to culture (92%), and 30% speak cultural language. Many are in a domestic violence cycle – three in five grew up in a place with domestic violence or neglect, and two in five admit to domestic violence being within their current relationship. Alcohol is a significant issue and pre-condition.



Half stated that life is much better after Murri Court and their intent to make positive changes in their lives was strengthened. Their attitude to accessing ongoing support was the weakest across the segments (43% very likely to continue). Unfortunately, given the more lukewarm responses and less emphasis on ongoing support in the qualitative responses, the presence of domestic violence cycles and alcohol and prior exposure to the justice system, this segment remains at high risk of recidivism.

The domestic violence cycle is evident here too, with 44% being convicted for a domestic violence offence and 31% a violent offence. A third of offences were classified as having 'relationship influences'. The majority (86%) expressed remorse regarding the incident. All had appeared in a Magistrates Court previously.

The experience has been mostly negative, and only 5% felt that the Magistrate Court helped them to make positive changes in their lives. Only 43% have respect for the Magistrates Court, and 87% do not feel that the Court respects their culture. A third did not feel welcomed, and almost all felt treated like a number. Almost all felt they were not able to explain their side of the story. Perceived outcomes were mostly negative: 80% did not feel treated fairly, and 75% felt their sentence was unfair. Approximately half did not understand what was said to them, and 40% did not understand their sentence.

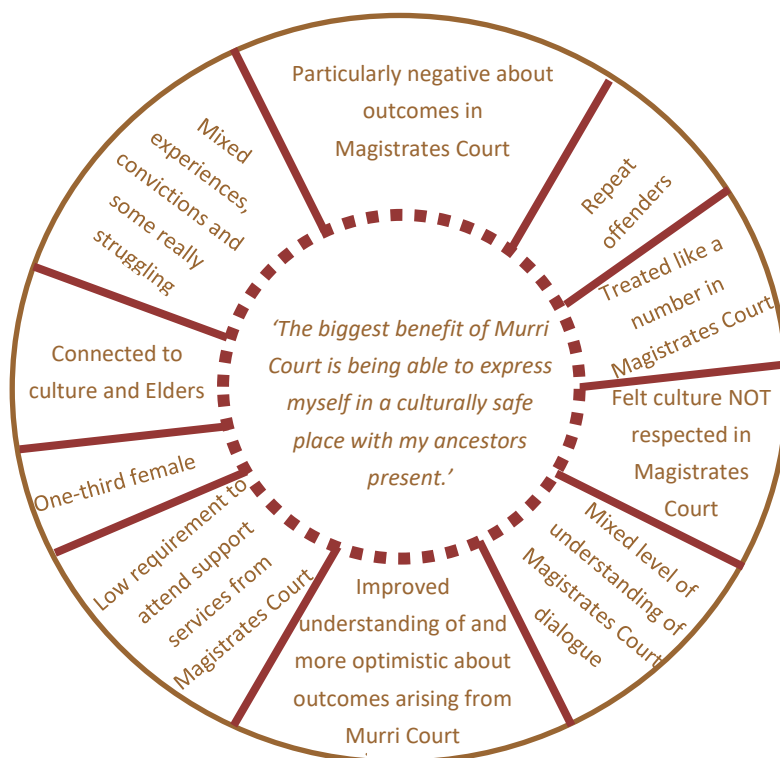
This participant group also demonstrated a substantial change in experiences with the Murri Court. They felt more welcome, less nervous, personally relevant and that Aboriginal and/or Torres Strait Islander culture was respected. All of them felt they were treated fairly (to a moderate level of agreement), and 91% felt they could explain their side of the story. Importantly, 91% understood what the Murri Court Magistrate said to them and all were able to understand what was expected of them when they left Murri Court.

Figure 10 Segment: 'Chance to change'

*'I feel like I have more self-worth.
I have connected back with my family, have stable accommodation.
I will continue counselling after Murri Court.'*

Approximately a third of the offenders in this group are female. About half are in the Toowoomba region. While only 8% speak a cultural language, approximately four in five feel connected to culture and especially so after their experience in Murri Court.

There is a history among this group of experiencing discriminatory or degrading behaviour against them: two in five believe they have been refused a job due to their heritage; over half grew up in an environment experiencing domestic violence or neglect. Their greater usage of drugs (methamphetamine and cannabis) and high reliance on benefits and SPER debt are also indicators that this group may suffer from lower feelings of self-worth.



Almost all have appeared in the Magistrates Court before. Offences predominantly drug offences (36%), property (36%) and domestic violence (38%). One in five offences were classified as a simple offence. These Murri Court participants had the lowest expressions of remorse related to their current offence (59%).

These participants were among the most negative about their Magistrates Court experience. Half do not have respect for the Magistrates Court. Over three-quarters felt the Magistrate Court does not respect Aboriginal and/or Torres Strait Islander culture. They felt somewhat unwelcomed and most felt treated like a number, not a person. Experiences of outcomes were mixed, with 47% feeling fairly treated; 53% felt unfairly treated and also felt their sentence was unfair.

This group showed the most extreme contrast in experience between the Magistrates Court and Murri Court. They were overwhelmingly positive regarding their experience with the Murri Court. Most (94%) strongly agreed that they felt welcomed and they felt very strongly that the Murri Court is respectful of culture. They felt they were fairly treated (98% strongly agree); 99% were able to explain their side of the story (compared to 14% in Magistrates Court) and there was a very positive emphasis on the Murri Court and Elders taking an interest in them at a personal level.

This group were far more optimistic about their ability to make a positive change in their lives after intervention from the Murri Court (94% very willing), especially in contrast to only a quarter feeling the Magistrates Court helped in this manner. The results all indicate an increased feeling of self-worth and self-belief through recognition and support by the Murri Court.

Two-thirds indicated they are very likely to continue with support services, showing good signs of change. This is a distinct contrast to the prior dealings with the criminal justice system, where four in five participants were not required to attend support services when in the Magistrates Court and a low number of participants were in some sort of treatment before going to Murri Court (39%).

Figure 11 Segment: 'Needing support'

'Finding the positives for the future and not holding on to the past.'

This participant group is less defined based on demographic or pre-condition patterns.

It includes a mixture of those who may really be struggling (23% in transient accommodation, including emergency shelter; 24% in poor health; 22% in poor mental health) and those who are more stable (37% in stable accommodation; 68% capable of looking for work; less significant issues with drugs and alcohol than other segments; lower levels of SPER debt). There is a greater mix of females also within this segment (approximately one third).

A connection to culture is strong, with 21% speaking cultural language, and half often or always meet with Elders. One third have been refused a job due to their cultural identity.



Almost all have appeared in the Magistrates Court previously. There is a mixture of offences, including violent offences (37%), property (24%) and drug offences (22%). There is a lower incidence of domestic violence offences (19%). Three-quarters expressed remorse for their offence.

The experience has been mostly negative, and only 5% felt that the Magistrate Court helped them to make positive changes in their lives. Only 43% have respect for the Magistrate Court, and 87% do not feel that the Court respects their culture. One-third did not feel welcomed, and almost all felt treated like a number. Almost all felt they were not able to explain their side of the story. Perceived outcomes were mostly negative: 80% did not feel treated fairly, and 75% felt their sentence was unfair. Approximately half did not understand what was said to them, and 40% did not understand their sentence.

This participant group also demonstrated a substantial change in experiences with the Murri Court. They felt more welcome, less nervous, personally relevant and that Aboriginal and/or Torres Strait Islander culture was respected. All of them felt they were treated fairly (to a moderate level of agreement), and 91% felt they could explain their side of the story. Importantly, 91% understood what the Murri Court Magistrate said to them and all were able to understand what was expected of them when they left Murri Court.

This participant group showed significantly improved understanding of the outcomes of the Murri Court (compared to the confusion evident in the Magistrates Court system). In turn, 83% felt very willing to make positive changes in their lives after Murri Court intervention, compared to only 5% positive change resulting from the Magistrates Court. Three in five of these individuals showed a strong intent to continue with support services; in contrast within the Magistrates Court system only 19% were required to attend support services and most felt these did not help.



Commentary

It is acknowledged that the data for the segmentation analysis pertains to less than half of the overall cohort. This is one reason the evaluation has used mixed methods, and qualitative data has been given due attention and included in relevant sections of this report.

For more than half of the participants (56%) included in the segmentation analysis (13% from the 'Feeling strong' segment and 43% from the 'Staying on track' segment), the Murri Court program had achieved its outcomes and aims.

For some (14%), the Murri Court program goals were somewhat achieved.

For less than a third (29%), it was not as effective, but they still derived some benefit. They could be considered more vulnerable than others.

Participants who were analysed as being in the 'A chance to change' and 'Needing support' segments appear to be most vulnerable and therefore requiring particular support. The number of participants in any segment should not be seen as negative nor as a failure of the program. Rather, it is evidence of the type of participant who comes in to Murri Court and needs to be understood in relation to their circumstances and needs. Despite their circumstances, they maintained motivation to complete the Murri Court program.

Complete datasets are vital to building a more complete understanding of the Murri Court program and participant experiences. The continuous work of IJOs, Assessment Panels and others who administer the Murri Court reports and questionnaires is acknowledged. However, the purpose of the Reports and Questionnaires may not be understood or valued by participants (and others). The communication of stories (with due consideration for confidentiality) from each of the segments (and not just those where change is most evident) could be considered for use in program communication to key audiences. Further analysis, in the form of case studies, could elicit the factors involved in relation to the Murri Court program, especially those used to identify support and referral to appropriate services.


At the CJG level, consideration could be given to the role of the Coordinator as a case manager. Intuitively, CJG Coordinators formulate individual plans for participants; however, this segmentation demonstrates that there are groups of participants who will respond more positively to case management than others. This has implications for:

- funding (an additional position to relieve the Coordinator of the administrative tasks);
- the program model and program logic.

However, the Murri Court program investment could influence identified judicial goals (e.g. meeting bail conditions) and improve support post-Murri Court program (e.g. reducing recidivism, continuing with treatment programs and services).

As discussed in Chapter 9, a reduction in participant reoffending may not be the right measure to evaluate Murri Court, but there do not appear to be other good measures. The system data from Queensland Wide Inter-linked Courts (QWIC) (court data) and QPS charge data) do not measure participant behaviour pre- or post-Murri Court for a number of reasons (Appendix A). Entry and Sentence Reports and Questionnaires measure only self-reported intentions, not actual behaviour. Therefore, the evaluation discusses and interprets this data as the 'changes detected in the system', not 'changes detected in participant behaviour'.

The system-level data from QWIC shows differences in the number of court events for the four types of Murri Court participants. After participants have appeared in Murri Court, they are more likely to have any further court



appearances in Murri Court than in the Magistrate Court. The ‘Staying on track’ and ‘A chance to change’ segments have the greatest reductions:

- ‘Feeling strong’ averaged change of 0.28 court events (1.2 in Murri Court and -0.92 in Magistrates)
- ‘Staying on track’ averaged change of 0.28 court events (2.38 in Murri Court and -2.10 in Magistrates)
- ‘Needing support’ averaged change of 1.64 court events (2.76 in Murri Court and -1.11 in Magistrates)
- ‘A chance to change’ averaged change of 1.45 court events (3.28 in Murri Court and -1.82 in Magistrates)

This means that for some participants (‘Staying on track’ and ‘A chance to change’ segments), the engagement in Murri Court has been more successful in changing their interaction with the mainstream Magistrates Court. Particularly those who seem to need more support in Murri Court to stay on track, as their segment name suggests. The ‘Feeling strong’ segment are more likely to engage with the Elders and Respected Persons for support than need a high level of service support mechanisms compared to ‘Needing support’ and ‘A chance to change’, which may benefit from more intensive case management to support a reduction in court events overall.

The system-level data from QPS shows differences in the number of charges for the four types of Murri Court participants. Participants overall have fewer charges for more serious offences, but this varies across segments, with some segments having an increase in charges after their participation in Murri Court.

Using the National Offence Index (NOI) of the most serious offences on the charge sheet, Table 9 shows the change (%) in the number of unique offenders charged by their most serious offence (MSO) before and after their first appearance in Murri Court.

- No participants in any of the four segments were charged with this MSO, so this offence does not appear in the table (which is why the list is missing some NOIs)
- No participant in this segment was charged with this MSO before or after Murri Court (WHITE CELLS)
- If 0%, then no participant was charged with this MSO after Murri Court (GREEN CELLS)
- If 0–50%, then up to half the participants were charged with this MSO after Murri Court (BEIGE CELLS)
- If 51–100%, then over half the participants were charged with this MSO after Murri Court (ORANGE CELLS)
- If more than 100%, then more participants were charged with this MSO after Murri Court (RED)

The table can be read like a traffic light report. GREEN CELLS in Table 9 indicate that no new charges have been made against participants of Murri Court since their first appearance in Murri Court between July 2016 and June 2018. There appear to be some good indications that charges for serious offences are declining; however, other charges – such as charges associated with illicit drugs, weapons, forgery and theft – are increasing. Understanding how the types of charges are spread across the participant segments is important because it appears that different segments experience different changes in the types of offences they are charged with. Therefore, different types of support services and programs may be more appropriate for some segments than for others.

Table 9 Proportion of unique offenders pre– and post–Murri Court by most serious offence charged (NOI)

		'Feeling strong'	'Staying on track'	'A chance to change'	'Needing support'
	NOI	%	%	%	%
Attempted murder	2	0%	-	-	0%
Aggravated sexual assault	7	0%	7%	0%	0%
Child pornography offences	10	-	-	-	0%
Non-aggravated sexual assault	11	0%	0%	0%	0%
Sexual assault, n.f.d*	12	-	40%	0%	-
Export illicit drugs	17	-	100%	-	-
Import or export illicit drugs, n.f.d	18	0%	33%	13%	67%
Cultivate illicit drugs	21	0%	27%	22%	133%
Deal or traffic in illicit drugs - non-commercial quantity	23	42%	40%	29%	26%
Deal or traffic in illicit drugs, n.f.d	24	-	0%	-	0%
Serious assault resulting in injury	25	20%	29%	12%	14%
Abduction and kidnapping	26	-	25%	50%	100%
Aggravated robbery	27	9%	21%	16%	20%
Deprivation of liberty/false imprisonment	28	30%	30%	42%	29%
Assault, n.f.d	31	-	0%	100%	-
Other acts intended to cause injury, n.f.d	34	0%	10%	0%	0%
Acts intended to cause injury, n.f.d	35	11%	28%	29%	11%
Other dangerous or negligent acts endangering persons, n.f.d	38	67%	33%	60%	25%
Dangerous or negligent operation (driving) of a vehicle	40	0%	38%	67%	0%
Robbery, n.f.d	44	0%	67%	11%	0%
Threatening behaviour	47	20%	23%	56%	38%
Offences against government security n.e.c.*	50	0%	0%	100%	33%
Unlawfully obtain or possess regulated weapons/explosives	55	-	-	0%	0%
Misuse of regulated weapons/explosives	56	-	-	0%	-
Regulated weapons/explosives offences, n.e.c	58	0%	60%	0%	63%
Regulated weapons/explosives offences, n.f.d	59	26%	15%	11%	12%
Prohibited and regulated weapons and explosives offences, n.f.d	60	29%	30%	127%	22%
Counterfeiting of currency	61	-	0%	0%	-
Unlawful entry with intent/burglary, break and enter	64	-	11%	14%	0%
Forgery and counterfeiting, n.f.d	68	104%	26%	22%	49%
Dishonest conversion	70	-	11%	80%	0%
Misrepresentation of professional status	71	30%	21%	17%	24%
Illegal non-fraudulent trade practices	74	30%	34%	66%	51%
Deceptive business/government practices, n.f.d	75	44%	37%	40%	20%
Fraud, deception and related offences, n.f.d	76	0%	0%	0%	-
Theft of a motor vehicle	77	32%	28%	46%	28%
Theft from a person (excluding by force)	79	-	-	0%	-
Theft from retail premises	83	31%	22%	52%	33%
Theft (except motor vehicles), n.e.c	84	700%	8%	4%	0%
Theft (except motor vehicles), n.f.d	85	35%	21%	12%	12%

		'Feeling strong'	'Staying on track'	'A chance to change'	'Needing support'
Environmental pollution, n.e.c.	103	0%	-	0%	0%
Property damage and environmental pollution, n.f.d	105	-	50%	0%	0%
Public health and safety offences, n.f.d	113	61%	50%	63%	35%
Immigration offences	115	-	0%	-	0%
Breach of parole	123	-	0%	-	-
Breach of community service order	126	30%	48%	58%	55%
Breach of violence order	127	34%	51%	59%	63%
Breach of community based order, n.e.c.	129	29%	30%	43%	26%
Breach of community based order, n.f.d	130	21%	27%	53%	0%
Prison regulation offences	131	-	23%	-	0%
Bribery (excluding government officials)	132	0%	10%	13%	0%
Breach of non-violence orders	133	24%	31%	25%	22%
Breach of violence and non-violence orders, n.f.d	134	100%	-	100%	-
Defamation and libel	135	18%	23%	19%	8%
Defamation, libel and privacy offences, n.f.d	136	0%	0%	-	-
Censorship offences	137	0%	0%	0%	0%
Vilify or incite hatred on racial, cultural or ethnic grounds	138	31%	27%	41%	33%
Other illicit drug offences, n.e.c	143	52%	24%	40%	36%
Criminal intent	150	-	25%	40%	67%
Liquor and tobacco offences	154	60%	34%	9%	100%
Resist or hinder police officer or justice official	157	54%	49%	93%	35%
	Total	35%	31%	38%	29%

*n.f.d. = not further defined; n.e.c. = not elsewhere classified

10.2. Differing contexts of Murri Court locations

The organisational (and governance) structures of each CJG influence how it operates in terms of:

- how it is constituted;
- the length of time it has been operating;
- how Elders and Respected Persons are selected and supported;
- how traditional leadership structures guide it;
- contract management with DJAG and the relationship it has with IJOs;
- other funding / government support that it attracts;
- training and support it provides to it CJG Coordinator outside the funded training within the DJAG contract;
- infrastructure and resources available within it and how this may complement and support the Murri Court program where this funding is not covered in the contract.

All of these factors determine the capacity, resources and propensity the CJG has to influence the outcomes of Murri Court.

The four participant segments – ‘Feeling strong’, ‘Staying on track’, ‘A chance to change’ and ‘Needing support’ – are represented across most court locations across the state. This means that context is not always just geographical, and that each Murri Court location will have varying levels of success depending on the volume of participants in each group and whether or not the Court can adapt its practices to suit the needs of each segment.

Table 108 Murri Court locations by segment

	‘Feeling strong’	‘Staying on track’	‘Chance to change’	‘Needing support’
Brisbane	13%	38%	33%	16%
Caboolture	15%	46%	23%	15%
Cairns	9%	63%	20%	9%
Cherbourg	13%	75%	13%	0%
Cleveland	10%	50%	30%	10%
Mackay	12%	65%	24%	0%
Maroochydore	20%	60%	20%	0%
Mt Isa	15%	55%	22%	8%
Richlands	20%	60%	20%	0%
Rockhampton	10%	53%	28%	10%
St George	8%	31%	46%	15%
Toowoomba	9%	43%	28%	20%
Townsville	8%	27%	42%	23%
Wynnum	14%	29%	29%	29%

In some locations some segments appear to have proportionately more participants than others, for example ‘Staying on track’ in Cairns, Cherbourg, Mackay, Maroochydore and Richlands. These participants are more likely to have more court events and more charges after leaving Murri Court. The participants in the ‘Staying on track’ segment had the weakest attitude to accessing ongoing support, with less than half (43%) being very likely to continue. Unfortunately, given the more lukewarm responses and less emphasis on ongoing support in the qualitative responses, the presence of domestic violence cycles and alcohol and prior exposure to the justice system, this segment remains at high risk of recidivism. This would suggest that specific strategies for supporting this group with ongoing service provision may help improve their ongoing interactions with the justice system. Participants in the ‘Needing support’ segment are likely to be charged with drug or alcohol offences after leaving court (Table 97), and there are more of these participants appearing in Toowoomba, Townsville and Wynnum than in other courts. These participants may benefit from supports provided in Drug and Alcohol Court or through Court Link if they are available in these locations.



CONCLUSIONS AND RECOMMENDATIONS

11. Concluding remarks: Is Murri Court working as intended?


This report explores several questions designed to establish whether Murri Court is operating as intended. Qualitative inquiry of community members and stakeholders within the Murri Court program has been used, alongside analysis of documents to answer these questions. These questions direct examination of varying facets of Murri Court, including the desired program outcomes of Murri Court as contained within the Procedure Manual.

It has been shown that there is widespread respect for the Murri Court program and the people within it, the salaried and non-salaried personnel; Magistrates and lay people. Accounts have been shared of how Murri Court has facilitated change and restoration in the lives of dozens of Aboriginal and/or Torres Strait Islander people, assisting in rehabilitative efforts, enabling the securing of employment and stabilising families (both through addressing domestic abuse and in preventing incarceration). Murri Court has been identified as a vehicle in reducing Aboriginal and/or Torres Strait Islander incarceration in Queensland as well as curbing the ‘revolving door of justice’.

At a structural level, Murri Court has been shown to be effective in creating a Court environment and process that is less intimidating, more approachable and accessible to Aboriginal and/or Torres Strait Islander people. This is not only because it discards many of the complexities and traditions customary to the ‘theatre’ of the traditional Magistrate Court, but also because of the intentional efforts to interact with Aboriginal and/or Torres Strait Islander people in a respectful and culturally sensitive manner. These efforts, including the training of judiciary in cultural safety and Aboriginal and/or Torres Strait Islander contexts, alongside the presence of Elders and Respected Persons within the courts, are widely recognised and respected among Aboriginal and/or Torres Strait Islander people and communities. The Murri Court is seen not as a biased ‘whitefella court’ but as one where Aboriginal and/or Torres Strait Islander people can have a ‘fair hearing’ and a ‘fair go’. Considering the history of bias against Aboriginal and/or Torres Strait Islander Australians, this is a great success on the part of Murri Court in winning community respect and trust.

The role of Elders and Respected Persons within Murri Court cannot be underestimated nor overlooked. Indeed, the primary data for this evaluation show repeatedly that they are fundamental to the success of Murri Court. They bring safety, security and authority to Murri Court in the eyes of Aboriginal and/or Torres Strait Islander people. They serve as arbiters of non-Aboriginal and/or Torres Strait Islander control and decision-making and as a check and balance to the rule of the Magistrate. Elders and Respected Persons and community alike see this as a privilege and greatly appreciate the opportunity to both speak into the lives of Aboriginal and/or Torres Strait Islander people and to petition the ruling of Magistrates. The Elders and Respected Persons, through Murri Court, can once again serve in the judicial and pastoral role they have had for millennia. Words cannot do justice to how valued this is in Queensland.

It is acknowledged that Murri Court alone cannot rectify the widespread and entrenched inequalities and variables stimulating criminogenic needs and risk factors for criminal decision-making among Aboriginal and/or Torres Strait Islander Australians. This is reflected in the fact that recidivism and desistance rates may not have fallen to the standard desired by some commentators; more time and relevant data are needed before reassessing these criteria in Queensland. It is beyond the power of a court to overturn centuries of systemic inequality created by colonisation in Queensland. Notwithstanding this, Murri Court is an important component to restorative efforts to stimulate further positive change in the lives of and welfare for Aboriginal and/or Torres Strait Islander people in the state.



All this considered, this report finds that these successes from the re-started Murri Court in Queensland demonstrate that it is operating as intended in providing a culturally informed specialist court to assist in the rehabilitative efforts of Aboriginal and/or Torres Strait Islander offenders in the state. The Evaluation Team hopes that Murri Court will continue to serve Aboriginal and/or Torres Strait Islander communities and help them to flourish and thrive for many years into the future.

12. Recommendations: How to strengthen Murri Court program to improve outcomes

These recommendations are provided in good faith and as determined from the findings of this evaluation of the Murri Court program. They have been derived from findings from the literature review, discussions of the Murri Court program 2016–2018 and analysis of the evaluation findings.

Recommendation 1: Length of bail and time in Murri Court

Throughout the evaluation it was noted that some people spent more time in Murri Court than the intended 12-week period as specified within the Practice Direction No. 2. While this is not unusual given the need for judicial monitoring and case management, there is concern that this may lead to a breach of bail conditions (ALRC, 2017). It is not uncommon for Aboriginal and/or Torres Strait Islander people to breach bail. This is not always a sign of lack of respect for the law but can instead be due to, for instance, an inability to access transport or to a conflict between the bail conditions and a person's obligation to culture, community and family (ALRC, 2018).


We adhere to the recommendations provided by the Australian Law Reform Commission (ALRC, 2018) in relation to the adoption of provisions similar to s3A of the *Bail Act 1977* (Vic) and s3A of the *Charter of Human Rights and Responsibility Act 2006* (Vic). These were to provide greater consideration to the particular cultural and personal circumstances of defendants to minimise the likelihood that untenable bail conditions would be imposed upon them. At present, Queensland Bail Act (1980) and Queensland Penalties and s9(2)(p) Queensland Penalties and Sentencing Act (1992) s15(1)(f) permits the Court to consider cultural factors and the Indigeneity of the defendant. We argue that changes be made, including:

- Amend the requirement that consideration be afforded to submissions given by a CJG representative in respect to cultural considerations. It has been noted that this creates a means of reliance upon the goodwill of CJGs and their ability to offer such service to Aboriginal and/or Torres Strait Islander defendants. The provisions for that should extend to accept submissions from legal representation and defendants themselves.
- Of the examples listed under s15(1)(f), amendments should be made to extend considerations to include the defendant's living circumstances, such as remoteness and mobility (ALRC, 2018, pp. 165–177).

Again, in following the aforementioned report, we agree that additional funding should be provided to CJGs to fund Indigenous bail support programs attached to Murri Court to increase successful adherence to bail conditions (ALRC, 2018). In particular, this may be required where brokerage runs short of supporting participants to attend Murri Court (i.e. in areas of transport disadvantage where the public transport payments [Go Cards] are not usable, or where no public housing is available and private temporary housing requires additional payment).

Access to support services that are culturally safe and effective is vital to the success of Indigenous sentencing courts (ALRC, 2018). The evaluation finds that not all services were accessible or culturally appropriate. We agree that Murri Court participants would benefit from additional support services, in particular ones that are developed specifically for their cultural and unique therapeutic needs. We recommend investigation be undertaken via a survey of each of the Murri Court sites to ascertain which services are not readily available to ensure consistency in access state wide.

While Murri Court is a therapeutic court process for defendants and may take time, sustained periods within the court may not be feasible for the defendant or the court. It has been observed that some individuals are within



the Murri Court for extended periods of time. We recommend further investigation into why the process has not kept to the 12 weeks in some locations.

To enable sufficient time with Elders and Respected Persons, we recommend formation of post-sentence Elder and Respected Persons circles where participants may meet as a part of community service orders or counselling more regularly. We agree with the ALRC (2018) report which calls for an increase in the number of community-based orders given at sentencing to Aboriginal and/or Torres Strait Islander people, for instance residential programs such as the Wulgunggo Ngalu Learning Place and community supervision orders.

Recommendation 2: Remuneration of Elders and Respected Persons

The qualitative data sourced from this evaluation revealed a consensus of opinion that the Elders and Respected Persons involved in the Murri Court program should be paid both at a higher rate (perhaps equal to that of an expert witness) and for more than only court attendance. While we recognise and encourage volunteer efforts of Elders and Respected Persons in this space, we are concerned about people being pressured to do so out of a fear of being negatively perceived for taking payment. Elders and Respected Persons should not feel obliged to volunteer their time if they would require or welcome payment. We recognise that while some Elders and Respected Persons were known to dismiss the suggestion of payment, it is our understanding that this may be due to ‘humbug’ (that is, not wanting to be demanding), not wishing to be a ‘burden’ on the system, out of a desire to volunteer in order to ‘give back’ to community, or other concerns regarding finances.

Given the known disadvantage of Aboriginal and/or Torres Strait Islander people, we recommend that Elders and Respected Persons should be encouraged by CJGs, Magistrates and other Elders and Respected Persons to consider accepting payment for their service, as well as the freedom to volunteer and decline a payment for service. The creation of paid casual roles for Elders and Respected Persons is an alternative consideration. The current payment is insufficient to cover the costs that Elders and Respected Persons incur and should be increased to cover at least the expenses and time they provide. We recommend that at the very least, reimbursement of the cost of volunteering (i.e. taxis, lunch, parking, etc.) should be funded in respect to the contribution they provide to Murri Court. Payment could be issued by incentive cards as an honorarium.

Our recommendation of cost reimbursement and remuneration for time may also address some of the barriers to increasing the number of Elders and Respected Persons available for Murri Court. Concern for the longevity of the service of some Elders and Respected Persons was raised on a number of occasions in interviews, and succession planning is advised. As some of the potential candidates are still in the workforce, payment for service may be an important enabler. Other enablers may be workplace agreements with employers to support their employee participating during work hours.

Future-planning should prevent an unfortunate situation if a site suddenly loses an Elder due to ill health or death.

Recommendation 3: Additional Murri Court Magistrates

A number of interview responses were about the value of having Aboriginal and/or Torres Strait Islander Magistrates sit in Murri Court and having consistent Magistrates who have a therapeutic jurisprudence approach. For participants, these were key ways to ensure support of and proper consideration for personal and cultural factors of the participant. In light of this we recommend that, as per actions in the RAP, the judiciary, including the Chief Magistrate, work with the Bar Association of Queensland and the Queensland Law Society to encourage suitably qualified Aboriginal and/or Torres Strait Islander people to submit expressions of interest to the Judicial Advisory Panel for judicial vacancies in Queensland. The Chief Magistrate could then encourage Aboriginal and Torres Strait Islander Magistrates to consider time in service across Murri Court sites.

Recommendation 4: Portability of Murri Court

Legal and criminological literature supports the effectiveness of therapeutic approaches, suggesting that they should be applied not only in specialist courts but also in mainstream courts (Spencer, 2012). Many stakeholders and community members would value a Murri Court in all locations across Queensland, or at least where CJGs exist; however, this may not be achievable. If, and as more, Magistrate Courts adopt therapeutic jurisprudence approaches, the empathy and cultural safety of mainstream courts should improve to the benefit of Aboriginal and/or Torres Strait Islander defendants. The RAP should be an enabler to support this and should be measured to ensure effective implementation occurs. Notwithstanding this, DJAG should also consider incorporating into mainstream Magistrate Courts the additional mechanisms that Murri Court provides (i.e. changing the courtroom environment, including Elders and Respected Persons in court and additional support for Yarning Circles with Elders and Respected Persons and participants) to better support CJGs to improve outcomes for Aboriginal and/or Torres Strait Islander defendants.

Attitudinal and cultural change is required to increase the empathy for rehabilitation needs. Approaches must be developed at a local level to maximise the relevance and use of the resources on the ground to achieve these desired outcomes (particularly the facilitating of Magistrate engagement with local communities). The challenge for Murri Court is to encourage the introduction of therapeutic jurisprudence across mainstream Magistrate Courts and to ensure this is maintained over time. We recommend that more content be included in the legal training programs offered within Queensland universities as a way to shape the next generation of legal professionals to favour as less punitive approaches in the law. Include education on therapeutic jurisprudence as an admission requirement for barristers and solicitors in Queensland, such as for the Bar Exams and Practice Course for barristers and the practical legal training course or supervised traineeship for solicitors; for instance, set mandatory reading on the topic.

Recommendation 5: Eligibility criteria

Presently, Practice Direction No. 2 states that in order for a defendant to appear before Murri Court, the following criteria of eligibility must be satisfied:

- The defendant must identify as an Aboriginal and/or Torres Strait Islander person or possess an appropriate connection or kinship with such communities
- The offence for which the defendant has been charged can be heard by the Magistrates Court or the Children's Court of Queensland
- Plead guilty or there is an intention to plead guilty
- Bail has been granted to the defendant
- Consent is given by the defendant to participate fully with the Murri Court process.

The Assessment Panel currently advises the court, and the Magistrate makes the judgement about eligibility based on the criteria. We recommend that the eligibility criteria be reassessed by DJAG and, at a minimum, the following eligibility criteria are removed:

- The defendant must identify as an Aboriginal and/or Torres Strait Islander person or possess an appropriate connection or kinship with such communities
- Plead guilty or there is an intention to plead guilty

We recommend that the following is added to the Practice Direction No. 2:

- that the Indigeneity of the defendant is the decision of the Assessment Panel made up of Murri Court Elders and Respected Persons, with the final decision being made by the Murri Court Elders and Respected Persons.
- The Assessment Panel is to always include at least two Elders and Respected Persons.

Recommendation 6: Victim impact statements

Victim impact statements did not appear in the responses of participants. This is curious, considering that domestic abuse was mentioned frequently throughout the interviews. While we recognise both the importance of victim impact statements within criminal justice (Erez, 1991) and their availability to Murri Court as per the *Victims of Crime Assistance Act 2009* (Qld), we recommend further investigation of the role of victim impact statements and victim participation in Murri Court (see VLRC, 2016). We advise caution in requiring the presence and participation of victims within Murri Court in consideration of risks of re-victimisation and traumatisation, especially in sensitive matters such as sexual crimes (VLRC, 2016).

Recommendation 7: Ongoing engagement

The evaluation findings suggest that participants are in Murri Court for longer than the intended 12 weeks, this is due to Magistrates, Elders and Respected persons deciding to keep defendants to get more support, and until they consider participants are ready to leave. An unintended benefit is that participants are getting the services and support they need to improve their chances of not reoffending. After leaving Murri Court, there are no ongoing engagement or support mechanisms to help offenders stay on track and desist from offending. There is also no measurement of participant trajectories after leaving Murri Court to determine if desistance occurs. We recommend a whole-of-government approach to find where gaps exist in service delivery and address the funding need of ongoing case management or tracking of participants to provide support and facilitate the achievement of their life goals. This in turn would improve the long-term efficacy of Murri Court as an ideal, culturally safe and supported referral mechanism into the human services system.

Recommendation 8: Case Management

This evaluation and criminological literature more broadly show that enlisting defendants into case management can contribute to successful outcomes for those who appear before Murri Court (see White & Graham, 2010; ALRC, 2017). While the CJG Coordinators and Elders and Respected Persons at each Murri Court site seek to provide case management in some capacity within the Murri Court process, we recognise that this is not always feasible (due to time and budgeting restrictions). Additionally, these personnel are not always suitably qualified training and/or experienced to facilitate case management with defendants, particularly those with complex needs (requiring psychological and psychiatric expertise).

Additionally, not all defendants require the same type of case management. To this end, we recommend that a culturally appropriate case management assessment be undertaken within the Murri Court program, similar to that offered within Court Link, to assess the criminogenic and personal needs of defendants to ensure appropriate referrals and level of support are acquired (see White & Graham, 2010; ALRC 2018).

We recommend that DJAG investigate the implementation of a more rigorous and culturally appropriate case management framework for use in Murri Court. This may be achieved by providing additional funding to CJGs to employ a suitably qualified Aboriginal and/or Torres Strait Islander case manager with appropriate experience to support defendants through the Murri Court program, or other programs – such as Court Link – may be funded to support Murri Court with such a case management approach as a secondary option.

Recommendation 9: Clearly articulating the mechanisms in the Murri Court model

In the first evaluation of the Murri Court program (Morgan & Louis, 2010), Recommendation 16 referred to an Overarching Framework and the benefit it would have to existing and future programs operating in Queensland. The concept of a framework is also recommended in this evaluation, but in a slightly different manner to that proposed by Morgan and Louis. We recommend a framework that would serve as a strategy-level mechanism setting out the roles and relationships of the departments, agencies and people that form the Murri Court program at the systemic level (i.e. DJAG), the program level (i.e. CJGs, inter-agency, interdepartmental staff) and the community level (i.e. local service providers, cultural support, arts and recreation and sporting groups) and QPS and QCS at the systemic level.

The framework would address confusion regarding the Murri Court program being both the court and part of the CJGs and would clearly articulate the program logic, establishing realistic goals and aims in light of funding arrangements and activities.

An example would be in respect to the extent to which DJAG has a role, via the CJGs, to achieve outcomes of the bail support component of the program; presently the program logic implies that DJAG can influence support services and treatment programs, and this may not necessarily be within the scope of DJAG's role.

We recommend a review of the program logic in relation to DJAG's intent for the program and how the Court's goals and aims refer to other specialised courts at a systems level. For example, the program intent is consistent with other bail support programs or drug and alcohol courts; however, in the case of Murri Court the goals and aims are achieved (or not) at the operational level, through the funding of CJGs, and to a lesser extent at the systems level of DJAG.


Stobbs and Mackenzie (2009) and King (2010) argue that where judicial program goals and aims are too broad, success can be claimed on achievements that occur infrequently and are few in number, rather than being widespread and significant. King, in particular, argues that there is a lack of concise success indicators regarding Indigenous sentencing programs. The ALRC (2018) encourages considerations of success that include whether the aims and goals have been attained overall, rather than one or two in isolation (e.g. recidivism). A better understanding of the behavioural sciences will be needed to suggest measures of satisfaction with the experience, motivation and behaviour change.

This evaluation has shown that there is logic failure in the way the Murri Court model is articulated. We recommend a review of the program logic to identify 'what makes it work' and to establish indicators/benchmarks so that ongoing program monitoring can assess whether or not outcomes are being achieved.

Recommendation 10: Data collection from reports

It is acknowledged the data for the segmentation analysis pertains to less than half of the overall cohort and only includes those who completed the Murri Court Sentence Report and Sentence Questionnaire, that is, they were sentenced in Murri Court. Less is known about Murri Court participants who were adjourned back to mainstream court or who breached bail and exited the program. The analysis also does not have any subsequent information about how the participants are progressing with service use or feeling after final sentencing when they exit the program. Complete datasets are vital to building a more complete understanding of the Murri Court program and participant experiences.

10.1 To improve understanding of the purpose of the Sentence Report and Sentence Questionnaire by participants, communicate stories (with due consideration for confidentiality) from each of the segments (and not just those where change is most evident) to key audiences.



10.2 Empower participants by sharing with them the information collected about them. This places participants at the centre of their own future, encouraging them to identify their existing strengths and any influences in their environment that support or hinder them to make change. Use visual tools, symbols and cues to communicate and connect with participants so they can map their journey and plan for the future. Track this journey's success or otherwise to provide valuable evaluation measures for program effectiveness. An example of more accessible discussion prompts is the Blurred Borders Program undertaken by Legal Aid in Western Australia and the Northern Territory.

OBSERVATION: Addressing the needs of young offenders

Requests for additional Youth Murri Courts were made in a number of our interviews. A limitation of this evaluation is that it did not investigate in detail the two Youth Murri Courts in operation. Given the knowledge that Aboriginal and/or Torres Strait Islander youth are known to be highly represented within the criminal justice system, we advise investigation into what will work best for young offenders, as they have significantly different needs and service requirement.

The Age of Criminal Responsibility in Queensland information paper (QFCC 2017) encourages Queensland Government to consider these reform options: that the minimum age of criminal responsibility be raised to 12 years; that children aged 10–12 years cannot be sentenced to youth detention; and that youth justice conferences be mandatory for children aged 10–12 years. These measures, along with adoption of a therapeutic jurisprudence approach that has empathy and cultural safety similar to that of Murri Court, could improve the experience and outcomes for young Aboriginal and/or Torres Strait Islander defendants.

OBSERVATION: Culturally appropriate service access

Access to support services that are culturally safe and effective is vital to the success of Indigenous Sentencing Courts (ALRC 2018). The evaluation finds that not all services were accessible or culturally appropriate. We agree that Murri Court participants would benefit from additional support services, in particular ones that are developed specifically for their cultural and unique therapeutic needs. We recommend investigation be undertaken via a survey of each of the Murri Court sites to ascertain which services are not readily available to ensure consistency in access state-wide.

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14. Appendix A Limitations and considerations when reading this report

14.1. Limitations

Scope

This evaluation did not extensively explore Murri Youth Court nor the experience of victims. Youth Murri Court was not a site for visits, but youth are still incorporated in secondary data for Mackay, Rockhampton and Brisbane. It was agreed at the request of the Stakeholder Working Group to include victims where the topic was raised during the consultations with families and community. Victims were neither deliberately included nor excluded from the scope.

Incomplete, missing data

To maximise the robustness of the sample from this dataset, a group of common minimum data items were selected to yield as many matching records as possible. Due to the voluntary nature of the Murri Court reports and questionnaires, some are incomplete and/or data could not be matched to other records (e.g. CIPES). Where possible, qualitative responses have been used to give voice to the experiences of Murri Court participants when discussing some of the evaluation aims.

Changes to the Entry and Sentence Questionnaires occurred between 2017 and 2018. It was not possible to use some questions as measures across the two cohorts that were the focus of this evaluation.

CJG reporting

The quarterly reporting documents (completed by the CJG Coordinator) were used to glean process and outcome stories of success. Although the reporting template changed at the end of 2017, some Coordinators continued to use the old format for 2018. Also, CJGs have some flexibility to adapt administrative reporting. Data therefore differed in terms of the level of detail provided, and some items were not consistently completed across different CJGs. This made the data difficult to collate. The activities undertaken could not be compared due to specific variables such as location and population of the site/town/region.

Cost-efficiency analysis


The information about budget items for the Murri Court program was provided as an aggregated cost. This analysis is based on the information provided by DJAG where it was acknowledged that the roles of some staff involve the Murri Court program and the Magistrate Courts.

Comparative analysis

A comparison of Aboriginal and/or Torres Strait Islander defendants who are sentenced in Magistrates Court with those sentenced in Murri Court was not undertaken in this evaluation. Such comparisons do provide an understanding of judicial outcomes and some criminal justice outcomes but do not allow an understanding of the therapeutic jurisprudence outcomes of the Murri Court program (i.e. the effect of referral to support services and treatment programs on recidivism). A limited analysis of reoffending by Murri Court defendants is possible but is likely meaningless as it is too soon to tell with most participants in an evaluation of just a two-year period.

Problems with the systems-level data are:

- **Too soon to tell** – there has not been sufficient time frame to examine behaviour (i.e. suggest 5–10 years).

- 
- **History catches up** – the data uses ‘charge date’ and ‘court date’, which often reflect previous behaviours; therefore we are not measuring a participant’s actual behaviour change since their exposure to Murri Court.
 - **Becoming the target** – once they are known to police, participants are more likely to have additional charges laid; however, these charges may not result in a guilty verdict and therefore may not reflect actual offending behaviour.
 - **Beware the statistical lies** – large datasets present a number of traps for interpretation. Large samples are highly sensitive to statistical differences that are not necessarily meaningful. Using averages can neutralise a highly distributed sample.
 - **Intricacies of how court events / charge sheets work** – some participants have matters brought forward into one court event and/or have multiple charges on several charge sheets consolidated; therefore, actual offence behaviour is not reflected in these occurrences recorded.

15. Appendix B Questionnaire

15.1. Murri Court Participant Survey

Murri Court Evaluation

Firstly, thank you for agreeing to take part in the Murri Court Evaluation

We just have a few questions about you before we start: (interviewer please circle answers)

Are you a: Current participant of Murri Court
 Past participant of Murri Court

Gender: Male Female

Age Range: Under 20 20–24 25–29 30–34 35–39 40–45
 45–50 over 50

Working: Full time Part Time Casual Not working

COMMUNICATION AND UNDERSTANDING

What were/are your expectations of the Murri Court?

How did/does the Murri Court work to provide and promote bail compliance? – do you think they could do more? or do things better, how?

Do you believe there is/was cross collaboration between stakeholders during the Murri Court process? (Did they work together?)

SERVICES

Do you know what services Murri Court refers participants to?

What services did Murri Court refer you/your family to?

Do you think the services were/are culturally appropriate for you? How/Why/Why not?

Were/are the services accessible? How/Why?

Were/are some services more difficult to work with than others? How/Why?

Do you think people would try to access the same services outside of the Murri Court program? How/Why?



PROCESSES

Could the current Murri Court Program be done better; if so, how?

Do you think having Elder/Respected Person support throughout the Murri Court was/would be beneficial? Why?

Do you think the CJGs are/were culturally appropriate?

Do you think the CJGs (Community Justice Groups) are funded appropriately – what impacts did/does that have on the program for you/your family? (Do they have enough money? has that affected what you/they can or can't do as far as programs?)

Could the administrative process (data entry, forms, reports) be better? How?

Do you have any issues or concerns on the referral/eligibility process?

Do you think a consistent Magistrate would benefit the court? How/Why?

IMPACT OF MURRI COURT

How could we best measure success (what works) of the Murri Court Program?

What changes do you think have occurred in yourself/your family/other participants as a result of the Murri Court – are they positive/negative?

What changes have occurred in the community since the implementation (start) of the Murri Court – positive/ negative?

What values do you think would be important to people accessing the Murri Court program (such as respect, responsibility, trust, accountability, behavioural change, culture etc)?

Was the investment into the Murri Court sufficient to deliver the intent of the program? (Were you/your family able to access what you/they needed, or did Murri Court say they had no money for what you/they needed?)

What is the benefit of the Murri Court program? (How did the Murri Court program help you/your family?)

CLOSER

Do you have any final comments or suggestions you wish to make? Or any other questions?

END SURVEY

Thank you very much for your time.

15.2. Murri Court Knower Survey

Murri Court Evaluation

Interviewer: This survey is used for people who know about Murri Court so could be community members, relative of a past or present participant or a previous or current member of the Elders and Respected Persons Group.

Firstly, thank you for agreeing to take part in the Murri Court Evaluation

We just have a few questions about you before we start: (interviewer please circle answers)

Are you a: Current Member of the Elders and Respected Persons Group
 Previous member of the Elders and Respected Persons Group
 Community Member
 Relative of a **current** participant of Murri Court
 Relative of a **previous** participant of Murri Court

Gender: Male Female

Age Range: Under 20 20–24 25–29 30–34 35–39 40–45
 45–50 over 50

Working: Full time Part Time Casual Not working

COMMUNICATION AND UNDERSTANDING

What are your expectations of the Murri Court?

How does the Murri Court work to provide and promote bail compliance? – do you think they could do more? or do things better, how?

Do you believe there is cross collaboration between stakeholders during the Murri Court process? (Do they work together?)

SERVICES

Do you know what services Murri Court refers participants to?

Do you think the services were/are culturally appropriate for you?

Are the services accessible? How/Why?

Are some services more difficult to work with than others? How/Why?



Do you think people would try to access the same services outside of the Murri Court program?

PROCESSES

Could the current Murri Court Program be done better; if so, how?

Do you think having Elder/Respected Person support throughout the Murri Court would be beneficial? Why?

Do you think the CJGs are culturally appropriate?

Do you think the CJGs (Community Justice Groups) are funded appropriately – what impacts did/does that have on the program for you?

Could the administrative process (data entry, forms, reports) be better? How?

Do you have any issues or concerns on the referral/eligibility process?

Do you think a consistent Magistrate would benefit the court? How/Why?

IMPACT OF MURRI COURT

How could we best measure success of the Murri Court Program?

What changes do you think have occurred in yourself/other participants as a result of the Murri Court – are they positive/negative?

What changes have occurred in the community since the implementation of the Murri Court – positive/ negative?

What values do you think would be important to people accessing the Murri Court program (respect, responsibility, trust, accountability, behavioural change, culture etc)?

Was the investment into the Murri Court sufficient to deliver the intent of the program?

What is the benefit of the Murri Court program?

CLOSER

Do you have any final comments or suggestions you wish to make? Or any other questions?

END SURVEY

Thank you very much for your time.

15.3. Murri Court Stakeholder Survey

Murri Court Evaluation

Interviewer: This survey is for people who provide services to participants or are working with the Justice Department in some capacity.

Firstly, thank you for agreeing to take part in the Murri Court Evaluation

We just have a few questions about you before we start: (interviewer please circle answers)

Are you a: Service Provider/Stakeholder
(Specify) _____

Gender: Male Female

Age Range: Under 20 20–24 25–29 30–34 35–39 40–45
45–50 over 50

Working: Full time Part Time Casual Not working

COMMUNICATION AND UNDERSTANDING

What are your expectations of the Murri Court?

How does the Murri Court work to provide and promote bail compliance? – do you think they could do more? or do things better, how?

Do you believe there is cross collaboration between stakeholders during the Murri Court process? (Do they work together?)

I have been supplied with and am aware of the Reconciliation Action Plan?

SERVICES

Do you know what services Murri Court refers participants to?

Do you think the services were/are culturally appropriate for everyone?


Are the services accessible?

Are some services more difficult to work with than others?

Do you think people would try to access the same services outside of the Murri Court program?

PROCESSES

Could the current Murri Court Program be done better; if so, how?



Do you think having Elder/Respected Person support throughout the Murri Court would be beneficial? Why?

Do you think the CJGs are culturally appropriate?

Do you think the CJGs (Community Justice Groups) are funded appropriately – what impacts did/does that have on the program for you?

Could the administrative process (data entry, forms, reports) be better? How?

Do you have any issues or concerns on the referral/eligibility process?

Do you think a consistent Magistrate would benefit the court? How/Why?

IMPACT OF MURRI COURT

How could we best measure success of the Murri Court Program?

What changes do you think have occurred in yourself/other participants as a result of the Murri Court – are they positive/negative?

What changes have occurred in the community since the implementation of the Murri Court – positive/ negative?

What values do you think would be important to people accessing the Murri Court program (respect, responsibility, trust, accountability, behavioural change, culture etc)?

Was the investment into the Murri Court sufficient to deliver the intent of the program?

What is the benefit of the Murri Court program?

CLOSER

Do you have any final comments or suggestions you wish to make? Or any other questions?

END SURVEY

Thank you very much for your time.