WELCOME TO THE BANCO COURT FOR THE LAW WEEK HYPOTHETICAL, 15 MAY 2009, 12.30 PM

Thank you, Uncle Hughie Kirk Snr, for your Welcome to Country.

It is especially appropriate that on this perfect Brisbane autumn afternoon, here, in the Banco Court of the Supreme Court of Queensland, we take a moment to reflect. Remember that long before this building was erected, long before the Supreme Court of Queensland existed, long before the 150 years of Queensland statehood, long before European contact, the Turrbal people lived on this land. During the tens of thousands of years of their stewardship of this land, I have no doubt they had meetings and discussions about the relationship between their rules of lore and their social problems, in essence not so very different to this Law Week Hypothetical.

On behalf of the judges, I warmly welcome the moderator of today's hypothetical, journalist and broadcaster, Julie McCrossin, and the distinguished panel members: his Honour Judge Irwin of the District Court, fresh from today's QPILCH Walk for Justice; Queensland Police Service Commissioner, Bob Atkinson; ATSILS CEO, Shane Duffy; and Legal Aid Queensland CEO, Jenny Hardy; together with the Executive Director, Indigenous Education Queensland, Steve Armitage; the General Manager, Youth and Development, Department of Communities, Cathy Taylor; the Acting Executive Director, Offenders Programs and Services, Queensland Corrective Services, Mark Rawlings; and the Director of the Key Centre for Ethics, Law, Justice and Griffith University's Governance and Program Leader, Violence Research and Prevention, Prof Paul Mazerolle.

But the panel members are not the only important people here today. You are all VIPs. I also warmly welcome members of the legal profession, secondary school and university students and the general public who have come to listen to the ideas of others and to contribute their vision.

Thank you for your interest in Law Week and the courts and especially for your interest in the topic of today's hypothetical – one of the big issues in Australian society: the over-representation of Indigenous people in our criminal justice system.

The problem is not new. It has existed since the British justice system was first imposed on Indigenous Australians.

Today's hypothetical will raise community awareness about this issue and help Australians to better understand why it is so, what is being done to fix it, what works and what does not, and what more should be done.

Thank you for your participation and for your interest in a topic which should so gravely concern not only members of Indigenous communities but every member of Australian society.

It is certainly a concern to judicial officers. Next week, about 30 State and Federal judicial officers, including three Court of Appeal judges, are participating in a two day workshop at the University of Queensland entitled *Aboriginal and Torres Strait Islander People and the Law in Queensland*. The workshop is funded by the National Judicial College of Australia and brings together speakers with extensive experience and knowledge of Aboriginal and Torres Strait Islander matters. Indigenous history and culture will be explored with a particular focus on the experiences of Indigenous Australians in the judicial system.

Together, good-hearted, clever and innovative Indigenous and non-Indigenous Australians are taking small steps to reduce the number of Indigenous Australians in our prisons.

Australians are demanding that Indigenous citizens in remote communities have the protection of the rule of law, and that Indigenous Australian children are supported in their education and training so that they can take up their rightful role as future Australian leaders. Australians are proud of their nation's diverse heritage which is firmly rooted in its rich, ancient, resilient and still-flourishing Indigenous cultures. Australians now expect courts to recognise the unique experiences and problems faced by too many of its Indigenous citizens in the criminal justice system. The legislature has introduced measures like the Murri Courts, the Queensland Indigenous Alcohol Diversion Program, Community Justice Groups and sentencing provisions such as s 9(2)(p) *Penalties and Sentences Act* 1992 (Qld)[1] and s 17,[2] s 150(g)[3] and Charter of Juvenile Justice Principles 13[4] and 14[5] *Juvenile Justice Act* 1992 (Qld).

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[1] In sentencing an offender, a court must have regard to, if the offender is an Aboriginal or Torres Strait Islander person – any submissions made by a representative of the Community

It is my sincere hope that the outcome from workshops like the one I am attending next week, and hypotheticals like this, will be that one day – and soon – Indigenous over-representation in our criminal justice system is no more than a regrettable part of Australian history – to be understood, learned from, remembered, but never repeated.
Ladies and gentlemen – Julie McCrossin.

Justice Group in the offender's community that are relevant to sentencing the offender including, for example -
(i) the offender's relationship to the offender's community; or
(ii) any cultural considerations; or
(iii) any considerations relating to programs and services established for offenders in which the community justice group participates.

[2] A caution may be administrated by a respected person of an Aboriginal or Torres Strait Islander community.

[3] See fn 1, but as to sentencing a child offender.

[4] If practicable, a child of Aboriginal or Torres Strait Islander background should be dealt with in a way that involves the child's community.

[5] Programs and services established under this Act for children should be culturally appropriate.