

TRANSCRIPT OF PROCEEDINGS

MURRI COURT

GLASGOW, Magistrate

OPENING OF THE MURRI COURT AT TOWNSVILLE
ON THE 2ND OF MARCH 2006

WARNING: The publication of information or details likely to lead to the identification of persons in some proceedings is a criminal offence. This is so particularly in relation to the identification of children who are involved in criminal proceedings or proceedings for their protection under the *Child Protection Act 1999*, and complainants in criminal sexual offences, but is not limited to those categories. You may wish to seek legal advice before giving others access to the details of any person named in these proceedings.

BENCH: Ladies and gentlemen, please be seated. We have today witnessed an ancient indigenous ceremony conducted by a representative of the traditional owners of this country, Aunty Alice Dowden. It is a cleansing, a bringing together of all the good spirits and a welcoming to a new event. We also had a welcome dance of two young men which help us celebrate the commencement of this Court.

My new colleagues, who sit with me today, distinguished guests, fellow Magistrates, ladies and gentlemen. This Court recognises the traditional owners of the land upon which we sit today. And the elders of the indigenous communities - five of those elders sit with me today - and others sit in the jury box. They represent not only the Townsville/Thuringowa communities, but also the districts of Palm Island, Charters Towers, Ayr and Ingham and west to Hughenden and Richmond.

My colleagues, Brian Smith, Graham Hillan, John Brennan, Laurie Verra and Ms Tonkin, together with my visiting colleagues, Damien Dwyer and Mrs Wendy Cull, fully support this initiative, which is a result of the requests of the community of elders and their genuine commitment to and the support to the continuation of this Court.

Each of my colleagues and I will sit in the Murri Court from time to time. Judge Marshall Irwin, the Chief Magistrate, sends his greeting and congratulations to us today, as this is, in his view, a significant advance in the management of indigenous sentencing in North Queensland.

In addition, I wish to acknowledge the works that have been done by, particularly, Mr Kevin Ngan-Woo, the coordinator of the Justice Group, whose drive and prodding, whose full support has enabled many of the elders to put in the time and to attend at various functions and to assist them when they visited Rockhampton, to see the Murri Court in operation.

On behalf of all those who went to Rockhampton, and the elders of the indigenous communities of Townsville, Thuringowa and the districts in which we serve, we acknowledge today with gratitude and affection, the generous assistance and judicial guidance her Honour Annette Hennessy gave to us in that visit and to the assistance and the establishment of this Court. And without that generosity, this indigenous Court, I do not believe, would have progressed so speedily as it is today.

This Court involves indigenous elders, respected people and members of the family of the indigenous community. It is no different, in many respects, to a sentencing Court. It provides one additional benefit, time in sentence and the ability for the indigenous community to have serious input by interviewing of the defendant and making recommendations to the Court.

It allows an elder to sit with me or the Magistrate presiding at those times. And as some of you know, we formalised a Youth Murri Court on the 15th of February and I have had the

pleasure of Monty Stubbins, and Eva Kennedy sitting with me when those Courts were convened.

It is an indigenous day. It is a day when we hope the efforts of all of us will assist in an understanding of why defendants commit crimes, their family and their cultural backgrounds and endeavour to work out a system of sentences which more properly will work within the community. It does not provide any benefit to an indigenous defendant over a white defendant. It provides many of the benefits that non-indigenous people have had over a period of time and recognises that the indigenous defendant, in many respects, deserves more time and input from their own people.

I invite my colleagues, who I welcome again today, to comment commencing from Monty Stubbins.

MR STUBBINS: Yes. Welcome everybody. It's really great to see a lot of people here. I'm thrilled. Especially the elders from the community, because it's very important and without the elders, we wouldn't be able to carry this through. So, the more elders and the more people that come from far flung communities, the better. And it's also great to see the - various people from various departments. I know how hard it is. And departments are run by guidelines and you can only do so much, especially when it comes to money.

It's also good to see that not all police are heartless. A lot of police that I have met are compassionate. And even the Prosecutor that we've dealt with - oh, several Prosecutors that we've dealt with, they've got a job to do, but I've spoken to them off the record and quite - quite a lot of them are compassionate with indigenous people. So, it's good to know that there are compassionate police out there. So, they're not all bad.

And I'm just glad that everybody's turned up here because it's pretty important for the whole Court. And if we all stick together, we'll be able to help the people - the indigenous community. And eventually we'll get other people on board and that's the - that's the main thing. But I said a lot last time and I've been told not to talk too much, because I've been told that I talk under water. So, I welcome you all here and let's hope that we all stick together after this.

That when you go away from here, you don't just say, "Oh, well, that's all over now, just participate and turn up here some time." Even - even the ordinary Murri Court we have over there - well, the Court we have normally, it would be nice to see a few people - indigenous people - especially people from departments to walk up and down, just say hello to some of the people that are sitting out there - little kids and they're there for eight hours - eight or nine hours, no food and no drink, just sitting there.

And it would be nice if people would just recognise them and just said, "How are you going?" Just spoke to them. It would be really good. All right. Thanks very much.

BENCH: Aunty Elsie?

MS KENNEDY: As usual, Monty probably says it all for all of us. I'd just like to say welcome and thank you all for coming. It is really heartening to see so many here, especially my lot from Charters Towers, which is very heartening to see that. Yeah. Like I said, Monty usually says it all for us. And I just want to say that I agree with Monty, I think it would be nice if we could get a few more elders involved coming to the Courts, especially coming to the Childrens Court because there are times when I suppose, even us elders run out of breath - I don't think in Monty's case, but anyhow - yeah, but once again, thank you all for coming.

BENCH: Aunty Alice?

MS DOWDEN: Yeah, I'd like to thank everyone too that's come here today. And it's been a long road. We started about three years ago and working with the kids and it just becomes like, you worry about each kid that - that has offended and you always hope he's not going to offend again. But they become just part of you. They become part of you. You can't - when they - when they re-offend, you go home and you think that this is your - this is your child, you know? And the respect that we've got from these so-called naughty children, have been just great - 'cause they pull you up on the street and they'll tell you if they've done something - something wrong. And that is something great for us Aboriginal people because like we say, the respect's not there, but the respect is there with these young people that we see.

And it's a simple little "hello" to them and just to let them know that - we care and we can just work with them because they know that we are there to care for them. And we're not there to get them off anything - get lighter sentences for them. And because we really get into these children, because we know how to growl them in our Murri way. So, I - I just thank Mr Glasgow and thank Kevin Ngan-Woo for everything what they have done. And we just hope that we can go on from here. Thank you very much.

BENCH: Aunty Eva?

MS KENNEDY: Well, it's pleasing to see so many people supporting the opening of the Murri Court today. I feel honoured to be part of such an innovative and forward thinking approach to addressing the over representation of Aboriginal & Torres Strait Islander people in the justice system.

Research shows that Aboriginal & Torres Strait people are more likely to be arrested by police, appear before the Courts, receive a term of imprisonment. A report of the Royal Commission into Aboriginal Deaths in Custody in 1991 found that traditional European models of justice disadvantaged Aboriginal & Torres Strait Islander people.

To redress this, the Murri Court has been set up to give the Magistrate involved, more culturally appropriate sentencing

options. It works by bringing Aboriginal & Torres Strait Islander elders together, their cultural beliefs with the white legal system. It will work because the offenders have to appear not only before the Magistrate, but before the elders and family members. And it is - it can be very, very embarrassing and stressful to do so.

For young Aboriginal & Torres Strait Islander people, a positive experience in a Murri Court has the potential to be a life changing experience for both the offender and the community. Cultural inclusion in the judicial process ensures that all Queenslanders are represented equally in the courtroom.

BENCH: Aunty Vassa?

MS KENNEDY: Yes, I'm so happy to be here today and I'm glad to see so many here that are here to support the - first day - you know, opening of the Murri Court. I've been involved with the - the Legal Service for a number of years and I've seen children come and go and I'm familiar with the - with the families involved and the extended families, you know, with the - of the children that are coming before the Courts. And - and I would like to see that - with this new forum here, that we would, sort of, have a - a culturally appropriate way of - of punishing them. And - and leading them in the right directions. And like I said, I'm very happy to be here today and to be a part of this.

I would like to thank Mr Glasgow for considering me because I've been out of the Legal Service for some time for a period of 12 months now. And - and also out with the - with the Justice Group, but I keep close contact with - with Kevin. And I'd also like to thank Kevin and the rest of the - the elders who cannot be here today and we are thinking of you. I thank you all for coming.

BENCH: Mr Pattell from the Justice Group representing the remaining people.

MR PATTELL: I'd like to acknowledge the traditional owners of this country and I'd also like to acknowledge the elders. Also I'd like to acknowledge our senior Magistrate Glasgow for the hard work and commitment that he's put in this community. We'd be sad without him when he leaves one. He's got to retire, but hopefully we'll have the - the strength and the infrastructure in place to keep going on and - and - and put in the hard yards. I'd also like to acknowledge distinguished guests. Also like to acknowledge the other elders here - sitting here and the board members. As - as we've - it's been a long humble struggle. We've done - three years ago we started off and we - only because of our elders here we've got to this stage. Kevin, I'd like to also acknowledge you.

But I'd also like to get down to reality. The other State - other - the other service providers here - this Court will not work unless you - you people support us. We need to all work together and - because if we work together we'll get good

outcomes. But if we don't work together this will fall down. That's the reality of it. So hopefully that you guys will support us because we'll go from strength to strengths because as we know - I don't have to remind our people, but we have high incarceration rates. We have some of the highest - our 17 to 25 year olds are sitting out there in prisons now. We have a lot of high incidents of domestic violence. We have a lot of drink driving fines. We have a lot of traffic history.

So hopefully this is about empowering our elders. Giving them back the power - traditional power so that we can have inclusiveness in the - in the sentencing system, hoping we can turn these people around. But back to the stakeholders, if we're going to put people on - sentencing options, we need your support. Because it's no good us putting people - preventing people from going to gaol if we don't have any realistic programs where these guys can turn their lives around. So we need your support and I'm sure we'll get it and thank you very much.

BENCH: Sergeant Beal from the prosecution.

SGT BEAL: Elders of the Aboriginal and Torres Strait Islander community, I - and Mr Glasgow, I'd like to thank you for your welcome this afternoon. But I'd also like to thank you for the opportunity to speak on behalf of the Police Service. More importantly, I'd like to thank you for the opportunity for - to speak on behalf of the local Townsville Police Prosecution Corp and I'd like to - like to second the - the - the comments of Mr Pattell in relation to his advice to deal with the - these matters on a - together.

Without the local support of the elders, the local support of government departments, such as Community Corrections, the police, Aboriginal and Torres Strait Islander Legal Service, on a local basis this matter would - these - this Court will not - will not succeed. It doesn't matter how much the government wants it to succeed, without local support it - it simply won't.

I'd like to express the thoughts of my officer in charge, Senior Sergeant Cook, who can't attend this afternoon who's indicated that she fully supports the Murri Court. She's allocated both myself and Constable Chawner to attend to the duties of both the Murri Court and the Youth Murri Court here in Townsville and both of us are fully supportive of the - of the intentions of the Court and what you hope to achieve.

We are prepared to work with you. We want to work with you and we want to see fairness in sentencing for all - for all persons in the local area, including those members of the Aboriginal and Torres Strait Islander community and I thank you for this opportunity to talk.

BENCH: Ms Warrington on behalf of the Courts. Ms Warrington's the Acting Registrar of the - of this Court. Thank you.

MS WARRINGTON: Yeah. I haven't met a lot of you here today. But my name's Susie Warrington and I'm currently acting as the Registrar of the Magistrates Court on behalf of Greg Johansen. One thing I - when Mr Glasgow invited me to say something today, the first thing that came to my mind when I thought of the Murri Court is every time I speak to someone about the Murri Court they feel extremely passionate about it and I guess the reason people feel so strongly about it is because they know how important it is to our judicial process when it comes to dealing with indigenous offenders and how successful it has been in other centres, not only for the indigenous community, but for the community as a whole.

So I'd like to congratulate Mr Glasgow and the Community Justice Group, the elders for all the work they have done in bringing this to Townsville to our courthouse. On behalf of the Registry, it has our full support. We will offer you support in any way we can and we wish you all the best with the - with the very - with an excellent ignition of - thank you.

BENCH: Mr Summers from the Department of Corrections.

MR SUMMERS: Thank you. My name is Stephen Summers. I'm with the Community Corrections here in Townsville. I would like to express my thanks for the opportunity to speak here today. I welcome the - the - the thanks and the welcome expressed here today and as a representative of the Department, but also as a local Townsville member and an Aboriginal and Torres Strait Islander person. I have a great interest in seeing an initiative of this locally moving - moving on and being introduced here today. So it's - it's heartening and - and special for me to see this happening in the local area as part of I guess a greater awakening.

Departments, organisations, bureaucracies, groups, all things are fluid and plastic, they're dynamic, they're ever-changing, they're not static and fixed and it's good to see that this notion of inclusiveness, the welcoming of - of another voice, I guess collectively indigenous voices, to that part of the - the justice and the sentencing process is included. So certainly I'd welcome that.

I see some familiar faces and some not so familiar faces. But overall it's very heartening to see the many people who are attending here today. I look forward to working with everyone and I look forward to perhaps hearing more voices and seeing more people involved with this initiative. Thank you.

BENCH: Mr Osborne from Queensland Legal Aid.

MR OSBORNE: Your Honour, elders of the indigenous communities, guests, Legal Aid Queensland embraces the concept of the Murri Court and welcomes the opportunity to represent indigenous persons in the Murri Court. Our indigenous clients and the community stand to benefit from the range of sentencing options available in this Court.

With the involvement and input from the elders, the Community Justice Group and the Department of Community Corrections, we will work to achieve sentences which are culturally sensitive as well as being appropriate to that person's individual circumstances.

We are committed to the success of the Murri Court and will actively seek out appropriate referrals for our client to this Court. Thank you.

BENCH: Mrs Arkee.

MRS ARKEE: To our elders, the Community Justice Group, Mr Glasgow and other Magistrates that - who are here today. Today's - it's the second historical thing that's happened in the life of - the Townsville Aboriginal Health - sorry, Legal Service. First of all that we won our contract in July of this - last year and now the opening of the Murri Court.

I can honestly say that having the opportunity of going with Magistrate - or being party to Mr Dwyer's - Magistrate Dwyer's Court up in - up in the Cape that it gave me an understanding of the isolation of our people when they had to go to Court in their own communities and I can see something like that happening here in this Court and I can see that it's not from a cultural perspective and how important the roles of the Community Justice is going to play, I just want to say that it's going to be a very important role for us as a - a legal service, especially to our - our team of lawyers, our field officers and our administration staff that had to represent our people in this Court.

I'd like to say that we've been waiting a long, long time for this. And like the chairperson of the Community Justice Group said, Graham, that if it's going to be successful, it has to be a success at the hands of the Aboriginal & Torres Strait Islander community, with the support of our legal team and with the support of the Magistrate. So, with that, I just want to say, I really appreciate the opportunity of coming here and having a few words on behalf of the Aboriginal & Torres Strait Islander Legal Service. Thank you.

BENCH: Thank you. Mr Coombe, the principal solicitor from legal service.

MR COOMBE: Yes, your Honour. Elders and representatives of the Aboriginal & Torres Strait Islander Community, it's my honour to serve in the job that I am doing. And I should perhaps mention that although I have only been in Townsville for a very short period, I have, in fact, been the senior partner of a legal firm in the Pacific Islands for well over a decade. And I have a reasonable understanding therefore, of how indigenous people see the world through the eyes of the white man when they find themselves in the white man's Court.

It's been my experience that Aboriginal people, Torres Strait Islander people and Melanesians, have a knowledge and a wisdom

that we white people have forgotten. And I believe that that is the thing that can be brought to this Murri Court. We are technicians. We're just lawyers, who know the law and put it forward. But you are the people who must guide us in getting to just solutions. Thank you.

BENCH: I know there are many others who would like to speak, but time really, it shouldn't be an issue in a day like this, but I draw to your attention we do have two young defendants in the watch-house waiting for sentences today and I intend to ensure that that's dealt with. We intend to adjourn shortly to invite - invite you to an afternoon tea, which of necessity, will be of short duration. But in any event, we will certainly move amongst you.

I am reminded, as I often am, and by Mr Hines to remind you, that this is an open Court. It will always be an open Court. You may visit it at anytime you wish. It is not closed. It will be held here as far as practical on each occasion.

The Youth Murri Court is something different. It is closed, but any person who comes from an organisation who wishes to attend that Court, only has to contact my office with a quick email and generally, subject to any of those people proceeding in that Court or appearing in that Court, approval will be granted for you to witness it.

In concluding, I wish to say that the people who sit on my right and left and others who have been in my Court, in the Childrens Court, conducted by myself or Mr Hillan, and Mr Ross Mack over the last the three years, have been of great assistance to us. And although statistics are often used for any advantage, I can tell you the average number of children we had on a Wednesday three years ago was in the order of 30 to 36 and the average number of children we have in our Court today runs from 16 to 20.

Unfortunately, the 55 per cent and more at times are represented from the indigenous community, but we see fewer recidivist. In other words, those people who appear once or twice, after a good talking to by some of my goods friends here, rarely seem to appear again. And that has been an advantage of that Court.

I invite you to join us now for morning - for afternoon tea. If you exit through the door you came, you can go over and the security will show you where it's to be. When you come back, you'll all be going through the proper security system and it may delay the process. I would like to resume here no later than quarter past 4 to get on with our business. For those of you who want to stay later, fine, you can drift over here as and when you will. But if all the key people could be back here by quarter past 4 to start, I'd appreciate that.

Ladies and gentlemen, again welcome. And we'll meet with you at afternoon tea. We are now to adjourn.

THE COURT ADJOURNED