



**WELCOME ADDRESS
QUEENSLAND MURRI COURT CONFERENCE**

**Thursday 22 May 2008 at 9.00 am
Eliza Simpson Room**

**The Bardon Centre
390 Simpson Road Bardon**

**Judge Marshall Irwin
Chief Magistrate**

Aunties, Uncles, Your Honours and all of you, our distinguished delegates to this important Queensland Murri Court Conference – I acknowledge the traditional owners and custodians of the land. I respect and am grateful for the wisdom of the elders – past, present and future – and their dedication to their communities, and in preserving the knowledge and rich cultural heritage of Queensland for all.

In saying this I adopt the words of the Murri Court DVD which I understand will be unveiled during this conference.

I also adopt, as I have done on many previous occasions, the words of the speaker who will follow me – Uncle Albert Holt. As I am sure you know Uncle Albert is one of the foundation elders of the inaugural Murri Court in Brisbane. He has said:

“It has been a watershed achievement to structure our Queensland Murri Court process on a spiritual or emotional level generating dignity and respect – an achievement I’m very proud of.”

I am also very proud and privileged that I have been given the opportunity for almost five years to have a close association with the Murri Court and all the wonderful people who have made it the integral part of the fabric of the Queensland criminal justice system that it is today.

As you would also know that first Murri Court was implemented in Brisbane in August 2002 by my predecessor as Chief Magistrate, Diane Fingleton and Deputy Chief Magistrate Brian Hine. I am pleased that they are both amongst the delegates today.

I am fond of quoting the title of the Kevin Carmody – Paul Kelly song, *from little things, big things grow* to describe the development of the Murri Court over the six years since that time.

The success of the Murri Court has been recognised by the government which has provided \$5.2 M over three years from 1 January 2007 to evaluate the courts at Brisbane, Rockhampton, Townsville, Mount Isa and Caboolture. Today you will receive the evaluator's report from the Australian Institute of Criminology (AIC).

During that period a further 11 Murri Courts have developed – including both adult and youth courts, and courts in the Indigenous communities of Cherbourg and Coen.

On 18 June our 13th Murri Court will be launched by the Attorney-General at St George. There is every reason to believe that a Mackay Murri Court will open in the near future.

I am pleased to welcome representatives from all of those courts today – magistrates, elders, respected persons and community justice group members together with those of you from the Department of Justice, the Queensland Police Service, the Aboriginal and Torres Strait Islanders Legal Service, the Department of Corrective Services and the Department of Communities who have collaborated to achieve this success.

The stakeholders to whom the AIC have spoken in the course of the evaluation have recognised the important fact that the Murri Court represents a more holistic and collaborative approach to dealing with Indigenous offenders, with input from a range of key participants all working towards a shared goal.

As a result the AIC described it as a *collaborative problem solving court*, in which the key participants work together to determine the most appropriate solution to a defendant's offending behaviour.

This holistic approach is essential to the continued success of the Murri Court. It is also essential that the court, elders, respected persons, community justice groups and all other key participants I have mentioned, be adequately resourced to ensure its continued effectiveness. It will not be possible to fund the number of individual courts that we have at present together with the increased number expected in future out of existing resources. It is to be hoped that this need for resourcing will be identified by the evaluation.

As part of his holistic approach it is essential that the Murri Court continue to work in close co-operation with other programs such as the Queensland Indigenous Alcohol Diversion Program (QIADP) and the Cairns Alcohol Remand and Rehabilitation Program (CARRP), and also where there is an overlap, the *Family Responsibilities Commission* (FRC). My welcome extends to the newly appointed Commissioner of the FRC and recently retired magistrate, David Glasgow who I believe will be speaking during the

conference. There will be a presentation tomorrow where these inter-relationships are examined.

However the key to the success of the Murri Court is the involvement of the elders and respected persons in the proceedings. As the AIC report identifies, benefits of their involvement include:

- a much greater level of information before the court regarding the defendant's circumstances than would otherwise be available
- greater contribution from the defendant in determining sentencing outcomes and in developing strategies to address their offending behaviour
- increase in the capacity of the court to reintegrate the defendant into the community by establishing (or repairing) relationships between the offender and respected members of the community
- improved perceptions of the authority of the court, and greater respect for decision making and sentences imposed by magistrates.

Importantly as the Honourable Rob Hulls, Attorney-General of Victoria said in an article in *The Australian* (16 May 2008) with reference to the analogous Koori Court:

“there is nowhere to hide under the gaze of the elders. There are no fast-talking lawyers to speak for you. The elders' ability to shame, humble and help an indigenous offender, combined with a magistrate's sentence, has proven to be a hugely successful approach.”

As he said “defendants have to speak for themselves and answer questions on why they committed an offence. They are forced to take accountability for their actions in a way that is more confronting than the mainstream court process.”

There is no doubt that defendants find their appearance before the elders a confronting, emotional and powerful experience.

Consistently with what Mr Hulls said about the Koori Court, it is the presence and advice of elders and respected persons that has made our Murri Court so successful.

I also agree with him that they help get at the cause of the criminal behaviour and break down the disengagement that Indigenous people have had with the courts.

Equally magistrates and court administrators must take the advice of the elders and respected persons when deciding important questions which will be raised at this conference such as the content of the Model Rules for the Murri Court program.

The integrity of this program and the relations with participants, both Indigenous and non-Indigenous and with the community will only be maintained if we assist, teach and learn from each other in a mutually respectful and progressive environment.

It is all about “being the change you want to see” as Mahatma Gandhi so aptly put it.

The fact is that Murri Courts are flexible and dynamic. There are no two Murri Courts that operate in exactly the same way. This is because they have been developed with the advice of elders and respected persons to reflect local conditions.

To adopt the words of Magistrate Manthey:

“As a Murri Artist myself, I view the Murri Court like our Art, we have come a long way since the rock paintings. Our Art is contemporary, vibrant and always changing. It is never stagnant. So too must our Murri Courts be.”

And therefore over the next two days we can adopt some features of what works for one Murri Court for another, and attempt as the AIC suggests to identify a number of fundamental principles or key elements which should guide or be incorporated into new or existing Murri Courts, but always subject to the local context in which they are operating.

When we consider Model Rules or a legislative framework for the Murri court in future we must be careful to ensure that these are a light touch and not a straitjacket – and leave room for flexibility and change to meet new circumstances and local conditions.

We meet at a time when we are hearing suggestions that the Murri Court and its equivalents in other states are a soft option – that there is one law for black people and another for white people. This is the context in which Mr Hulls wrote his article. It is also the context in which I had to respond to the St George media this week.

As you would know it is not a soft option. It is about effective sentencing of offenders who will be sentenced to imprisonment when appropriate. It is not a lighter sentence but one which is more meaningful to the offender. Where they are placed on community-based orders, onerous conditions aimed at their rehabilitation will be attached, including being subject to the requirements and directions of the local Community Justice Group.

To return to the Murri Court DVD, as Magistrate Manthey says in his introduction, the Murri Court adheres to the law of Queensland. It is the same law for everybody - but the Murri Court applies this in a culturally appropriate way. This is a point which we must all emphasize at every opportunity.

In his apology to Australia's Indigenous peoples the Prime Minister spoke of "a future where we embrace the possibility of new solutions to enduring problems where old approaches have failed". He referred to this as "a future where all Australians, whatever their origins, are truly equal partners, and with an equal stake in shaping the next chapter in the history of this great country". The innovative Murri Court is one of these solutions. It is a solution which is

working to close the gaps in Indigenous life expectancy, educational achievement and employment opportunities which the Prime Minister has committed to reducing.

Therefore this is an important conference - in all probability it is another watershed - which addresses issues which lead to a discussion tomorrow of the *Future Directions* of the Murri Court.

I am sure that what will emerge is a contemporary and vibrant court - one which is sufficiently flexible to evolve and change to meet the new challenges which will inevitably arise.

This is also our challenge over the next two days. I thank you for your commitment to the Murri Court and to this conference. And I wish you well in your deliberations.