

# **MORNINGTON ISLAND RESTORATIVE JUSTICE PROJECT EVALUATION**

## **FINAL REPORT**

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Evaluation Research**

**Prepared for: The Mornington Island Community**

## **Thanks to the community**

We would like to formally thank the Traditional Owners and people of Mornington Island and all who participated in this consultation. The community seemed very happy to have their say on mediation with 211 participating in the survey and a further 212 participating in the Most Significant Change ballot voting.

It was a fantastic result and we acknowledge the fine work conducted by local research practitioners Farrah Linden, Wade Simpson and Dirk Loogatha. They provided input into the survey questions and research process, introduced us and helped us recruit and interview many community members, and also helped us with analysis of the data and debriefing with the Department of the Prime Minister and Cabinet (PM&C) and other key stakeholders. We also sincerely thank and acknowledge the heroic work the mediators and Justice Group Elders are doing as peacemakers and peace architects in their community. In particular we acknowledge Roger Kelly, Frank Watt, Cecil Goodman, Cyril Moon, Annie Chong, Louisa Roughsey, Mary Cameron, Allan Seckington and Adrian Jacob. We also thank Robyrta Felton, Bradley Wilson and Sean Linden for their invaluable advice and support.

We also thank the Shire Council, Mornington Island State School, the PCYC, RJCP, Ngarla Community Health - Mornington Island Hospital, Wellbeing Centre, Mission Australia, Save the Children, Corrective Services, Police, Centrelink, the Arts Centre - Mirndiyan Gununa Aboriginal Corporation, Workshop, Tech Services, the Store and of course Junkuri Laka for being so kind and helpful to us during our stay.

Colmar Brunton understands that the ownership of Indigenous knowledge and cultural heritage is retained by the informant and their community. Therefore, we acknowledge the Mornington Island community as joint custodians of these research findings.

## **In Memory of John Young**

Colmar Brunton would like to dedicate this report to the memory of John Young, Qualitative Research Director who undertook this research with unsurpassed passion and commitment to tell the story of the Mornington Island Restorative Justice Project. Vale: John Young

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The Department of the Prime Minister and Cabinet wishes to thank all those who participated in this research.

# Reading This Report

## Purpose of Report

This document presents the key findings of an evaluation of the Mornington Island Restorative Justice (MIRJ) Project, locally known as mediation or peacemaking<sup>1</sup>. The MIRJ Project design and implementation drew on a community development approach which sought to strengthen local capacity to manage conflict in its own way, without having to resort to violence or external agencies like the police and courts.

## Structure of the Report

There has been a vast amount of information collected for this study. Colmar Brunton appreciates that readers of this report may vary greatly in terms of intent and purpose of investigation. With this in mind chapters have been structured to assist the reader to locate relevant information easily. Colmar Brunton advises that report should be read in its entirety to fully understand the myriad of community member's perceptions combined with secondary data analysis, cost benefit analysis and document review.

**Chapter 1** is a narrative summary of the evaluation. This chapter also outlines the context, history and landscape in which the MIRJ Project was conceived, implemented and evaluated. It draws conclusions and recommendations for continuation of the Project and for applicability to other communities. This is a high level summary and any repetition with subsequent chapters is intentional.

**Chapter 2** details the background and program logic for the Mornington Island Restorative Justice (MIRJ) Project. This is provided if the reader is not familiar with the program and wants a deeper understanding of the contextual issues around the introduction of the Project as well as a comprehensive description of what the Project involves, the objectives and methodology of the evaluation.

**Chapter 3** is an extended executive summary of the key findings of the evaluation including all aspects such as the qualitative and quantitative surveys, participatory research, secondary data analysis, cost benefit analysis and document review. This chapter summarises the detail in Chapter 4-8.

**Chapter 4** provides the detailed findings of the evaluation including all the qualitative and quantitative surveys.

**Chapter 5** provides the details of the participatory research and projective techniques used when consulting with the community.

**Chapter 6** details sustainability and what is required for the transition to full community management of the Project.

**Chapter 7** analyses secondary data including community level data, police and school attendance data and MIRJ Project specific data.

**Chapter 8** analyses data supplied by DPC from Magistrates Services that relates to the total number of magisterial sittings on Mornington Island for the period 2004 – 2013.

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<sup>1</sup> Peacemaking is a "generic term for those activities which address significant conflict. It includes the holding of mediation meetings, engaging in shuttle diplomacy between parties in conflict and providing conflict coaching." Peacemaking" and "Mediation" are used as interchangeable terms on Mornington Island. Venables, Phil. (2012) Mornington Island Restorative Justice (MIRJ) Project - Report on its Development, Implementation and Transition to Community Management 2012, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland, pg 14.

**Chapter 9** investigates MIRJ Project in terms of whether it incorporates good practice mediation principles in Indigenous remote communities and whether they appear to work in this situation.

**Chapter 10** provides commentary on the behaviours that the program is trying to encourage and details the benefits, barriers, self-efficacy issues, significant others and rewards/reminders that need to be addressed to generate sustainable behaviour change.

**Chapter 11** contains a dialogue that occurred as a result of the evaluation demonstrating the transformative nature of evaluations such as this.

**Chapter 12** contains Appendices with additional supporting evidence, evaluation materials and data included in the evaluation.

## Reading the Content

Please note that a full summary and recommendations box is placed at the start of each section and subsection. Readers are advised to go directly to the relevant section following to find more specific details on these summaries and recommendations.

Findings in this report are generally presented as a series of charts and tables accompanied by descriptive text. Charts and tables feature:

- An indication of the size of the sample that responded to the question denoted by the text in brackets in the first row of the table (n=);
- Where applicable, the total (100%) is listed at the bottom of the table, the total figures only apply to questions where participants provide only one response, thus these figures will add to 100%, total figures are not provided in tables that relate to multiple-response or multi-part questions where responses will not sum to 100%; and
- In some instances, responses to single response questions will not sum to exactly 100% due to rounding of decimal places.

The statistical significance of differences between proportions was tested in SPSS using Z tests (Alpha=.05).

## Participant response and sample sizes

According to ethical requirements and standard social research practice, the quantitative survey allowed the respondent to skip or refuse to answer any question on the survey. Therefore there are varied numbers of participants for each question (reported n=). The sample size for each set of analysis has been specified in the table or chart throughout this report.

For multi-part questions reported within the same chart or table where different numbers of participants provided responses to each item, the smallest base size is reported.

## Reading the text

Most of the findings in this report are illustrated by simple descriptions of the data.

Qualitative summaries use '**few**', '**some**' or '**most**' to give an indication of how many people feel a certain way about a particular issue. Small sample sizes and non-random selection of participants in qualitative research means it is not meant to be definitive about the proportion of participants who feel a certain way.

Direct quotations are often used to show the **different** and **varied** views people have on the topic. Where a majority might agree or be positive on a particular item, the authors

felt it was important to provide the negative quotations or disagreement to help understand why those that do not have the same view as the majority feel the way they do. It should be noted that while the quotes provide rich insights that explore key themes they should not be seen as representative of everyone in community. The quantitative data should always be referred to for the collective views of the participants.

### **Attributing the results**

It should be clearly understood that the survey data is only one component of the research and that other components of the overall outcome evaluation should be used to validate or verify the perspectives of community members. The data collected is perceptual and retrospective. There are limits to how and when this data should be used, and these were taken into consideration in the overall evaluation. Colmar Brunton have included a full range of perspectives in this report. Whether based on fact or not, there are no right or wrong responses to the survey, just the important perceptions of community members. Where administrative data analysis and community perceptions vary dramatically, Colmar Brunton have not verified, judged or censored qualitative or quantitative data in the delivery of this report.

There was no benchmark survey undertaken prior to implementation of the MIRJ Project and therefore Colmar Brunton is unable to make comparisons or comment on whether the attitudes, perceptions and behaviours of community members have changed from before the implementation of this policy. It is also difficult to comment on whether levels of knowledge and awareness are high or low without baseline comparisons or comparisons with other control groups. The survey does however provide the voice of community members and creates important learnings for Government and other stakeholders to use in the future.

### **Acronyms and Terms used in this Report**

This report contains a number of specific acronyms that refer to different organisations, cohorts in the survey, statistical notation, social research terms and research instruments.

These acronyms are listed in the table below.

**Figure 1: Acronyms and Terms**

<b>Acronym</b>	<b>Term</b>
ABS	Australian Bureau of Statistics
AGD	Australian Attorney General’s Department
ANZPAA	Australia New Zealand Policing Advisory Agency
AMP	Alcohol Management Plan
CBSR	Colmar Brunton Social Research
CJG	Community Justice Group (Generic term for all Justice Groups in Queensland)
CtG	Closing the Gap
DJAG	Queensland Department of Justice and Attorney General
DKPNTA	Don’t Know or Prefer Not To Answer
DPC	QLD Department of Premier and Cabinet
DRB	Dispute Resolution Branch

<b>Acronym</b>	<b>Term</b>
ERP	Estimated Resident Population
FaHCSIA	Australian Government Department of Families, Housing, Community Services and Indigenous Affairs
JL	Junkuri Laka Justice Association (Formal Title - Junkuri Laka Wellesley Islands Aboriginal Law, Justice and Governance Association Inc). Most often referred to in this report as Junkuri Laka
LIP	Local Implementation Plan
LRG	Local Reference Group
NGOs	Non-Government Organisations
NPARIH	Partnership Agreement on Remote Indigenous Housing
NPARSD	National Partnership Agreement on Remote Service Delivery
MIRJ	Mornington Island Restorative Justice (the Project) Mediation/ peacekeeping, the mediation service/the Project/Mornington Island Restorative Justice Project - these terms are used interchangeably depending on the context.
PM&C	Australian Government Department of the Prime Minister and Cabinet(PM&C)
PCYC	Police Citizens Youth Club
PLO	Police Liaison Officer
RJCP	Remote Jobs in Communities Program
RSD	Remote Service Delivery Program
TOs	Traditional Owners

<b>Statistical terms</b>	<b>Definition</b>
M	Mean Score
N	Number (of responses)
SD	Standard Deviation
P	Probability
$\chi^2$	Chi-square

<b>Word</b>	<b>Meaning</b>
Moyenda	Respected Elders

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- **Self Determination / Capacity Building** – symbolised by the strong hands required to do the work.
- **Government doing business differently** – symbolised by shaking hands, coming together in the spirit of trust and partnership.

The left hand represents the challenges that people are dealing with every day on Mornington Island. The right hand is offering hope (symbolised by the peace dove) and empowerment of families through mediation / peacemaking where community issues are put back 'in our own hands'. The message of hope involves:

- Cultural respect with Elders leading the community;
- Trained mediators who know the family's history, links and connections;
- Youth mediating with Elders support, camping on country;
- Encouraging non-violent settlement of trouble, acknowledging what people are going through and the efforts they are making and always guiding people towards a better future through respect;
- Developing emotional intelligence; and
- Referral to appropriate support services to help families deal with the issues that are getting them into trouble.

This visual representation of the Project demonstrates the core themes that emerged throughout the evaluation.

## 1.2 The Community of Mornington Island

Mornington Island is the largest of the Wellesley Island group of Islands in the Gulf of Carpentaria. The Lardil tribe are the Traditional Owners and include four major ceremonial land owning groups: Barlumbenda (West) Jirrurumbenda (Leeward-North) Lilumbenda (East) and Larlumbenda (Windward-South)<sup>4</sup>. In 1936 forty people were removed to Mornington Island from Turn Off Lagoons, many of whom were Waanyi people. The Kiadilt people of Bentinck and Swears Islands arrived in 1948 when their water supply was contaminated by salt after a cyclone. Other land owners include the Yungkal people whose lands include the islands to the south and onto the mainland. People were sent from the mainland to Mornington Island with children going into the dormitory. They and their descendants are referred to as Historical People<sup>5</sup>.

Mornington Island identity is maintained by ongoing resistance to external forms of control and through continuing links to land and sea country. Hunting and fishing are important activities in the domestic economy<sup>6</sup>. The growing youth population on Mornington and their ability to carry on these traditions is of greatest concern to the ever decreasing population of Elders. This concern is increased by the high levels of substance abuse and violence. With a population of approximately 1,005 people, 50% are aged 24 years and under with 10% aged 55 years and over. (ABS Census: 2011). Like many remote communities Elders report their authority was being severely eroded. Whilst many young people maintain the traditions of their Elders, they have extended their talents and interests into modern music and sport. This was a time where there was an appetite for Elders to re- connect youth with country and culture.

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<sup>4</sup> *ibid*, pg 17.

<sup>5</sup> *ibid*, pg 17.

<sup>6</sup> *ibid*, pg 17.

In 2003 the first Alcohol restrictions were implemented with the ban on take-away alcohol at the Canteen and in 2008 the Lelka Murrin Hotel, one of only two liquor retailers on the island, closed. The new restrictions and support programs began on 1 July 2008. They apply to all areas within community boundaries, including homes. Alcohol Management Plans (AMP) had been in place since 2012 and Mornington Island is a restricted area. This means that no alcohol is allowed in the restricted area. There are two licensed premises in the restricted area: Birri Fishing Lodge and Sweers Island Resort. Birri Fishing Lodge can only sell alcohol to residents and their guests or to a person who is eating a meal on the premises. Sweers Island Resort can only sell alcohol to residents and their guests. The AMP is currently being reviewed.

On 12 December 2008, Federal Court Justice Spender handed down the Native Title Determination over the land of the Wellesley Islands, in which Exclusive Native Title was recognised over the land within the Shire, except for the area of the Township and the Dam. People's connection to land had been formally recognised by Commonwealth law. Whilst this may be symbolic at most for people whose ancestry proceeds colonisation by tens of thousands of years, there is a significance of healing in the acknowledgement of heritage that forms the context for the time and place in which the Mornington Island Restorative Justice Project was implemented.

### **1.3 The MIRJ Project Journey**

When the Project was first established on Mornington Island in May 2008 the community was in a very fragile and jaded state. Assaults, public disorder, hospital admissions for violence and contact with the formal criminal justice system were all increasing, police were using pepper spray every week, and even the occasional riot occurred. During the initial consultations community members were sceptical and distrustful of outsiders trying to 'help' the community. Nearly all people consulted sought justification for the initiative, before being prepared to discuss it. Many feared that mediation / peacemaking could be just another 'thing' imposed from outside that would not change anything or soon 'fall on its backside' when government priorities changed and funding was withdrawn. This was a very fragile community that could implode or explode with little encouragement, and disputes could continue for weeks, making it challenging for other general business, programmes or services to be delivered without constant disruption.

Prior to the establishment of the programme, community conflict was a major concern to Mornington Island community leaders and had a number of negative short term impacts including:

- Disruption to children's schooling and education (including prolonged periods of truancy);
- Increased likelihood of victimisation of innocent parties;
- Increased likelihood of criminal justice procedures against offenders; and
- Decreased ability to gain meaningful and productive employment<sup>7</sup>.

The following negative long-term impacts of community conflict were also identified:

- Erosion of family life;
- Alienation of young people with poor life choices; and

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<sup>7</sup> Vold & Bernard, 1986:76, cited in Banbaji Student Service (n.d.) Banbaji Student Service: Community Policing in Practice, Banbaji Student Service

- A crisis of confidence in leadership to address conflict<sup>8</sup>.

In response to concerns about the increasing contact their young people had with the criminal justice system the Mornington Island Elders in partnership with families, state and federal government bodies, community justice groups and police, developed and implemented the Mornington Island Restorative Justice (MIRJ) project. The MIRJ Project has worked with families and the Mornington Island community to run a community based peacemaking service which is inclusive of Island culture and conforms to the requirements of the criminal justice system. It offers diversionary victim offender mediation, civil mediation for disputes within extended families and the community, and interventions in response to serious conflict where mediation is not a possibility.

The initial funding agreement for the Project stated that the aim was to develop innovative and multipurpose restorative justice, prevention, diversion and rehabilitation projects to minimise local people's negative contact with the criminal justice system<sup>9</sup>. The objective was to meet local needs for alternative dispute resolution, while conforming to mainstream legislative requirements. Initial funding was committed to consult with community members, identify existing formal and informal justice processes, provide information about restorative justice, build trust and ensure the project had ownership and support of the community. This phase involved developing the model and making recommendations for its implementation. This was seen as the first phase in a three year pilot, the development phase. The second and third phases of the project, the implementation and evaluation of the model were stated as being subject to further funding in 2008-09 and 2009-10<sup>10</sup>.

Consultations started in May 2008 and negotiations to develop a mediation model began in 2009. Implementation of the service started in October 2009 and ran until October 2011 when it transitioned to community ownership and control by the Junkuri Laka Justice Association through a Service Delivery Agreement signed in February 2012<sup>11</sup>.

Early project planning had suggested a 12 month consultation, development and implementation of a community owned mediation model. Local mediators would be trained and supported in the following six months of operation. The project would then be evaluated. Community ownership of mediation was always the goal once local mediators had been trained. In reality, the consultation ran its course over seven months with the development of the model taking a further eight months. The project was delayed between January and June 2009 due to unforeseen absences of the Project Manager<sup>12</sup>.

The slower than original time-frame happened in response to:

- The highly sensitive and contentious nature of the topic of conflict in a small, inter-related community demanding that trusting relationships be developed for meaningful discussions to occur;
- The imperative to consult properly with all family groups rather than with more prominent community members;

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<sup>8</sup> Venables, P. (2009) Consultation and Development Phase: Report on the Mornington Island Restorative Justice (MIRJ) Project, Australian Government Attorney General's Department and Queensland Government Department of Justice and Attorney General

<sup>9</sup> 006.001 MIRJ Funding Agreement, 2007-8\_No1. Pdf, pg 3.

<sup>10</sup> *ibid*, pg 3.

<sup>11</sup> Venables, Phil. (2012) Mornington Island Restorative Justice (MIRJ) Project - Report on its Development, Implementation and Transition to Community Management 2012, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland, pg 18.

<sup>12</sup> The project manager fell very ill during this time and needed specialist medical attention not available on Mornington Island.

- Sceptical attitudes to new initiatives and the need to show a long term-commitment to project sustainability;
- The need for two way learning and to enlist a community wide understanding of the process and endorsement to proceed; and
- The paucity of information or precedent projects to guide the process - the self-reported diminished authority of Elders and the need for them to demonstrate over time solidarity and leadership in guiding community peacemaking.

With the project widely discussed and supported the Elders saw their opportunity to take responsibility and regain some authority. After not meeting for many years leaders resumed holding Moyenda meetings to discuss how mediation should work. To the surprise of the community, the rules and processes for mediation were established.

For the government, the Project was quite innovative. The whole emphasis was on designing a project that was community driven and owned. To stay true to this the government had to learn to do business differently.

The Project Manager spoke about mediation / peacemaking, gradually developed trust, and got to know people. This period involved extensive consultations with over 200 representatives from all family groups. When 'on the ground' the Project Manager was available to the community 24/7. He facilitated over 10 meetings and workshops at the festival grounds (the traditional meeting ground engendering legitimacy and authority for the initiative) with the Moyenda Elders between July and October 2009. These meetings and workshops discussed the findings of the consultation and involved developing the model that became the MIRJ Project. A Consultation Report was also presented back to families, community agencies and other stakeholders for their feedback and endorsement in a series of individual and group meetings in May and June 2009<sup>13</sup>.

Unanimous family support for establishing a peacemaking project was attained following the consultation. Ongoing violence and repeated requests for mediation demonstrated an ongoing need for the project. Participants also wanted to make mediation inclusive of Island traditions and locally managed via the involvement of appropriate kin<sup>14</sup>.

Unlike so many programmes that have been 'plonked' into remote communities over the years, mediation / peacekeeping was unique in its community development implementation approach; building interest from the ground-up, respecting and incorporating traditional knowledge and working through the kinship / family system. Success involved recruiting a dedicated Project Manager, who arrived without preconceived ideas or templates, spending many months on the ground over a four year period embedded in the community, often living in a donga in the construction camp.

The model took a culturally-sensitive approach to minimise the adverse impacts of community conflict and prevent conflicts from escalating into community-wide disputes. It makes use of traditional and contemporary dispute resolution practices including 'Square-up' – the cultural and emotional components of traditional conflict resolution<sup>15</sup>. Emotional and cultural components of conflict resolution are embodied in the model and kinship is considered to be both strength and a necessary resource for conflict resolution.

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<sup>13</sup> Venables, Phil. (2012) Mornington Island Restorative Justice (MIRJ) Project - Report on its Development, Implementation and Transition to Community Management 2012, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland, pg 21.

<sup>14</sup> *ibid*, pg 20.

<sup>15</sup> Venables, P. (2009) Consultation and Development Phase: Report on the Mornington Island Restorative Justice (MIRJ) Project, Australian Government Attorney General's Department and Queensland Government Department of Justice and Attorney General.

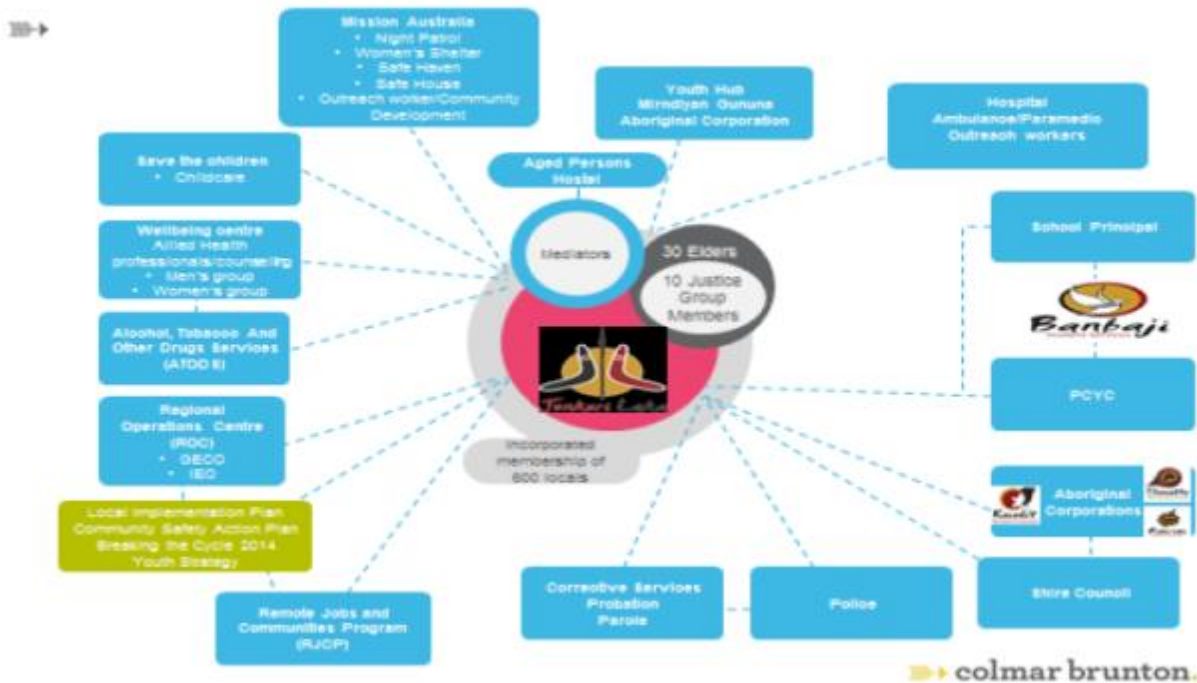
Six years after initial conception, crimes against the person are down, and people are feeling safer, happier and less stressed. While the violence continues, it does not escalate or go on as much, relationships with the police have improved, and people are more confident they can solve their own conflicts in their own way. The community is still fragile, but people know mediation is there for them when conflict threatens to escalate out of hand. The community should be acknowledged and congratulated for the progress made to date in terms of their openness and willingness to engage and participate in mediation / peacemaking. The heroic work the mediators and Justice Group Elders are doing as peacemakers and peace architects in their community should also be acknowledged. The way the community has strengthened its capacity to deal with its own disputes in its own way is inspirational. The people of Mornington Island have drawn a mark in the sands of time, and this is a good sign that as a community, working together, Mornington Island can overcome the other issues it's facing.

The Government had to **learn to do business differently**; they had connected with the community, built trust and allowed time for meaningful relationships to develop. This grass roots approach ensured the community led the programme development at the speed at which their capacity could support.

**1.4 Networks and Partnerships**

Government had to learn to do business differently not only with the community but with each other in terms of different jurisdictions and different departments and with service providers. Development of relationships and continuity of staff over the course of the project was a key component to ensure the consistency needed to keep the Project grounded in the system with 'like-minded' people sharing a common goal.

**Figure 2: Mapping of Mornington Island Service Providers**



There is a diverse range of Service Providers on Mornington Island funded by both the State and Federal governments. The following diagram demonstrates how a range of service providers on Mornington Island are connected to the MIRJ Project. As the Project is the focus of our investigations it sits in the middle of the diagram, however this should not be misinterpreted to mean that it sits in the centre of business on Mornington Island.



The current Mediation Coordinator's managerial, technical, mediation and legal skills have taken the Project to another level by almost doubling the amount of outputs and outcomes achieved since his appointment. At the same time the cost per mediation has been drastically reduced. Current costs per mediation are now in the hundreds to early thousands of dollars, rather than the many thousands of dollars. The current Mediation Coordinator is a highly respected, valued and is a trusted community resource that people go to whenever they have a legal problem. Some also point out that he does a lot of work to assist community members out of hours which is not recognised and for which he is not remunerated. In addition, the service in a broad sense is being used in more innovative ways such as:

- Making it easier and paving the way for people who were convicted of serious offences to be reintegrated back into the community upon release from jail;
- Mediations between employers and employees;
- Mediations between service providers like the police and community members; and
- Establishment of the Justice of the Peace (JP) court.

The MIRJ Project sits within a range of other vital service services. There is a need to better determine how the Project interlocks into the broader goals and common outcomes of the community.

Generally a more collaborative approach across the community with multiple service providers and agencies from all jurisdictions working together so that each are aware of the intricate role each plays in the other's desired outcomes is needed. Whilst most findings were positive, there were some qualitative findings around a breakdown of relationships between the MIRJ Project and other service providers. In particular, relationships have broken down with NGOs like Mission Australia which auspices the 2014 Breaking the Cycle Mornington Island initiative and runs key services (like the Safe House, Night Patrol, Women's Shelter, Safe Haven and Community Development Facilitator) Save the Children, and organisations like the Wellbeing Centre. In addition, relationships could be strengthened with the Hospital and the Ambulance/Paramedic service.

A key learning is that **connectedness** is vital for service providers on the ground. Whether the service is fly in fly out or has resident staff it is the positive relationships between these staff members and their organisations and their funding jurisdictions that can focus on creating positive change in a community. This is an area where Government can show leadership and facilitate good networks and partnerships.

## 1.5 Programme and Practice

The determination for examining a community-led **programme** is made based on a tabulation of information provided in both Junkuri Laka organisational documentation and MIRJ Project documentation. This information is provided against the best practice standards described in 'What conditions will enable Indigenous-led development to thrive in Australia?' a report written for the Australian Government by World Vision Australia<sup>16</sup>. This document lists a number of guiding principles that essentially answer the question posed in the report's title – i.e., the determining factors that need to be present to facilitate thriving, Indigenous-led communities. These factors typically centre on self-

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<sup>16</sup> What conditions will enable Indigenous-led development to thrive in Australia? A consolidation of international and domestic evidence and views of stakeholders as a resource for the design stage of the Indigenous Development Effectiveness Initiative (IDEI) (2013). A work in progress. Unpublished.

determination, the consideration of cultural and environmental factors, and the need for strong leadership and governance.

The determination for examining Indigenous dispute resolution and conflict management **practice** is made based on a tabulation of information provided in MIRJ documentation and our evaluation report against critical factors for effective practice described in 'Solid Work your Mob are Doing'. The latter was a report to the National Alternative Dispute Resolution Advisory Council by the Federal Court of Australia's Indigenous Dispute Resolution and Conflict Management Case Study Project<sup>17</sup>.

Based on Colmar Brunton's review of MIRJ Project documentation and community research findings we have made a determination of the Project's alignment with these principles, and made commentary as to the nature of this alignment. The core factors identified are provided in more detail in Chapter 9.

In summary, it is Colmar Brunton's determination that MIRJ Project is overall very well aligned with best practice in terms of being both a community-led development programme and an Indigenous dispute and conflict resolution practice. This evaluation appreciates that the MIRJ Project occurs at a stage in the implementation that may not yet have the presence of local capacity for ongoing sustainability yet to be achieved. Nonetheless, the Project has laid some essential ground work in a very fragile community. In most cases there is alignment in the intention of the MIRJ Project through documentation, processes and procedures. However, some misalignment of perceptions exists in the local community which has been identified in the community survey.

Suggested areas for improvement or further development are:

- More training, mentoring and support of local mediators;
- Increase local employment in, and management of, the service;
- Development of a workforce strategy that leverages with Local Implementation Plans, Community Development Funding or Remote Jobs Capacity Programme for pre-employment training and capacity building;
- Increased use of mediators from a variety of families/clans and more female mediators are required;
- Reinforcement of the Elders rules perhaps through creation of the culturally symbolic significance of the MIRJ Project and thus Junkuri Laka presence in the community;
- Client satisfaction survey and community friendly complaints process implemented to increase feedback about how the MIRJ Project can be improved;
- More ongoing monitoring and review of agreements to see if they 'stick'; and
- Greater collaboration with service providers and multiple agencies working on Mornington Island.

## **1.6 Evaluation Methodology**

The evaluation was seeking to find out how and why mediation / peacemaking affect local community safety and assess how effective it is in meeting its goals such as:

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<sup>17</sup> Solid work your mob are doing. Case Studies in Indigenous Dispute Resolution and Conflict Management in Australia. Federal Court of Australia's Dispute Resolution and Conflict Management Case Study Report. Commonwealth of Australia 2009.

- Reducing people's contact with the formal criminal justice system i.e. police and courts;
- Helping the community to sort out its own trouble without violence;
- Helping the justice system better meet the needs of Mornington Islanders;
- Encouraging the community to take ownership of mediation / peacemaking; and
- Increasing people's happiness with the justice system for victims, offenders, their families, and the wider community.

The evaluation included:

- 18 interviews with key stakeholders and a desktop review of documents, mediation database output, police incident data, performance reports and funding agreements, and other relevant documents supplied by the Department of the Prime Minister and Cabinet (PM&C);
- Fieldwork including both Pilot (from 9-17 April 2014) and Post Pilot (first two weeks of May 2014 from 2-16) consultation visits to Mornington Island involving 23 days in community. During this time 211 quantitative report cards were completed (151 with community members and 60 with Service Providers. Most interviews took approximately 20 to 40 minutes;
- A number of in depth qualitative discussions (10 depth interviews and 5 mini groups of between an hour to two hours each) were also conducted with people who showed an interest and could spend more time. In addition, focus groups with the Shire Council and senior boys at the Mornington Island State School were also undertaken;
- Secondary data analysis of administrative data and cost benefit analysis; and
- Workshop and feedback of results with the community.

Three local Indigenous research practitioners were employed and trained to undertake interviews on Mornington Island. Training involved a 2-day workshop held at the Arts Centre and Junkuri Laka, basic training on social research and interviewing techniques and skirmish testing the questionnaire within the research team. Research practitioners were also issued with a plain English training manual. Once training was completed a number of supervised interviews were also conducted to ensure consistent and robust data collection.

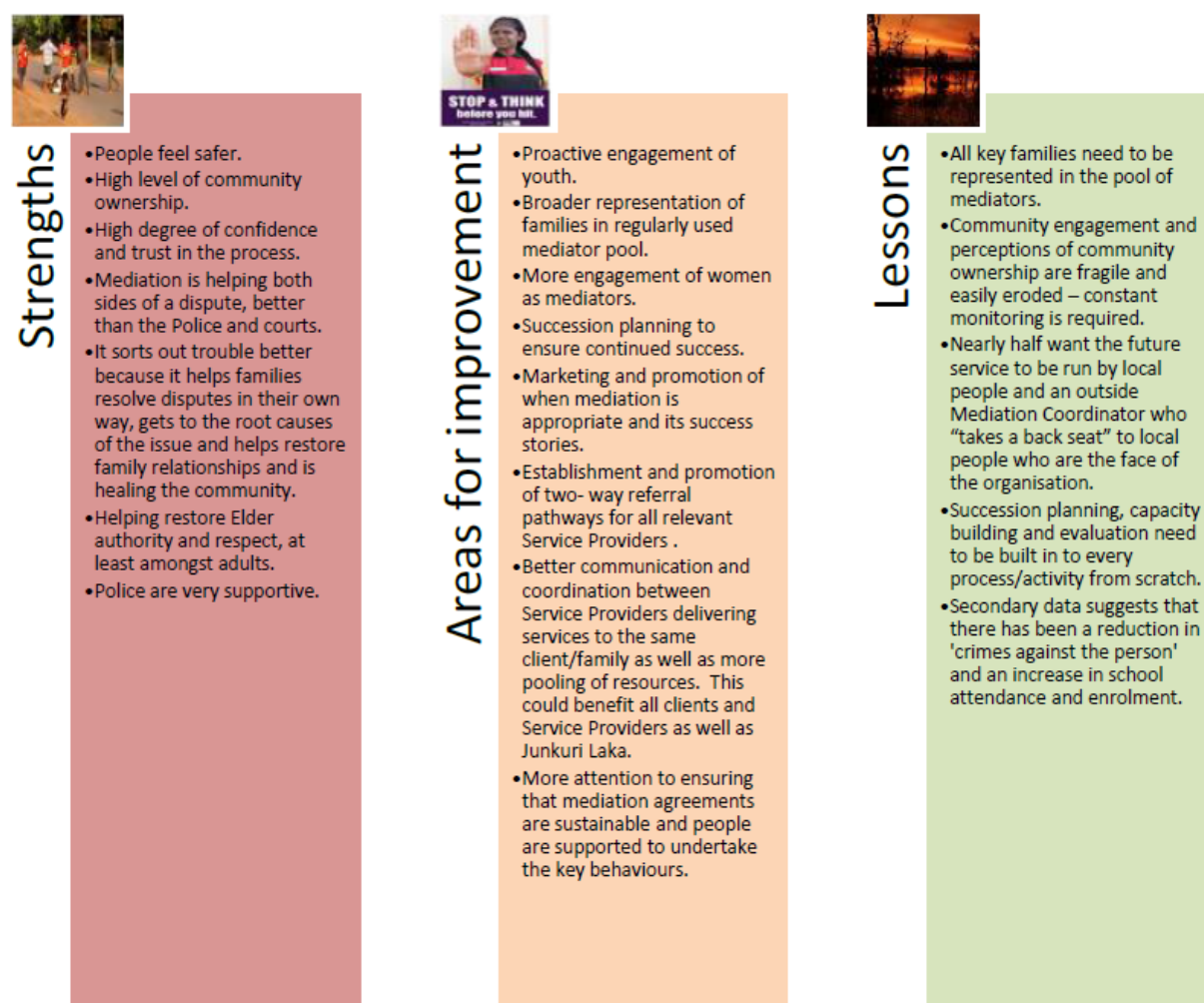
The local research team provided indispensable help in advising Colmar Brunton on local context and cultural protocols, tailoring the research questions, providing input into the fieldwork approach, introducing Colmar Brunton researchers to local people, recruitment of research participants, conducting interviews, debriefing with PM&C and helping to analyse, interpret and report on the research findings.

Colmar Brunton believes that this has been a transformative evaluation which will stimulate the energy towards the programme after 6 years. The participatory approach taken to evaluate the project provided a space for community members to rethink and reflect on the programme. There is a sense that the consultation / evaluation process itself has raised and broadened the awareness of the mediation service across the community. People seemed to be clearer about mediation and more forthcoming with their support for it as an important feature of their community.

## 1.7 Key Findings of the Evaluation

This section presents the key findings of the community consultation conducted in April and May 2014 to evaluate the Mornington Island Restorative Justice (MIRJ) Project, locally known as mediation or peacemaking. The project design and implementation drew on a community development approach which sought to strengthen local capacity to help the community resolve its own disputes in its own way, without having to resort to external agencies like the police and courts or violence. A summary of the strengths of the Project, areas for improvement and lessons learnt are outlined in the figure following.

**Figure 3: Key findings of the evaluation**



## 1.8 MIRJ Project Logic and Outcomes

This section outlines a programme logic for the Project based on feedback from key stakeholders involved in implementing the MIRJ Project and the results of the evaluation.

Programme logic refers to causal models that link inputs and activities to a chain of intended outcomes. Logic models can provide a conceptual structure for an evaluation framework as well as highlighting key assumptions behind a particular policy, programme, initiative or range of measures. Essentially it is an analysis of aims, objectives and activities and is often presented as a diagram that represents the ideal ‘outcomes’ or results at different levels and stages, and the causal links between them. These can be grouped as inputs/outputs/short term (or immediate) outcomes/medium term (or intermediate) and outcomes/and longer term outcomes.

Most people on Mornington Island feel that mediation / peacemaking is meeting most of its goals and that it's helping improve community safety. Secondary data indicates that there is a trend towards meeting community goals. However, attribution to the MIRJ Project is difficult to isolate and prove causality. Overall, short term and some medium term goals have been achieved. The evaluation identified that there has been an improvement in the community since mediation / peacemaking has been implemented.

Long term goals have not all yet been realised. Until the wider issues of chronic alcohol abuse, culturally embedded norms around the social acceptability of violence (stemming from early childhood exposure to violence) and a lack of jobs or engaging productive activities (leading to boredom) are reviewed and addressed, the Project is always going to struggle to achieve its long term outcome.

We see a 'chicken and egg' scenario at work here, where the environmental considerations are limiting the effectiveness of the MIRJ Project, and yet the MIRJ Project is ultimately attempting to provide enough stability in the community to effectively deliver services desperately needed in the community to support development. Rather than try to place one programme or project ahead of another, it may be better to consider all projects and programmes as neatly fitting cogs slowly helping to turn the wheel of change. Each programme or project is contributing to the impetus needed to create change and all are working for one ultimate goal for the community.

In the case of the MIRJ Project the overall objectives are outlined in the yellow boxes in this section. Based on feedback from key stakeholders involved in implementing the MIRJ Project and the results of the fieldwork and secondary data, the main short, medium and long term outcomes of the MIRJ Project have been given a tick (positive outcome) a cross (outcome not achieved outright) or a dash (neutral or mixed results). Please note this is based on what the Project was able to achieve at the time of the evaluation. In particular, not all of the longer term outcomes could be expected to be achieved over the six years that the Project has been running and ongoing monitoring is required. Where it may be too soon to tell if an outcome has been achieved or there was little evidence to support that outcome a question mark has been documented. A more detailed description of the Programme logic is presented in Chapter 2.

### **1. Enhance the capacity of the community to deal with and manage its own disputes without violence by providing ongoing training, support, supervision and remuneration for mediators.**

The MIRJ Project has enhanced the capacity of the community to deal with and manage its own disputes through formal mediation. There is a need for more training and recruitment of a diversity of mediators across the community. It may be too soon to tell if social norms are changing for non- violent informal mediation, and certainly without a benchmark study this evaluation cannot measure change.

#### **Short Term Outcomes**



People participate, observe, or hear about mediation with over 396 mediations between Oct 2009 and April 2014. Almost all of participants in the survey (98%) knew who to get in touch with to get advice on mediation. People see project coordinator walking around the community, taking time to talk to people and listening to their concerns about community safety and/or police actions.



There were mixed responses from mediators about whether they felt happy with their training, income and if Elders' Rules were followed. There is a need for more mediators from different clans, female mediators and more training provided.

✓ Disputes are either settled quickly or do not escalate. From the MIRJ database, findings illustrated that there is a 95% success rate for settlement and reconciliation between Oct 2009 – June 2012 and a 94% success rate between Oct 2009 and April 2014.

✓ Families feel relieved that disputes are settled. Based on 212 community member votes, mediation / peacemaking has been most successful. The highest ranked response was 'fights stop rather than going on - less ongoing 'grudge' fights'.

✓ People are aware that mediation may be a relevant, desirable and appropriate alternative to ongoing fighting or police/court action. The benefits of mediation are inspiring more people to use mediation and to encourage other people to use mediation. It's likely that most locals have been involved in mediation / peacemaking. This suggests high engagement and trust in the mediation / peacemaking process. The process is felt to be confidential, fair, and impartial and people are not forced into participating in mediation.

✓ People also feel that mediation / peacemaking is helping them, their family and the wider community to sort out trouble in their own way without having to rely on 'outside' agencies like the police and courts. Essentially, mediation / peacemaking is working well to provide an alternative and peaceful way for the community to resolve disputes that may have previously got bigger or gone on. It also has a 94% success rate for sorting out trouble at 'Intake' (first contact before formal mediation) or 'Settlement' (when people agree to disagree) or through 'Reconciliation' (when relationships are fully restored).

### **Medium Term Outcomes**

✓ Families ask for mediation to resolve the disputes peaceably. More families use peaceable means to resolve disputes and restore and heal family relationships. The quantitative data supports this assertion with most participants saying they use mediation more than they used to (64%).

✓ Family members start encouraging others to seek mediation rather than ongoing fighting or police/court actions. Pleasingly over 6 in 10 participants reported encouraging others to use mediation.

? There was little evidence that family members who have observed successful mediations start using these skills informally in their own private lives. It was unclear whether the Project was stopping the trouble before people started fighting. Essentially, most believed that an initial fight or dispute always preceded mediation.

- People are aware of mediation agreements and 6 out of 10 people remind or encourage others to keep to the mediation agreement. Most people believe that mediation agreements are sometimes kept to stay out of jail or are used for point scoring or political reasons, and are often broken when people are drunk, high or when people become stressed, hear rumours and trash-talking. Agreements are not effective when people feel the right family or clan mediators were not present, especially the mother's

eldest brother. Sometimes the right Elders are not present. Some people may also feel they have been unduly influenced by others to attend mediation.



The most common sources of referral into MIRJ are police, parties and courts. Referrals rarely come from schools or the Community Justice Group (CJG). Better referral pathways and partnerships with other service providers in the community were recommended for the MIRJ Project. Other Service Providers need to get mediators involved.

### **Long Term Outcomes**



We did not find evidence that families were teaching mediation skills to children rather than violence as a means of sorting out disagreements. It was evident that children and young people who experience mediation choose and use mediation rather than violence as adults. However, we think this may be too soon to tell, and would require more mediators across family groups to be successful.



Without a benchmark survey it is impossible to measure incremental change. However, social norm change is not yet achieved in that it has not yet become normal to use non-violent means to resolve disputes, to go to school, avoid getting into trouble with the Police and to lead a healthy productive life. In the survey, the question that got the lowest score (8%=often or very often) asked whether mediation was stopping the trouble before people started fighting. This result reflected the belief that an initial fight or dispute always happened before mediation. Most also still prefer to sort their troubles out in their own way (often through informal mediation, arguing, avoidance or fighting) and only resort to formal mediation when the costs of doing so (in terms of fighting escalating or spiralling out of control) start to outweigh the benefits of sorting it out in their own way. This is consistent with the original vision of community-based peacemaking, as formal mediation was always meant to be something of a last resort. Although there is an opportunity for mediation to take on a more of a preventative role (i.e. peacekeeping as opposed to peacemaking) a low score on whether mediation stops fighting before it escalates does not necessarily imply a problem with the service. It is more that mediation was never meant to be a 'cure-all' for all the underlying problems that contribute to rage, violence, and trash-talking on Mornington Island such as welfare dependency, substance abuse, gambling, discrimination, and disadvantage in education, employment, housing and health. These issues cannot be addressed by any one initiative in isolation, but require comprehensive whole-of-government, community-driven responses and an intergenerational commitment to dealing with the root causes of disadvantage.

## **2. Reduce Indigenous people's contact with the formal criminal justice system.**

The MIRJ Project appears to have reduced the people's contact with the formal criminal justice system with a decline in offenses involving a crime against a person and a downward trend in the number of court appearances occurring after the full implementation of MIRJ. However, this downward trend does not appear to have sustained, with an upswing of contacts with criminal justice in recent years.

### **Short Term Outcomes**



There appear to be more diversions with 19% of all MIRJ cases involving CivM-Family and RJ-court diversions, and more charges dropped or reduced, with most MIRJ



cases result in the withdrawal of a charge (32%) or the mitigation of a sentence. The community feel mediation is sorting out trouble better than the Police and courts as it helps families resolve disputes in their own way, gets to the root causes of the issue and helps restore family relationships and is healing the community. Conviction data was not available to analyse independently. However, as there were 19% pre-court diversions less cases going to court would support the objective of achieving fewer convictions and less jail time. In terms of bail applications (less than 1% of MIRJ cases) were approved. This means people potentially have more time with family and could lead to improved employment prospects.



Referrals (to/from) Police, court and community have increased but referral pathways from service providers have not demonstrated an increase over time. Such referrals could be encouraged for better flow into the program.



Hospital admission data for assault related injuries is not collected by the Mornington Island Hospital but has been collected in relation to call-outs by the Ambulance/Paramedic service for the last two years. This data showed no general pattern and has been omitted from this analysis. There is no evidence that assault related injuries has increased or declined since MIRJ.



MIRJ is believed to be reducing adults' contact with the formal criminal justice system according to community perceptions in the survey. These positive community perceptions are supported by the secondary data analysis which suggests a reduction in person on person crime. However, other offences such as 'good order', alcohol and drug use have been trending upwards. The total number of cases heard by magistrates who had travelled to Mornington Island between 2004 and 2013 were analysed. The number of cases declined for approximately three years and then increased.



There is less violence in that there is less ongoing fighting, teasing, bullying at school, actions of payback and family feuding. Bullying, teasing and fights originating from the school were dramatically reduced due to the activities of Junkuri Laka and the Banbaji Student Service. The latter won an award for their work at the 2013 Australian Crime and Violence Prevention Awards based on their achievement of improving school attendance and reducing community violence originating from student disputes (see Appendix C). The Remote Service Delivery Community Research Study of 53 participants found that 55% felt there was less fighting than three years ago; however 34% said this reduction in violence was not happening. During the follow up Most Significant Change ballot voting which involved 109 community members, 'stop the home brew, gambling, drugs and fighting' were considered the key challenges that needed to be overcome to make Mornington Island a better place to live<sup>18</sup>.

### **Medium Term Outcomes**



The survey found that people experience, feel, observe, or hear that mediation works better for families than the Police and courts either often or very often (64%). More people become aware that mediation (i.e. 'sitting down and sorting it out') may be a valid alternative to ongoing fighting or Police/court action. Mediation works better for families than the criminal justice system because it sorts out the root causes of the dispute and keeps families together. When offenders are taken away from the community

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<sup>18</sup> Department of the Prime Minister and Cabinet, 2014, Remote Service Delivery: Mornington Island Community Report, pg 4-9.



through the criminal justice system the conflict often continues with other family members and again when offenders return to the community. In addition, mediation can provide a culturally safe space where both parties of a dispute can save face.

### Long Term Outcomes



There are improving perceptions of community safety. People consulted said mediation was making people feel safer, because it's effective at reducing the escalation and continuance of fighting and disputes, and helping them feel more confident that resolutions and healing can be found without resorting to violence, the Police, and the courts.



There is no supporting evidence to indicate that long term outcomes like more people leading productive and responsible lives have been met. Some parts of the data indicate that mediation / peacemaking in combination with other programme strategies may have improved school attendance. Average attendance was 56% out of 185 enrolments in 2008 and increased to 75% out of 306 enrolments by 2014. According to a key stakeholder and a teacher at the Mornington Island State School, the grades of some senior male students in practice Naplan tests improved if they were participating in the Banbaji Student Service before they attended school in the morning. Some Service Providers such as the school and the store (two of the largest employers of local people) reported less staff absenteeism when relatively large community disputes were resolved by mediation. However, no supporting quantitative evidence was available to support these assertions.



There is no evidence available to determine whether there is more voluntary compliance with the law.



There has been a reduction in personal offences. The secondary data suggests that crimes against the person such as assaults have reduced since mediation / peacemaking started. Property crime offences demonstrated a downward trend in the years prior to MIRJ but this decline has reversed into an increase in the last 12-24 months. There is a perception that many of the property offences (such as break and enter and car thefts) and person on person violence offences on Mornington Island are caused by young people. This could explain why participants perceive that mediation is having less of impact in the formal criminal justice system.

There has been a reduction in harmful behaviours e.g. youth suicide, antisocial, alcohol/drugs, domestic and family violence. Three of MIRJ's specific aims are to reduce the incidence of antisocial behaviour, and alcohol and drug use. These behaviours map on to data items contained in the QPS data and were thus looked at specifically to determine the impact that MIRJ may have had on these undesirable outcomes.

### 3. Encourage community ownership of the programme.

The kinship model was developed in consultation with families and Elders. A total of 11 rules for mediation and an eight step process model of peacekeeping emerged. The model has a strong reliance on kinship, cultural and family knowledge and building the capacity of the community and local ownership are key aims and outcomes. The project has utilised a strengths based approach to empowering the kinship system in order to resolve the conflicts that occur within it.

### Short Term Outcomes



In acting in a fair and unbiased way and performing their traditional role as peacemakers, Elders are gaining more authority and respect, particularly amongst adults. Therefore, mediation / peacemaking is helping to restore their leadership. Mediation is helping restore Elder authority and respect, at least amongst adults because of the role Elders play in sorting out disputes in a fair and respectful way.



Young people are exposed to positive role models and respected authority figures have been emphasised through mediation. The Banbaji Student Service provided non-violent dispute resolution messaging and mentoring and positive role modelling in schools. The perception of community members is that mediation / peacemaking is felt to be least effective in measures involving young people. Young people are felt to be one of the most vulnerable groups on Mornington Island. Many of them are perceived to be disengaged from services and listen more to their own friends / peer groups than to adults, parents, and community Elders.

### **Medium Term Outcomes**



There is a perceived level of community ownership of mediation. People feel they can approach mediation with their concerns and have started believing that mediation is relevant desirable and appropriate as an alternative to ongoing fighting or Police/court action. People feel they have more control over resolving their own disputes. The perceived level of community ownership of the service have increased because of the role the Elders played in developing the model and continue to play as mediators and Justice Group members. In the Community Survey, 211 people were also asked who should run the mediation / peacemaking service in the future. Nearly half (46%) voted for a combination of both a local person and an outsider to ensure the service would remain impartial and not be captured by one family or clan groups. Around 4 in 10 (36%) voted for a local person to run the mediation service and 2 in 10 (16%) voted for an outsider with no kinship ties to run the service. Ideally, people felt that the outsider would still play a key role, but would be more in the background providing mentoring, managerial, technical, legal and data capture skills as well as being an 'impartial/authorising outsider of the last resort.



Mediation aimed to connect young people with Elders. Elder respect and authority to resolve disputes has not been restored with youth. Many young people feel disempowered and disrespected by older generations and feel that they lack a voice in discussions around their circumstances and decisions made about how to resolve conflicts. Youth are often searching for fun and excitement as an escape from boredom while also seeking status and respect. Young people do not necessarily respect Elders who are involved in fighting, grog running, grog drinking, family violence, selling yeast for homebrew, selling gunja, selling or giving away homebrew/sly grog to children. Also, they do not respect other adults or who take sides before, during or after mediation has taken place.

### **Long Term Outcomes**



Families and community have not reclaimed power and control over resolving disputes in their own way without violence. Mobilisation and empowerment of the community to identify and respond to disputes and safety concerns has also not occurred. Mediation / peacemaking was always intended to be community driven and owned. However, it has become reliant on an outside Mediation Coordinator and a handful of local mediators.

#### **4. Improve justice system's responsiveness to the needs of the community.**

Mediation is helping the justice system better fit the needs of Mornington Islanders. There is a high degree of confidence and trust people have in the voluntary nature and impartiality of the mediation process. This is what those involved in mediation have experienced.

##### **Short Term Outcomes**



The fairness and appropriateness of the mediation process was felt by the community. That is, the act of helping both sides of a dispute is better than this being done by the Police and courts. Mediation balances and evens out power relations and both sides get to air grievances in a safe space.

##### **Medium Term Outcomes**



The Police report that they work very closely with Junkuri Laka and have two meetings a week with the Mediation Coordinator to discuss court matters and community safety issues. The Police believe the Project is indispensable because it:

- Frees up police time and resources to focus on more serious matters rather than minor disputes that often turn out to be based on misunderstandings, rumours or trash talking.
- Diffuses situations before they become more serious. Police believe the recent tragic incident involving rape of a minor could have easily blown up into a full scale community riot (with all the social and financial costs that entails) were it not for the efforts of the mediation service.
- Provides a timely and effective forum for dealing with minor police complaints, therefore diffusing issues with police. In the six months to December 2014 there were 12 mediation cases involving complaints by residents against the Police. These meetings helped address miscommunication over police procedure, decision making and police conduct. In some instances they led to police acknowledging they could have handled a situation better and offered an apology to the complainant who accepted the apology. This may well provide a much needed improvement in police community relations in a community that has known serious riots against the Police.

The Police believe the mediation service is one of the reasons why there has not been an assault on police for a number of years, or a police shooting, only one instance of Taser use and a reduction in the use of pepper spray from 2-3 times a week a few years ago to once or twice a year more recently. Further, the Mediation Coordinator who most people respect and trust carefully explaining police actions and thereby improving community perceptions of police legitimacy. The Police estimate that in 95% of cases where they suggest mediation as an alternative or supplement to court proceedings it is taken up and that in most cases it prevents a second fight. The Police also estimate that the mediation service saves them at least \$10-15,000 per year in terms of not having to pursue public nuisance offences that may otherwise have gone through the court system.

##### **Long Term Outcomes**



We are not aware if mediation or restorative justice is an essential part of police training. It is also not clear whether mediation is integrated seamlessly with general police duties.

## **5. Increase satisfaction with the justice system for victims, offenders, their families and the broader community.**

Mediation is accepted as a process that can work for their community and therefore increases satisfaction with the justice system.

### **Short Term Outcomes**



Of community members surveyed 73% said that the mediation is working for their community.



People feel there are fewer ongoing fights after an initial conflict and fewer big fights than there otherwise would have been without mediation / peacemaking. People in the community say they are happier and less stressed. Mediation / peacemaking is helping to heal the community by restoring relationships, bringing families back together and helping people get on with their lives (i.e. go to shop, attend Service Providers, attend community events and funerals). Less contact with the formal criminal justice system (i.e. court and jail time) also means more time with family, country and community.

### **Medium Term Outcomes**



Overall, most of the participants surveyed supported and used mediation as it helped the community sort out its own problems, but felt it was not preventing the initial fighting. However, people felt it did help with stopping trouble with Police and courts and that mediation is perceived to sort out trouble better than the Police and courts. Survey findings suggest the Project has improved people's perception of community safety in Mornington Island and has improved their satisfaction with the criminal justice system's responsiveness in providing an alternative to fighting or formal police action when resolving disputes and conflict.

### **Long Term Outcomes**



There has been an improved community perception of police legitimacy with decreased reports of police-community member conflict e.g. in times of unrest or riot since MIRJ Project was introduced. This has been helped by the Mediation Coordinator who most people respect and trust carefully explaining police actions and thereby improving community perceptions of police legitimacy.



The outcome of gradual change in police culture, whereby there is more support for proactive mediation or restorative justice from grass roots to senior police, may have occurred through a change of staffing or approach. The Officer In Charge (OIC) at the time of the evaluation had a strong community policing focus and there was evidence that both he and his staff had learned to trust the mediation service and the Coordinator. Earlier OIC's did not appear have the same working relationship with the service.

## 1.9 Success Factors

This section outlines people's views on the factors that have underpinned the success of mediation / peacemaking.

- The **community development approach** – the length of time the Project Manager spent on the ground (4 years) building trust, relationships and developing a model in close partnership with the Moyenda (respected Elders). *"Working with them [the Moyenda] to develop something of their own that respected traditional knowledge".* (Key stakeholder).
- A **long term funding commitment** from Government, so people began to trust that mediation was 'here to stay' and would not be taken away when funding priorities changed.
- The Project Manager did not arrive with an agenda, pre-conceived ideas or templates for what had to happen. The model was built from the **grass roots up**. The same principle applied to the establishment of the PCYC / Changing the Cycle / Banbaji Student Service via Dave Ives, Frank Watt and Alan Seckington. In both cases project staff had maximum flexibility to develop the model and deliver it in line with community needs and aspirations.
- The Project Manager's work with and assistance for the children and Elders to build wider community support for activities and projects.
- The way that the kinship model was developed in consultation with families and Elders. A total of 11 rules for mediation were established and an 8 step process model of peacemaking emerged. The model has a strong reliance on kinship, cultural and family knowledge and building the capacity of the community and local ownership are key aims and outcomes. Mediation / peacemaking has used a **strengths based approach** to empowering the kinship system in order to resolve the conflicts that occur within it. As aforementioned, some of the service's current activities such as employment related dispute or police complaints do not draw on this model for their success.
- The outstanding quality of project staff involved in the mediation / peacemaking since its inception. The Project Manager's community development '**slow and sure approach**' was just what was required initially with a very fragile and volatile community with limited patience and support for government initiatives (experiments) that are 'flavour of the month' and then withdrawn if funding priorities change. The Project Manager's approach was perfect for gaining grass roots support during the developmental and implementation stages of mediation / peacemaking. The Mediation Coordinator's managerial, technical, mediation and legal skills have taken the Project to another level by almost doubling the amount of outputs and outcomes achieved since he took over. However, the downside of having such exceptional staff is that they make succession planning to full community management and control a difficult exercise. It could be argued that *"an irreplaceable former coordinator [Project Manager] has been replaced by an irreplaceable current coordinator."* (Key Stakeholder)
- There are clear advantages (economies of scope) with mediation / peacemaking being incorporated into the Justice Group's overall operations. For example, the Mediation Coordinator's presence in court during pre-sentencing is one of the reasons why referrals from the court and police have increased.

At an overall level, mediation / peacemaking is working because people want it and feel it is leading to concrete actions that are helping the community deal with disputes in their own way. Mediation / peacemaking involves family business which is an essential part of

everyone's lives on Mornington Island. A key learning is that **self-determination** by the community and the patience to let the community set the pace for capacity development and set the agenda leads to more sustainable outcomes.

## 1.10 Areas for Improvement

There are 7 key issues that emerged from the evaluation which will need to be addressed in order for long term and sustainable success to be achieved for all goals of the Project:

1. Proactive engagement of youth.
2. Broader representation of families as mediators.
3. More engagement of women as mediators.
4. Succession planning to ensure continued success when the current Mediation Coordinator moves on.
5. Marketing and in particular more promotion of when mediation is appropriate and how Junkuri Laka can help community members and Service Providers. A greater promotion of success stories could be included as part of this marketing.
6. Establishment and promotion of 2 way referral pathways for all relevant Service Providers. A case management approach where there is better communication and coordination between Service Providers delivering services to the same client/family as well as more pooling of resources. This could benefit all clients and Service Providers as well as Junkuri Laka.
7. More attention to ensuring that mediation agreements are sustainable and that people are supported to undertake the behaviours mediation / peacemaking is trying to promote.

In relation to points 1, 2, and 3, the service needs to identify ways to improve engagement with these groups. More engagement of these groups will encourage more people to use mediation and will reduce the risk that mediators could be seen as biased. It will also help people to keep to their mediation agreements.

In relation to point 4, some progress has already been made in this area with the hiring of a full time young female trainee. However, the service is still perceived to be very vulnerable if anything were to happen to the current Mediation Coordinator and lead mediator. In addition, it is unlikely that the next Coordinator will have the same level of managerial, technical, and legal skills so an effective succession plan is going to need a lot of careful consideration.

In relation to point 5, while most stakeholders have a general idea of what mediation is, some are still unclear about what Junkuri Laka is and how it can help them, and also when they should use mediation.

In relation to point 6, some Service Providers were unclear of the role of Junkuri Laka and how they might go about making a referral to mediation. Key organisations like the Wellbeing Centre are not making any referrals while others like Child Protection, Safe House, Youth Justice, and the Women's Shelter could make greater use of the service.

In relation to point 7, suggested strategies include:

- Giving participants the option of signing an agreement and if appropriate, offer participants the opportunity to decide what 'our story' is in the mediation and how it will be shared with community. Behavioural change theory and behavioural

economics suggests that people are more likely to stick to commitments if they have to put their name to it and even more so if the agreement is publically shared.

- Following up with the parties to a dispute at various intervals to ensure the mediation agreement is still working.
- Presenting mediation participants with a 2 minute client satisfaction survey to test satisfaction with the process.
- Longitudinal tracking to see what works in terms of creating sustainable mediation agreements and what the short, medium and long term outcomes of being involved in mediation are.
- More training of mediators. Overall, most felt that some 'refresher' training on mediation would be helpful. The most often mentioned training needs for mediators were as follows:
  - Learning from how other communities that operate mediations services. Some feel it would be great to have access to a help line or online community of mediators where people could share stories, what works and good practice.
  - Some want more training on how to run a mediation session and talk strongly, effectively and assertively.
  - Some want more training on various elements of mediation such as intake procedures, preparation of the parties for mediation and reality-testing mediation agreements.
  - Some want more training/mentoring on how to manage confidentiality and impartiality in a small island community setting.

In summary, there is a need to provide mediators with regular professional development opportunities in line with the training needs outlined above. Although past efforts at formal trainings have been disappointing, the ultimate goal should be that all mediators undertake and complete the 38 hour National Mediation Accredited Training course<sup>19</sup>. This training should be applied to the Mornington Island context and redesigned with locally relevant role-plays, narratives and other practically based and applied exercises that draw on non- identifiable case studies from the mediation / peacemaking database. It would be worthwhile to consider also training mediators in small groups based on kinship ties or peer relationships so participants can support and learn from each other.

Consideration could also be given to developing a regional panel of mediators who can work across Mornington Island, Doomadgee, Mt Isa and Burketown communities. Services could be run by local people with an outside coordinator being responsible for training, mentoring, complex administration, and accounts across this cluster of communities. The panel could also work with the Northern Territory mediators in communities like Tiwi and Yuendumu to create an online community hub for Indigenous mediators to share stories. Mediators can use this hub to discuss what works well and consequently cross-pollinate good practice.

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<sup>19</sup> This assumes that local people will be given the support required to maintain their accreditation each year.

## 1.11 For the Community to Consider in the Future

The community should be acknowledged and congratulated for the progress made to date in terms of their openness and willingness to engage and participate in mediation / peacemaking. The heroic work the mediators and Justice Group Elders are doing as peacemakers and peace architects in their community should also be acknowledged. The way the community has strengthened its capacity to deal with its own disputes in its own way is inspirational. The people of Mornington Island have drawn a mark in the sands of time. This is a good sign that as a community, Mornington Island can overcome the other issues it's facing while working together.

This evaluation clearly shows that mediation has been successful in peacemaking. The next phase could be for the service to evolve and become more preventative with a greater focus on peacekeeping. It should be noted that mediation / peacemaking was not designed to cure all the social problems on Mornington Island. Many feel that most violence and trouble occurs when people are either drunk, high or bored (especially young people). The community might consider the collective impact that other programs may have in conjunction with Mediation / peacemaking to reach the overall goals of the community and the shared measures of success. In particular the following areas could be considered:

- A comprehensive review of the Alcohol Management Plan (currently underway) and provision of more effective substance abuse rehabilitation programmes. Some feel the Island needs its own Residential Rehabilitation Service. Suggestions include that it be located out of walking distance from the town and with permanent staff based on the Island rather than on a fly in fly out service model;
- The urgent need for economic development to create jobs or at least the provision of more productive activities by the Remote Jobs and Communities Programme and other Service Providers that will engage currently disengaged youth and provide some type of structure to their lives; and
- The need for change around the social acceptability or legitimization of violence in resolving conflicts and disputes in addition to behavioural change. More research is required around how violence is learned as children are growing up as well as how and why adults use violence on Mornington Island to vent their rage and frustration; what the alternatives are and how to encourage the alternatives. For example, funding of programmes such as the 20 minute anti-violence/mediation presentation developed by the Banbaji Student Service for grade 3 children using puppets. Unfortunately, this project was not implemented due to a withdrawal of funding and the departure of the former PCYC Sergeant and Banbaji Student Service coordinator.

If mediation / peacemaking is to realistically achieve its long term outcomes, these issues need to be addressed. At the same time, the programme specific issues raised by this evaluation also need to be addressed. The Government needs to continue to work closely with the community to identify solutions to these issues. This would help mediation / peacemaking develop into peacekeeping, which in time may become a default behaviour rather than a service.

Junkuri Laka's Strategic Plan 2013-16 states:

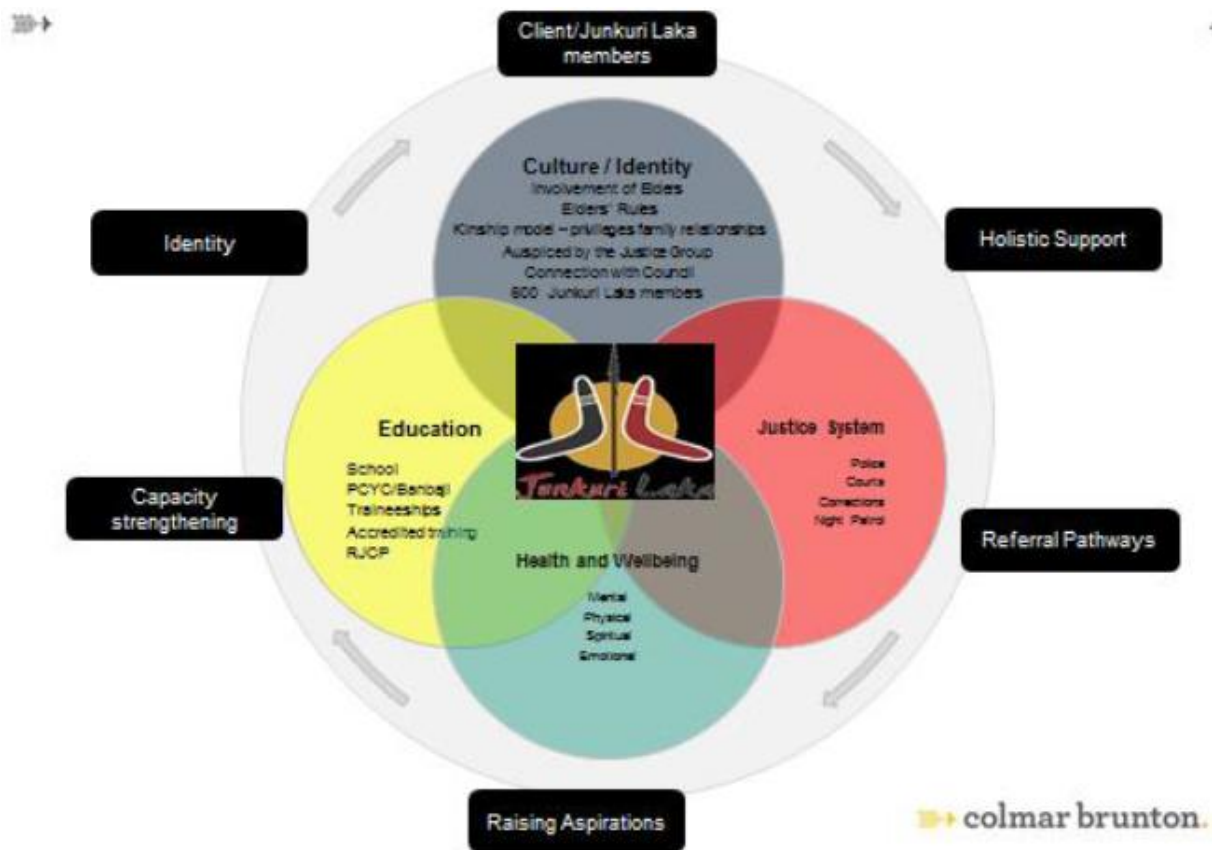
*"First and foremost, Junkuri Laka wants to change the approach of all interventions from that of an "ambulance at the bottom of the cliff" to a development of conditions that will stop people falling off the cliff. Junkuri Laka wants to break the cycle of alcohol and welfare dependency, the cycle of lethargy and disinterest, the cycle of continuous involvement in the criminal justice system*



*and substance abuse, the cycle of having to go off the island to develop yourself, and the drain that this puts on leadership and economic development.”*

The most effective way mediation / peacemaking can deal with the wider systemic issues mentioned above, is to become a conduit in a two-way referral process. To support this vision Junkuri Laka needs to build on the great progress made so far in collaborating with the Police, PCYC, Corrections and the Court, and extend to the Hospital, Ambulance/Paramedic service, Wellbeing Centre, Mission Australia (i.e. Safe House, Safe Haven, Community Development Officer, Night Patrol) and Save the Children. In this way mediation / peacemaking can be seen as meeting community needs for a more holistic service encompassing, culture, justice, health and wellbeing and education and training. Essentially, mediation would be part of a broader community development approach where all services work together as required to minimise people’s future adverse contact with the criminal justice system.

**Figure 5: Mediation as a central conduit in a two-way referral process**



The model would involve referral to health and wellbeing services as required to deal with physical and mental health issues like substance abuse and domestic violence. The model would also involve establishing vocational pathways and nationally accredited mediation and pre-employment training in partnership with the school and Remote Jobs and Communities Programme / JobFind. This would strengthen the capacity of the Mornington Island community to develop a reservoir of competent and professional mediators who could work across a cluster of communities such as Doomadgee, Mt Isa, and Burketown.

The monitoring system would involve longitudinal tracking of participants and regular evaluation to foster continuous learning and to ensure mediation / peacemaking could demonstrate its outcomes to families, Service Providers and Government.

## 1.12 Policy Considerations and Programme Potential

In terms of future policy, Government may want to consider how they can determine collective impact and shared outcomes across the community for a range of programs. This programme has potential to be used for other communities however the following challenges to the current way Government does business needs to be addressed.

- Ground up development has to be serious, genuine and allow time and capacity for relationships to develop.
- Even power balance in decision making – who is selecting the communities, are the communities truly determining if this project is for them?
- Long term funding agreements – a commitment to a slow but sure approach and no anxiety about funding renewals or funding cycles for Service Providers.
- Whole of Government and multi-agency approach – involving all jurisdictions and departments in the development and seeking of partnership.
- Whole of community approach – involving all organisations, Service Providers, and clan groups.
- One community, one goal focus – working with all services providers, stakeholders and the community to align the programme logic into meta-logic that collaborates and facilitates and does not compete with each other.
- Indigenous Research and Evaluation Capacity built on the ground to do ongoing monitoring, longitudinal data collection and data linkage to clearly demonstrate an outcome focus (not output). A baseline survey is essential to be able to demonstrate change over time, and will assist in identifying community readiness for the programme.
- Workforce strategy and Community Development plans aligned with training providers to meet the needs of the programme.

Colmar Brunton suggests that Community Programmes such as the MIRJ Project can have expedited success if a behavioural change strategy is incorporated into the programme logic which incorporates behavioural economics principles and community led social change initiatives.

People congratulated the government for providing funding to employ local people to collect and analyse data, provide input into the survey questions, research processes and feeding back the results. All strongly felt this is the way the Government should fund future research on Mornington Island.

## 2. Introduction to MIRJ Evaluation

This chapter details the background and program logic for the Mornington Island Restorative Justice (MIRJ) Project. The chapter is quite detailed and while it answers an objective of the evaluation, readers who are only interested in how well the Program is doing can safely skip this segment of the report. However, if the reader wants a deeper understanding of the contextual issues around the introduction of the Project as well as a comprehensive description of what the Project involves, then this section is very informative.

### 2.1 Background

The Project was established in May 2008 following a recommendation by the Australian Government Attorney-General's Restorative Justice Action Plan. The program provides a *'community-based alternative dispute resolution and peacemaking service that respects traditional culture and conforms to the requirements of the criminal justice system'*<sup>20</sup>. The project is funded by the Australian Government Attorney-General's Department in partnership with the Queensland Government's Department of Justice and Attorney General. The Queensland Department of Justice and Attorney-General (JAG) manages the Project through its Dispute Resolution Branch (DRB).

Mornington Island Elders, in response to concerns about the increasing contact their young people had with the criminal justice system, in partnership with families, state and federal government bodies, community justice groups and police, developed and implemented the Mornington Island Restorative Justice (MIRJ) project. The MIRJ Project has worked with families and the Mornington Island community to run a community based peacemaking service which is inclusive of Island culture and conforms to the requirements of the criminal justice system. It offers diversionary victim offender mediation, civil mediation for disputes within extended families and the community and interventions in response to serious conflict where mediation is not a possibility.

Prior to the establishment of the program, community conflict was a major concern to Mornington Island community leaders and had a number of negative short term impacts including:

- Disruption to children's schooling and education (including prolonged periods of truancy);
- Increased likelihood of victimisation of innocent parties;
- Increased likelihood of criminal justice procedures against offenders; and
- Decreased ability to gain meaningful and productive employment<sup>21</sup>.

The following negative long-term impacts of community conflict have also been identified:

- Erosion of family life;
- Alienation of young people with poor life choices; and
- A crisis of confidence in leadership to address conflict<sup>22</sup>.

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<sup>20</sup> Venables, P. (2009) Consultation and Development Phase: Report on the Mornington Island Restorative Justice (MIRJ) Project, Australian Government Attorney General's Department and Queensland Government Department of Justice and Attorney General.

<sup>21</sup> Vold & Bernard, 1986:76, cited in Banbaji Student Service (n.d.) Banbaji Student Service: Community Policing in Practice, Banbaji Student Service.

The program takes a culturally-sensitive approach to minimise the adverse impacts of community conflict and prevent conflicts from escalating into community-wide disputes. It makes use of traditional and contemporary dispute resolution practices including 'Square-up' – the cultural and emotional components of traditional conflict resolution<sup>23</sup>. Emotional and cultural components of conflict resolution are embodied in the model and kinship is considered to be both a strength and a necessary resource for conflict resolution.

The objectives of the MIRJ Project include:

- Reducing Indigenous people's contact with the conventional criminal justice system;
- Enhancing the capacity of the community to manage its own disputes without violence;
- Improve the justice system's responsiveness to community needs;
- Encourage community ownership of the program; and
- Increase satisfaction with the justice system for victims, offenders, their families and the wider community.

The model was developed in consultation with families and Elders. A total of 11 rules for mediation and an eight step process known as a 'Kinship model of Consultation' model of peacekeeping emerged. The model has a strong reliance on kinship, cultural and family knowledge and building the capacity of the community and local ownership are key aims and outcomes. The project has utilised a strengths based approach to empowering the kinship system in order to resolve the conflicts that occur within it.

**Figure 4: Timeline of significant events**

<b>Year</b>	<b>MIRJ Significant events</b>
2007	October – MIRJ Project initiated.
May 2008 – January 2009	<p><b>Consultation</b> Project Manager commenced.</p> <p><b>Surveying family opinion</b> 200 adults and young people representing all family groups on the island were involved in lengthy discussions over 16 weeks. Two community based and eight Mount Isa based agencies were consulted.</p>
May – June 2009	<p><b>Consultation feedback</b> Consultation report widely distributed and informally and formally discussed. Most of the 200 participants and the agencies involved provided feedback on the consultation report.</p>

<sup>22</sup> Ibid p38

<sup>23</sup> Ibid p38

Year	MIRJ Significant events
July – September 2009	<p><b>Development of the local mediation model</b></p> <p>Ten meetings in the festival grounds were called by the Moyenda (Council of) Elders to develop a model of family peacemaking.</p> <p>Negotiations were also held with Police based in the community and three meetings were held between Elders and visiting Magistrates to exchange perspectives on how the model might work.</p> <p>A public meeting to endorse implementation of peacekeeping took place on 26 August 2009, 67 people attended.</p>
September 2009 – September 2011	<p><b>Implementation of mediation service</b></p> <p>Indigenous Mediation Coordinator seconded from the Department of Communities from 7 September to 30 June 2011 to assist in the initial stages of implementation.</p> <p>First mediation held in response to a crisis on 16 October 2009.</p> <p>99 peacemaking interventions conducted from October 2009 to September 2011.</p> <p>Formal mediator training provided in June 2010.</p> <p>Interim evaluation conducted September 2010. Report finalised November 2010</p>
October 2011 – Onwards	<p><b>Transition of the service to local management</b></p> <p>Junkuri Laka coordinator appointed in August 2011.</p> <p>Junkuri Laka take on mediation service with Project Manager on leave October 2011.</p> <p>First Service Delivery agreement finalised and signed 28 February 2012.</p> <p>Junkuri Laka completed 61 peacemaking interventions from October 2011 through to June 2012.</p> <p>Second Service Delivery Agreement finalised and signed 1 November 2012.</p> <p>Final Evaluation of MIRJ Project planned for 2013. This became April 2014.</p>

## 2.2 Program logic

This section outlines program logic for the Project based on feedback from key stakeholders involved in implementing the MIRJ Project and the results of the pilot fieldwork.

Program logic refers to causal models that link inputs and activities to a chain of intended outcomes. Logic models can provide a conceptual structure for an evaluation framework as well as highlighting key assumptions behind a particular policy, program, initiative or range of measures. Essentially it is an analysis of aims, objectives and activities and is often presented as a diagram that represents the ideal 'outcomes' or results at different levels and stages, and the causal links between them. These can be grouped as inputs/outputs/short term (or immediate) outcomes/medium term (or intermediate) outcomes/and longer term outcomes.

Program logic is a tool used in planning and evaluation to:

- Clarify and communicate intended outcomes and assumptions;
- Make causal assumptions explicit and test how they are supported by evidence;
- Provide a framework for monitoring and evaluation; and
- Tell an evidence-based story of how a program has worked.

Based on feedback from key stakeholders involved in implementing the MIRJ Project and the results of the fieldwork - the following program logic/theory of behaviour change have been developed.

The main short term outcomes of the MIRJ Project are:

- People participate, observe, or hear about 396 mediations between Oct 2009 – April 2014.
- Disputes are settled quickly or do not escalate and there is a 95% success rate<sup>24</sup> for settlement and reconciliation between Oct 2009 – June 2012 and a 94% success rate between Oct 2009 – April 2014<sup>25</sup>.
- Families feel relieved that disputes are settled. People experience, observe, or hear that disputes are often over minor matters and misunderstanding and they are reminded of their kinship ties and the state of relatedness of everyone on Mornington Island. IN the words of one community member, 'We are all one mob'.
- Less violence, less ongoing fighting, teasing, bullying at school, payback and family feuding.
- Less hospital admissions for assault related injuries.
- More diversions, charges dropped or reduced, fewer convictions, less jail time, bail applications approved. This will mean more time with family as well as improved employment prospects.
- Referrals from Service Providers, Police, court and community start to increase.
- People experience, feel, observe, or hear that mediation works better for families than the Police and courts. More people become aware that mediation (i.e. 'sitting down and sorting it out') may be a valid alternative to ongoing fighting or police/court action. Mediation works better for families than criminal justice system because it sorts out the root causes of the dispute and it keeps families together. When offenders are taken away from the community through the criminal justice system the conflict often continues with other family members and again when offenders return to the community. In addition, mediation can provide a culturally safe space where both parties of a dispute can save face.
- More people become aware that mediation may be a relevant, desirable and appropriate alternative to ongoing fighting or Police/court action.

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<sup>24</sup> Venables, Phil. (2012) Mornington Island Restorative Justice (MIRJ) Project - Report on its Development, Implementation and Transition to Community Management 2012, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland.

<sup>25</sup> Please refer to Appendix D.

- People see Project Coordinator walking around the community, taking time to talk to people and listening to their concerns about community safety and/or police actions.
- Elders get respect and authority back by being unbiased and helpful.
- Young people are exposed to positive role models and respected authority figures through mediation e.g. Banbaji Student Service.

The main medium outcomes of the MIRJ Project are:

- People are happier because there is less stress or community tension. People can get on with their lives and move around the community without fear or apprehension. People feel safer attending community events and attending services because disputes have been settled. Therefore, there is reduced fear of crime and possibly increased school attendance and increased attendance at services like RJCP.
- Growing community ownership of mediation. People feel they can approach mediation with their concerns and start believing that mediation is relevant desirable and appropriate as an alternative to ongoing fighting or police/court action. People start to feel they have more control over resolving their own disputes.
- More families ask for mediation to resolve the disputes peaceably. More families use peaceable means to resolve disputes and family relationships restored and healed.
- Family members start encouraging others to seek mediation rather than ongoing fighting or Police/court action.
- Family members who have observed successful mediations start using these skills informally in their own private lives.
- People aware of a mediation agreement remind or encourage others to keep to the mediation agreement.
- Other Service Providers get mediators involved.
- Police identify issues of concern and refer to Elders/mediators. Police are seen more as part of the community and there is an improved police-community relationship based on shared respect, shared resolve and shared responsibility.
- Elders/mediators advise Police when appropriate.
- Better flow of information/intelligence between the Police, Service Providers and the community. Therefore, there is better implementation of crime prevention and crime control activities as a result of community and Police working towards shared goals.
- Mediation connection with Elders. Elder respect and authority to resolve disputes restored which suggests that youth are listening and doing more with Elders.

The main longer term outcomes of the MIRJ Project are:

- Families and community reclaim power and control over resolving disputes in their own way without violence. Mobilisation and empowerment of the community where people can identify and respond to disputes and safety concerns.

- Safer feeling amongst the community.
- Families teach mediation skills to children rather than violence as a means of sorting out disagreements. Children and young people who experience mediation choose and use mediation rather than violence as adults.
- Social norms change in that it becomes normal to use non-violent means to resolve disputes, to go to school, avoid getting into trouble with the Police and to lead a healthy productive life.
- More people leading productive and responsible lives.
- More voluntary compliance with the law.
- A reduction in personal and property offence crime rates.
- Reduction in harmful behaviours e.g. youth suicide, antisocial, alcohol/drugs, domestic and family violence.
- Improved community perception of Police legitimacy and therefore decreased potential for Police-community member conflict e.g. in times of unrest or riot.
- Gradual change in Police culture whereby there is more support for proactive mediation or restorative justice from grass roots to senior Police.
- Mediation or restorative justice becomes an essential part of Police training and is integrated seamlessly alongside general police duties.

A more detailed description of the Program logic is presented in the table overleaf. This is a dynamic depiction of the Program that incorporates a theory of change demonstrating how the Program is designed to change attitudes and behaviour over the short, medium and long term. Please note this is based on what the Program was meant to achieve. In particular, not all of the longer term outcomes could be expected to be achieved over the six years that the Project has been running.



**Table 1: Mornington Island Restorative Justice Program Logic**

Objectives	Target groups	Inputs/precursors	Outputs/ processes/ partnerships/precursors	Short term outcomes	Medium term outcomes	Long term outcomes
<p>Enhance the capacity of the community to deal with and manage its own disputes without violence by providing ongoing training, support, supervision and remuneration for mediators.</p> <p>Reduce Indigenous people's contact with the formal criminal justice system.</p> <p>Encourage community ownership of the program.</p> <p>Improve justice system's responsiveness to the needs of the community.</p> <p>Increase satisfaction with the justice system for victims, offenders, their families and the broader community.</p>	<p>Mornington Island community members</p> <p>Families</p> <p>Elders</p> <p>Young people (Banbaji Student Service)</p> <p>Service Providers:</p> <ul style="list-style-type: none"> <li>• Police;</li> <li>• Courts; and</li> <li>• Community agencies.</li> </ul>	<p>1. Developing support Budget funding.</p> <p>Funding varies from \$176,676 to \$310,200 per year during the life of the Project.</p> <p>Although in 2013 left over funding from 2011-12 was rolled over (see the funding table below).</p> <p>Recruitment of a Brisbane based Project Manager (bringing credibility, engagement skills and contacts).</p> <p>Project Manager stays on Island for long periods of time over 4 years building trust, relationships and grass roots support for the Project - 'Working with them to develop something of their own that respected traditional knowledge'.</p> <p>Development of project plan (part of the interview/recruitment selection process).</p> <p>Hiring of 5 local Cultural Advisers to assist with engagement and consultation.</p>	<p>Community development approach involving consultation with 200 family members over 7 months representing all family groups.</p> <p>10 meetings and workshops at the neutral and centrally located Festival Grounds with Moyenda (Council of Elders).</p> <p>Development of 8 Steps for mediation and 11 Elders' Rules for conducting mediations / peacemaking model, covering all stages from assessing a referral, consulting with parties and holding a meeting plus continuous improvement.</p> <p>Cultural elements of traditional conflict resolution are maintained in this model e.g. involvement of the Elders.</p> <p>Mediates disputes between Police and community and the community and other Service Providers.</p> <p>Provide non-violent dispute resolution messaging and mentoring and positive role modelling in school via the Banbaji Student Service.</p> <p>Banbaji Student Service:</p> <ul style="list-style-type: none"> <li>• PCYC building /</li> </ul>	<p>People know where to go or who to see to get help when there is a dispute.</p> <p>People participate, observe, or hear about 396 mediations between Oct 2009 - April 2014.</p> <p>Disputes are settled quickly or do not escalate - 94- 95 % success rate for settlement and reconciliation between Oct 2009-April 2014.</p> <p>Families feel relieved that disputes are settled, 'felt like a weight off my shoulders'.</p> <p>People experience observe, or hear that disputes are often over inconsequential matters and they are reminded of their kinship ties. For example 'we are all one mob'.</p> <p>Less violence, less ongoing fighting, teasing, bullying, payback and family feuding.</p> <p>Less hospital</p>	<p>People are happier because there is less stress, anxiety / community tension. People can get on with their lives and move around the community without fear or apprehension.</p> <p>People feel safer attending community events like funerals because disputes have been settled. Therefore there is a reduced fear of crime.</p> <p>More community ownership of mediation.</p> <p>People feel they can approach mediation with their concerns and start believing that mediation is relevant desirable and appropriate as an alternative to ongoing fighting or Police/court action.</p> <p>More families ask for mediation to resolve the disputes peaceably.</p> <p>More families use peaceable means to resolve disputes.</p> <p>Family relationships</p>	<p>Families and community reclaim authority over resolving disputes in their own way without violence. Thereby bringing stability and order into family and community life.</p> <p>Mobilisation and empowerment of community to identify and respond to disputes and safety concerns.</p> <p>A safer community at an overall level.</p> <p>Diversion from the justice system.</p> <p>Children and young people who experience mediation choose and use mediation rather than violence / intimidation as adults.</p> <p>Families teach mediation skills to children rather than violence as a means of sorting out disagreements.</p> <p>Improved community perception of Police legitimacy. Therefore a decreased potential</p>

Objectives	Target groups	Inputs/precursors	Outputs/ processes/ partnerships/precursors	Short term outcomes	Medium term outcomes	Long term outcomes
		<p>Establishment of an Advisory Management Committee (Police, Courts, Elders, Justice groups, Social Anthropology contacts).</p> <p>Supervision of Project Manager by Queensland DJAG.</p> <p>Procurement of a vehicle, computer, phone, accommodation and a centrally located office.</p> <p>Recruitment and training of paid mediators.</p> <p>2. Implementation</p> <p>Recruitment of a second Project Manager of Indigenous heritage from September 2009.</p> <p>Two rounds of formal training in 2012 (25K per 5 day session with poor attendance)</p> <p>On-the-job action learning by doing post mediation debriefing sessions.</p> <p>Half day training workshops every 4 months.</p> <p>3. Transition to community management</p> <p>Development of</p>	<p>community hub</p> <ul style="list-style-type: none"> <li>• Bus</li> <li>• Sargent in Charge</li> <li>• 2 local Police Liaison Officers</li> <li>• Changing the Cycle - 6 pronged program of before/after school activities and meals for 5-15 yr. olds</li> <li>• Resilience Building Group -bouncy boxing.</li> <li>• Bush camps.</li> <li>• Street Sweeps 9pm-until midnight.</li> <li>• Monitoring of social media.</li> <li>• Nipping rumours in the bud before the fights escalate.</li> </ul> <p>Many adult disputes start in the school yard / Facebook and Diva Chat</p>	<p>admissions for assault related injuries.</p> <p>Less assaults on vulnerable people like women, children and the Elderly.</p> <p>People experience observe, or hear that mediation works better for families than the Police and courts because it sorts out the root problem and people don't have to go to court or jail.</p> <p>More people become aware that mediation may be a relevant, desirable and appropriate alternative to ongoing fighting or Police/court action.</p> <p>More people are diverted from the formal justice system or have their charges dropped or reduced.</p> <p>People see Project Coordinator walking around the community, taking time to talk to people and listening to their concerns about community safety and/or Police actions.</p> <p>Elders get respect and authority back by</p>	<p>restored and the hurt are healed.</p> <p>People who have observed successful mediations start using these skills informally in their own private lives.</p> <p>Family members start encouraging others to seek mediation rather than ongoing fighting or Police/court action.</p> <p>People who are aware of a mediation agreement remind or encourage others to keep to the mediation agreement.</p> <p>Police identify issues of concern and refer to Elders/mediators. This will help Police be seen more as part of the community.</p> <p>Improved Police-community relationship based on shared respect, shared resolve and shared responsibility.</p> <p>Mediation connection with Elders whereby Elder respect and authority to resolve disputes is restored and youth are listen and do more with Elders.</p> <p>Young people are</p>	<p>for police and community member conflict e.g. in times of unrest or riot.</p> <p>Social norms change whereby it becomes normal to use non-violent means to resolve disputes. Where it is also normal to go to school, avoid getting into trouble with the Police and to lead a healthy productive life.</p> <p>More people leading productive and responsible lives.</p> <p>More voluntary compliance with the law.</p> <p>A reduction in personal and property offence crime rates.</p> <p>Reduction in harmful behaviours e.g. youth suicide, antisocial, alcohol/drugs, domestic and family violence.</p> <p>Gradual change in Police culture where there is more support for proactive mediation from grass roots to senior Police.</p> <p>Mediation becomes an essential part of Police training and is</p>

Objectives	Target groups	Inputs/precursors	Outputs/ processes/ partnerships/precursors	Short term outcomes	Medium term outcomes	Long term outcomes
		<p>Service Level Agreement based on outputs and outcomes whereby Mediation becomes a core part of the local Community Justice Group.</p> <p>Rates set at \$40 per hour for mediation, \$35 per hour administration and overheads of \$600 per week.</p> <p>EDP system for recording outputs and outcomes.</p> <p>Procurement of 2 buses by Junkuri Laka.</p> <p>New office established close to the airport, logo designed and local art incorporated.</p> <p>Traineeships / succession planning to enable full local control.</p> <p>Monthly and 6 monthly reports generated.</p> <p>Tri-yearly visits from Queensland DJAG</p>		<p>being unbiased and helpful.</p> <p>Young people are exposed to positive role models and respected authority figures through mediation. Young people see the benefits and observe the status that mediators have.</p> <p>Referrals from Service Providers, Police, courts and community start to increase.</p>	<p>more interested in becoming the next generation of mediators.</p> <p>Other Service Providers get mediators/Elders involved in conflict resolution.</p> <p>Increased school attendance.</p> <p>Increased attendance at RJCP activities.</p> <p>Elders/mediators advise Police about potential issues when appropriate.</p> <p>Better flow of information/intelligence between the Police, Service Providers and the community.</p> <p>Better implementation of crime prevention and crime control activities as a result of community and Police working towards shared goals.</p> <p>Community develops a better understanding of Australian law, for example; its aims and consequences.</p>	<p>integrated seamlessly alongside general police duties.</p>

The table below shows the total funding for MIRJ over the life of the project. The total funding included \$1,079,884 from ADG/PMC and a \$20,000 contribution from JAG. This totals \$1,099,884 between 2007 and 2014.

The reader should note that for some years, MIRJ did not expend all of its funding, particularly in the early years as the program. ADG/PMC allowed for these funds to be rolled over into the next year, rather than withdrawing the funding (reflected in the column below 'carryover'). This enabled MIRJ to continue operations in these years despite a slow start to some operations. These carry-overs were offset by a reduction or complete removal of funds for years that entailed some degree of carryover.

**Table 2: Funding during the life of the Project**

<b>Year</b>	<b>Carryover</b>	<b>ADG/PMC</b>	<b>JAG</b>	<b>Total</b>
2007-08	nil	\$220,000	nil	\$220,000
2008-09	\$209,000	nil	\$20,000.00	\$20,000.00
2009-10	\$37,375	\$300,100	nil	\$300,100
2010-11	\$148,324	\$176,676	nil	\$176,676
2011-12	\$81,114	\$310,200	nil	\$310,200
2012-13	\$233,976	nil	nil	nil
2013-14	\$126,485	\$72,908	nil	\$72,908
Total received 2007-2014	—	\$1,079,884	\$20,000	\$1,099,884

Source: MIRJ Project Funding Agreements and Performance Reports.

Assumptions or enablers that underlie this program logic include:

- Issues related to chronic substance abuse, a lack of jobs/productive activities that engage people (boredom) and the tolerance for violence when resolving disputes need to be addressed or mitigated. Solutions need to come from the community and be owned by them. They also need to draw on a strength-based rather than deficit-based approach i.e. what's working? How can we make what's working even more effective? How can we fix issues by working together?
- The Project is funded to run for the long term. It is expected that the Project is funded for at least six years with recurrent funding available after that if performance criteria are met in future evaluations.
- The Project has a supportive Officer in Charge (OIC) who believes in the value of mediation / restorative justice.
- The Mediation Coordinator or Coordinators have the managerial, governance and technical skills to run the Project effectively. Ideally they are also not beholden to kinship obligations i.e. owe no obligations to disputing parties, assailants or victims. This issue must be carefully managed if local people are going to take full ownership for the management and operation of the service in the future.
- The Project continues to be based on the kinship model where appropriate (i.e. not for employment disputes or disputes between Service Providers and community members and so on and so forth) and has the full support of Elders/respected leaders.

The absence of these enablers will reduce the overall effectiveness of the Project in achieving its long term outcomes.

## 2.3 Evaluation Objectives

In April 2014 the Department Of The Prime Minister and Cabinet (PM&C) commissioned Colmar Brunton Social Research (CBSR) to undertake a four stage, mixed methods participatory action research evaluation of the Mornington Island Restorative Justice (MIRJ) Project. This evaluation was tasked with assessing the overall effectiveness of the Project in meeting its objectives. The aim of the Mornington Island Restorative Justice (MIRJ) evaluation is to better understand how and why the MIRJ Project affects local community safety. The study also needs to assess how well it is meeting its objectives, outlined below:

- Enhance the capacity of the community to deal with and manage its own disputes without violence by providing ongoing training, support, supervision and remuneration for mediators;
- Reduce Indigenous people's contact with the formal criminal justice system;
- Encourage community ownership of the program;
- Improve justice system's responsiveness to the needs of the community; and
- Increase satisfaction with the justice system for victims, offenders, their families and the broader community.

The evaluation also needs to:

- Assess the impact of the Project, particularly in relation to community safety;
- Assess what has worked well and why;
- Assess what has been challenging and how to overcome those challenges going forwards;
- Determine if there have been any unexpected outcomes, either positive or negative (for example, in relation to school attendance or employment);
- Garner views on the development and ongoing evolution of the MIRJ, in particular in relation to the transition to community management and recommendations for future sustainability and outcomes tracking;
- Outline how the MIRJ Project may operate as an alternative to involvement in the mainstream criminal justice system;
- Assess the impact of the MIRJ on community safety outcomes (examples include but are not limited to changes in the number, nature, frequency and severity of interpersonal violence and related injury); and
- Assess the cost effectiveness of MIRJ relative to mainstream criminal justice responses (Cost Benefit Analysis).

Furthermore, the evaluation needs to help assist project providers to document and articulate outcomes to external audiences, and to plan for future sustainability. More generally, at the policy level the evaluation needs to build the evidence-base regarding Indigenous community safety initiatives. This will enable learning from the MIRJ Project to inform work in other communities, and to contribute to scholarship in the field.

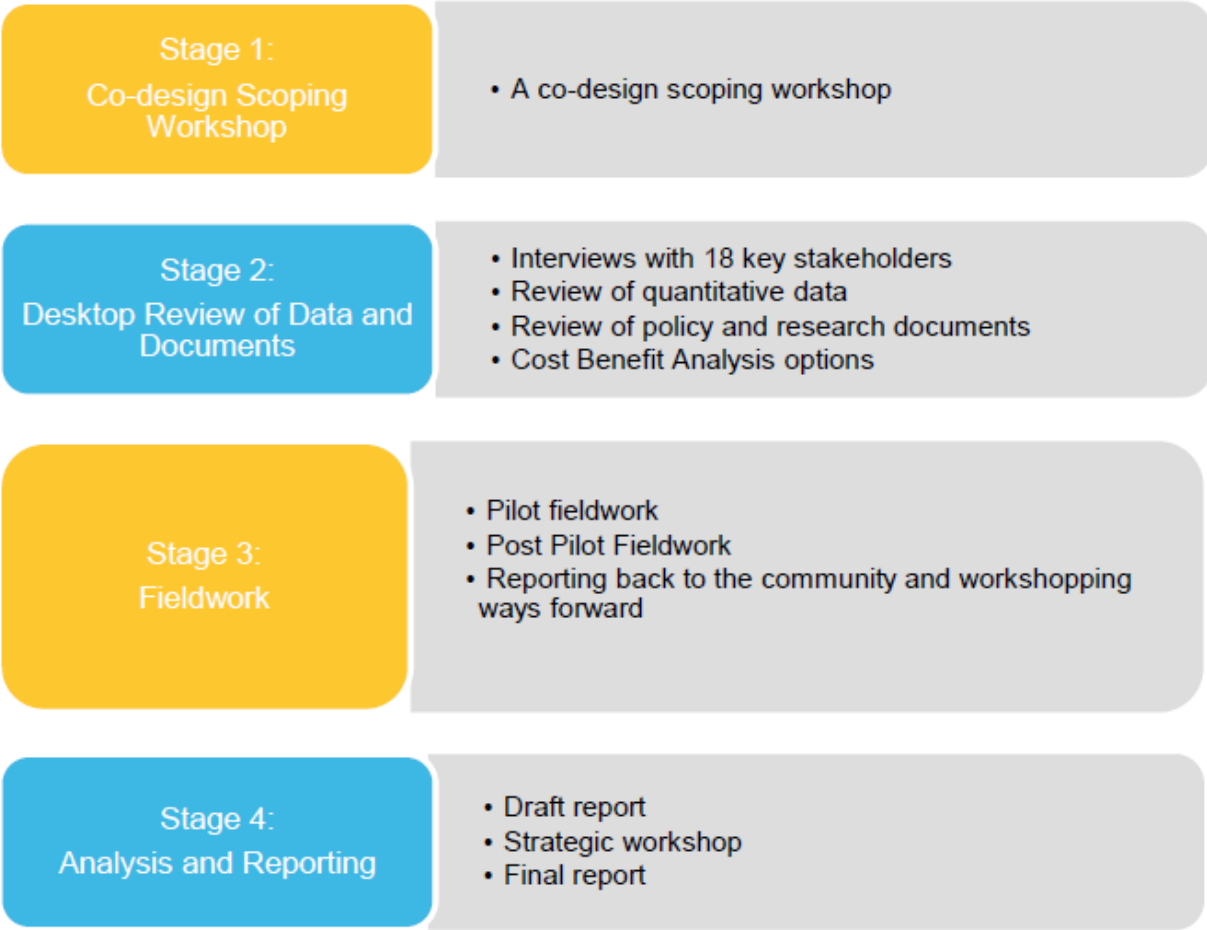
Therefore, it is imperative that the evaluation enhances local community safety planning capacity, and provides robust useful evidence that can be applied more generally to outcomes based safety initiatives in Indigenous communities.

## 2.4 Evaluation Methodology

A four stage mixed methods participatory action research methodology was used for this evaluation. Elements of this approach are consistent with good practice Indigenous research ethics requirements.

The methodology used for the Project is summarised in the diagram below (Figure 5).

**Figure 5: Overview of methodology**



The points below explain the project stages involved in this research:

- Stage 1 involved a co-design scoping meeting to confirm the vision for the research, the methodology, research protocols and project logistics.
- Stage 2 involved a desktop review of documents, data, and 18 key stakeholder interviews. Crime incident data, for Mornington Island and Doomadgee and Aurukun (as comparator communities) was analysed to see if there was any correlation between MIRJ Project activities and recording of Police incidents (see Chapter 7: Analysis of secondary data for more details). An analysis of school attendance data and MIRJ Project database outputs and outcomes was also undertaken. The hospital on Mornington Island says that it does not collect data on assaults however the Ambulance/Paramedic Service has done for the last 3

years. Analysis of this data showed no clear trends and it is not included in this report.

- Stage 3 involved Pilot and Post Pilot consultation visits to Mornington Island involving 23 days in community. During this time 211 quantitative report cards/impact surveys were completed. Qualitative data was collected simultaneously as the report card was used as a starting point and open ended questions followed most of the quantitative questions. In addition, a number of in depth qualitative discussions and informal discussions were also conducted with selected participants who showed an interest and had the time to answer further questions.
- Stage 4 involved issuing the PM&C with a draft, final report and strategic workshop presentation. In addition, CBSR made a third visit to Mornington Island to present the findings to the community and workshop ways forward to create a sustainable community owned and managed mediation service.

### **Stage 1: Scoping workshop**

The scoping phase refined the proposed methodology presented in CBSR’s initial proposal. Specifically it was agreed that CBSR’s proposed four stage mixed method participatory action research methodology would be applied to this project.

A program logic was also developed at the workshop. This detailed key behaviours the Project was trying to encourage to meet its ultimate objective of creating a more peaceful community.

The specific behaviours identified included:

1. Using mediation rather than violence or the Police and courts and then sticking to the mediation agreement.
2. Community members, Police and other Service Providers referring or encouraging others to use mediation rather than violence or Police and courts and to keep to their mediation agreement.
3. Becoming a mediator.

### **Stage 2: Desktop review of data and documents**

The desktop review included 18 interviews with key stakeholders. The following table presents a list of the keys stakeholders who took part.

**Table 3: Key stakeholders interviewed to date**

<b>Key stakeholder</b>	<b>N= 18</b>
Former PCYC Sargent and Banbaji Student Services Coordinator	1
Department of the Prime Minister and Cabinet	4
Qld DJAG management of MIRJ Project (and related data)	4
Senior Police Regional Operations	2
Academics/experts	6
Northern Territory Special Adviser	1

<b>Key stakeholder</b>	<b>N=18</b>
<b>TOTAL</b>	<b>18</b>

### **Stage 3: Fieldwork**

Field research was undertaken in two phases. In the lead up to Easter a Pilot phase of field research was conducted. This included nine days from 9-17 April on Mornington Island. During this time the recruitment and training of three local researcher practitioners occurred, along with the conduct of 113 pilot interviews and numerous informal discussions with community members, local leaders and Service Providers. A verbal debrief between the research team (including local researchers) and available Evaluation Steering Committee members also took place and a top line level report was produced. CBSR Qualitative Director John Young conducted the Pilot visit.

The Post Pilot fieldwork was conducted in the first two weeks of May 2014 from the 2-16. This consisted of a further 98 interviews<sup>26</sup>. CBSR's Cairns-based Aboriginal consultant Robert Corrie accompanied John Young for the Post Pilot fieldwork.

### **Stage 4: Analysis and Reporting**

The reporting for this evaluation includes two verbal debriefs, the submission of a top line report following the Pilot fieldwork, the submission of a draft and final report and a Strategic Workshop Presentation. CBSR will also design a newsletter in plain English to facilitate reporting the research results back to the community and workshopping the results with Junkuri Laka and other Service Providers.

#### **2.4.1 Participatory approach**

Three local Indigenous research practitioners were employed and trained to undertake interviews on Mornington Island. Training involved a 2 day workshop held at the Arts Centre and Junkuri Laka. This included basic training on social research and interviewing techniques and skirmish testing the questionnaire within the research team. Research practitioners were also issued with a plain English training manual. Once the training was completed a number of supervised interviews were also conducted to ensure consistent and robust data collection. This is an effective method in supporting and further developing the capacity of Aboriginal researchers in their own communities and is an important element of CBSR's Indigenous Research Protocols.

Local research practitioners were sourced through Junkuri Laka. Researchers were paid \$40 per hour and were happy to work flexibly around their family and community commitments, responsibilities and obligations. The local research team provided indispensable help in advising CBSR on local context and cultural protocols, tailoring the research questions, providing input into the fieldwork approach, introducing CBSR researchers to local people, recruitment of research participants, conducting interviews, debriefing with PM&C and helping to analyse, interpret and report on the research findings. CBSR supported local researcher's attendance by providing transport, breakfast and lunch as required.

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<sup>26</sup> Three of these interviews were later found to be incomplete and were not included in the quantitative analysis of 208 completed surveys. However, qualitative information contained in these surveys was still valuable and has been included in this report.





Local researcher practitioners from left to right in the first two pictures, Wade Simpson, Dirk Loogatha (CBSR researcher and Roosters supporter John Young) and Farrah Linden.

### 2.4.2 Data collection instruments

A quantitative report card (Impact survey) and qualitative discussion guide were developed in close partnership with the Evaluation Steering Committee, Junkuri Laka and local research practitioners. These were then reviewed and refined while undertaking the Pilot visit.

All changes were submitted to the Evaluation Steering Committee for approval and a revised version of the quantitative report card was used Post Pilot in subsequent fieldwork. The quantitative report card was used as a starting point to capture participant’s perceptions of how effective the MIRJ Project had been in their community.

The Pilot report card was based around 17 questions that reflected key elements of service delivery consistent with the MIRJ Project’s stated objectives. The questions and wording used were designed in close partnership with key stakeholders, Junkuri Laka and the local research practitioners.

For each question participants were asked how frequently the service attribute was occurring on a scale from very often to never as presented in figure 6 below.

**Figure 6: Rating scale used during the field work**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

The Post Pilot report card was modified to incorporate the lessons learnt during the Pilot. In particular “how often” was placed at the start of relevant questions. The Clause “do you trust” was omitted from 3 questions and extra questions were inserted around the behaviours the Project was trying to encourage. This included asking if people were using mediation more, if they were encouraging others to use mediation more, and if they were encouraging others to stick to their mediation agreement. In addition, another series of questions was added for mediators around training, remuneration, and the Elders’ Rules. For full details of changes suggested to be made after the Pilot fieldwork see Appendix B.)

### 2.4.3 Qualitative discussion guide

A qualitative discussion guide was also developed which incorporated instructions for conducting interviews. This helped ensure that information was captured in a consistent way.

No changes were made to the discussion guide following the Pilot as CBSR tailored the questions to suit the English language comprehension skills of the participant. All data collection instruments are presented in Appendix H Fieldwork instruments and forms.

**2.4.4 Recruitment of participants**

Trialled recruitment options included intercept interviewing at locations around the community as people went about their daily lives and also engagement of people via Service Providers who had existing contacts with community members. This latter strategy proved very effective and many of the interviews were conducted through Service Providers who helped us engage with their local staff and other community contacts.

People were interviewed in one on one, paired, triad and mini group situations. The format was selected based on whichever they felt most comfortable with. Most interviews were conducted in and around the town shopping precinct or close to key Service Providers like RJCP, Tech Services, the store and Junkuri Laka. A number of interviews were also conducted in people’s homes. Some interviews were completed with small groups of people such as RJCP or Tech Services work groups, youth groups or where several people were living in the same location. Group interviews did not appear to be influenced by the presence of other people being asked the questions as responses were varied across the groups.

Some community members were also issued with a \$20 incentive upon the completion of their interview. Consideration was also given to the need to provide light refreshments to participants, specifically those who undertook lengthier depth interviews, the elderly, and group interviews which were done through lunch breaks or evening dinner times.

**2.4.5 Completed Interviews**

A total of 211 interviews were undertaken across the two stages of fieldwork. The number of community members interviewed totalled n=151 and Service Providers totalled n=60. A little more than half (55%) of the participants were women and just under half (45%) were male. Table 4 below presents the demographic profile for the total sample including gender, age, ethnicity and participant type. Table 5 presents the distribution of service provider types interviewed during the fieldwork. Most survey interviews took approximately 20 to 40 minutes. A number of more in-depth interviews were also conducted which usually took around an hour, but in some cases up to two hours. In addition focus groups with the Shire Council and senior boys at the Mornington Island State School were also undertaken. All interviewing took place between April and May 2014. This included the 18 key stakeholder interviews.

**Table 4: Survey demographics for total sample – Survey demographics - Gender**

<b>Gender</b>	<b>%</b>	<b>n=</b>
Male	45%	94
Female	55%	117
<b>TOTAL</b>	<b>100%</b>	<b>211</b>

**Table 4: Survey demographics for total sample – Survey demographics - Age**

<b>Age</b>	<b>%</b>	<b>n=</b>
18-24	10%	20
25-34	23%	48
35-44	25%	52
45-54	17%	36

<b>Age</b>	<b>%</b>	<b>n=</b>
55-64	15%	31
65+	10%	21
Don't know/prefer not to answer	1%	3
<b>TOTAL</b>	<b>100%*</b>	<b>211</b>

**Table 4: Survey demographics for total sample – Survey demographics - Clan**

<b>Clan</b>	<b>%</b>	<b>n=</b>
Lardil	48%	102
Kaiadilt	23%	49
Gangalidda	7%	15
Yankaal	7%	14
Not relevant	10%	21
Don't know/prefer not to answer	5%	10
<b>TOTAL</b>	<b>100%*</b>	<b>211</b>

**Table 4: Survey demographics for total sample – Survey demographics – ATSI Status**

<b>ATSI Status</b>	<b>%</b>	<b>n=</b>
ATSI	91%	192
Non-ATSI	9%	19
<b>TOTAL</b>	<b>100%</b>	<b>211</b>

**Table 4: Survey demographics for total sample – Survey demographics – Marital Status**

<b>Marital Status</b>	<b>%</b>	<b>n=</b>
Married	66%	134
Not married	33%	67
Don't know/prefer not to answer	0.5	1
<b>TOTAL</b>	<b>100%*</b>	<b>202**</b>

**Table 4: Survey demographics for total sample – Survey demographics – Has children**

<b>Has children</b>	<b>%</b>	<b>n=</b>
Has children	81%	166
No answer	16%	32

<b>Has children</b>	<b>%</b>	<b>n=</b>
Don't know/prefer not to answer	3%	7
<b>TOTAL</b>	<b>100%*</b>	<b>205**</b>

**Table 4: Survey demographics for total sample – Survey demographics – Participant type**

<b>Participant type</b>	<b>%</b>	<b>n=</b>
Community member	72%	151
Service Providers	28%	60
<b>TOTAL</b>	<b>100%*</b>	<b>205</b>

\* % may not add to 100 due to rounding.

\*\* Missing data = 9 for marital status and 6 for has children.

**Table 5: Service Provider type**

<b>Service Provider Type</b>	<b>n=</b>
Mediators	14
Teacher Aids	12
Community Store/Retail Operations/Post Office	5
Hospital/Health Services/Primary Health Care/Ambulance/Paramedics	3
Court staff	3
Teachers	3
Corrections	2
JP Court	2
PCYC	2
Women's Shelter	2
Mediation Coordinator	1
Mayor	1
Indigenous Engagement Officer	1
Government Engagement Co-ordinator	1
Police – Officer In Charge	1
Police Liaison Officer	1
Safe House	1
Safe Haven	1
Night Patrol	1
Mission Australia	1

<b>Service Provider Type</b>	<b>n=</b>
RJCP	1
Save the Children	1
<b>TOTAL</b>	<b>60</b>

CBSR worked hard to obtain a broad representation of gender and age and position within the community. However, we found it difficult to engage with young people under the age of 20. We would not have got the numbers we did in this age group without our team of local research practitioners. Thanks to them we were able to undertake 4 mini groups with young people, a focus group of young men at the school and 5 depth interviews.

#### **2.4.6 Definition of Terms**

The following terms are used throughout this report.

- **Peacemaking:** Peacemaking is a generic term for those activities which address significant conflict. It includes the holding of mediation meetings, engaging in shuttle diplomacy between parties in conflict and providing conflict coaching. 'Peacemaking' and 'mediation' are used as interchangeable terms on Mornington Island.
- **Mediation:** A meeting facilitated between parties in significant conflict according to agreed rules, processes and required cultural or kinship protocols.
- **Kinship Consultation Mediation:** The term for the mediation model developed on Mornington Island with Island Elders. The process, set out in 8 theoretical steps, observes kinship and cultural protocols and involves family consultation and shuttle diplomacy between families in planning mediation. Families have a high degree of input into the time, place, agenda and people to run their mediation. The Elders have established 11 rules for participants and mediators to help guide the meeting.
- **Conflict Management:** Peacemaking activities called (often at short notice) in response to the likelihood of escalating violence. Such interventions typically occur with minimal planning or consultation with family members. Many are referred by Police.
- **Restorative Justice Mediation:** This term refers to mediations which address the needs of the victims, offenders and their families. They support active victim input while encouraging offenders to take responsibility for their actions by demonstrating their remorse through an apology and other agreed rehabilitative and restorative activities. Referrals may be made at any stage of the criminal justice process. Police may refer a matter before deciding on charging, prosecutors may withdraw a charge if satisfied that mediation has been effective, and courts may refer as part of sentencing. In this regard restorative justice mediation is an important initiative in diverting offenders from the formal criminal justice system.
- **Shuttle Diplomacy:** This is the process when a mediator works as an intermediary between the families in conflict. It often involves the transfer of information and ideas between the parties to clarify misunderstandings, highlight points of agreement and establish an agenda for a mediation meeting. Shuttle diplomacy is used to reduce anxiety about attending mediation by establishing confidence in attaining successful outcomes. Shuttle diplomacy is also used where

parties are unwilling to attend mediation or if bringing parties together where there is serious conflict and it is assessed to be counter-productive at that time. Shuttle diplomacy in these cases most often manages or settles conflict rather than resolves conflict.

- **Conflict Coaching:** Working with individuals or families in conflict to express their feelings and think through the issue and consequences of their responses and to develop strategies to manage the situation. It most often occurs in tandem with shuttle diplomacy and may also be used to better prepare people for mediation or where mediation cannot be held.
- Successful Interventions: These include:
  - Matters resolved at intake during the assessment stage – when initial discussions with parties sufficiently clarify issues / misunderstandings.
  - When mediation achieves reconciliation – reported or demonstrated by restoration of relationships.
  - Or the matter is settled – i.e. when there is no pre-existing relationship to be restored and parties agree to cease the conflict.
  - Where mediation was not possible other interventions including conflict coaching and shuttle diplomacy also led to the above successful outcomes.

### 3. Executive Summary

This report presents the findings of a robust evaluation of the Mornington Island Restorative Justice (MIRJ) Project. The evaluation was to assess the overall effectiveness of the Project in meeting its objectives such as:

- Reducing Indigenous people's contact with the conventional criminal justice system ;
- Enhancing the capacity of the community to manage its own disputes without violence;
- Improve the justice system's responsiveness to community needs;
- Encourage community ownership of the program; and
- Increase satisfaction with the justice system for victims, offenders, their families, and the wider community.

The evaluation used a mixed methods participatory action research approach which included:

- Key stakeholder interviews and a desktop review of documents, Police incident data, performance reports and funding agreements, and other relevant documents supplied by the Department of the Prime Minister and Cabinet (PM&C);
- Fieldwork involving two consultation visits to Mornington Island community. Qualitative and quantitative data was collected simultaneously and in addition, a number of in depth qualitative discussions were also conducted with selected participants who showed an interest and could spend more time. Focus groups with the Shire Council and senior boys at the Mornington Island State School were undertaken. A participatory method utilising significant change theory concluded the consultation;
- Secondary data analysis of administrative data and cost benefit analysis; and
- Workshop and feedback of results with the community.

Three local Indigenous research practitioners were employed and trained to undertake interviews on Mornington Island. The local research team provided indispensable help in advising Colmar Brunton on local context and cultural protocols, tailoring the research questions, providing input into the fieldwork approach, introducing Colmar Brunton researchers to local people. They were also involved in the recruitment of research participants, conducting interviews, debriefing with PM&C and helped analyse, interpret and report on the research findings.

#### 3.1 Quantitative and Qualitative Research

The MIRJ Project has been very successful across a number of measures. The evaluation found strong support for the MIRJ Project from all key stakeholders as well as most community members and some Service Providers based on Mornington Island. These participants felt the Project was meeting most of its key objectives and that mediation (as the MIRJ Project is known as locally) was an invaluable resource for improving community safety.

It's likely that almost the entire adult population of Mornington Island has been either directly or indirectly involved in mediation. **This high degree of community**

**participation indicates a high sense of involvement, engagement, and trust in the MIRJ Project in general and the mediation process in particular.**

Essentially, the MIRJ Project is working well to provide an alternative peaceful way for the community to resolve disputes that may have previously escalated or at least continued to go on. People perceive there are fewer ongoing fights and less big fights than there would have been in the absence of the Project. This results in people being happier, less stressed, and is helping to heal the community by restoring relationships, bringing families back together and helping people get on with their lives (i.e. go to shop, seek support from Service Providers, attend community events and funerals). These benefits are inspiring more people to use mediation and encourage other people to use mediation. In effect, this means less contact with the formal criminal justice system (i.e. court and jail time) and more time with family, country and community.

Overall, most of the participants surveyed supported and used mediation as it helped the community sort out its own problems, but felt it was not stopping fighting. However, it did help with stopping trouble with Police and courts. Elders are gaining respect and mediation is helping to restore their leadership, however adults are listening more than young people. The mediation process is felt to be confidential, fair, and impartial and people are not forced into participating in mediation. People feel safer more often due to mediation. People felt that they used mediation more, encouraged people to use mediation and adhere to their mediation agreements. There were mixed responses from mediators about whether they felt happy with their training, pay and if Elders' Rules were followed.

From the point of view of community perceptions, there are some very positive results. The quantitative survey indicates that the MIRJ Project was perceived to be most successful in terms of:

- Making people feel safer (because it's effective at reducing the escalation and continuance of fighting and disputes);
- The perceived level of community ownership of the Project (because of the role the Elders played in developing the model and continue to play as mediators and Justice Group members);
- The high degree of confidence and trust people have in the voluntary nature and impartiality of the mediation process (because this is what those involved in mediation have experienced);
- Fairness and appropriateness. That is, helping both sides of a dispute better than the Police and courts (because it balances and evens out power relations and both sides get to air grievances in a safe space);
- Helping restore Elder authority and respect, at least amongst adults (because of the role Elders play in sorting out disputes in a fair and respectful way); and
- Sorting out trouble better than the Police and courts (because it helps families resolve disputes in their own way, gets to the root causes of the issue and helps restore family relationships and his healing the community).

Community and Service Provider satisfaction surveys are now accepted ways of evaluating success in delivering policing services to specific communities (ANZPAA: 2010)<sup>27</sup>. It seems reasonable to accept the same principles apply to evaluating justice

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<sup>27</sup> At a national level the Productivity Commission has a suite of agreed performance indicators for justice services including community perceptions of safety as an outcome measure, and for police effectiveness, satisfaction with police services and perceptions of police integrity. The Northern Territory Police Service



programs more broadly. If we accept this premise, the findings suggest the Project has improved people's perception of community safety in Mornington

Island and has improved their satisfaction with the criminal justice system's responsiveness in providing a relevant, desirable and appropriate alternative to fighting or court action.

It should be noted that most of the service attributes that received the lowest scores are likely to have been adversely affected by a lot of 'don't know' responses. Three out of four of the lowest ranked also all involved young people. It is fair to say that the Project is perceived to be least effective in measures involving young people. Young people are perceived to be one of the most vulnerable groups on Mornington Island. Many of them are perceived to be disengaged from services and listen more to their own friends/peer groups than to adults, parents, and community Elders.

The other service attribute with the lowest rating related to whether the Project was stopping the trouble before people started fighting. Essentially most believed that an initial fight or dispute always preceded mediation. In addition, most community members still prefer to sort issues out in their own way (often through informal mediation, arguing, avoidance or fighting) and only resort to formal mediation when the costs of doing so, in terms of fighting escalating or spiralling out of control, start to outweigh the benefits of handling the matter privately in their own way.

Another service attribute which scored relatively poorly on the *very often/often* rating concerned how often people keep to their mediation agreement. Most people believe that mediation agreements are only kept *sometimes* for the following reasons:

- Some people go to mediation with no intention of settling the matter and are going for other reasons such as to stay out of jail or use the process for point scoring or political reasons;
- The mediation agreements are often broken when people get drunk or high or when people become stressed or they hear rumours and trash talking;
- Some people feel the right family or clan mediators were not present. Often the appropriate/relevant Elders are not present. Some people may feel they have been unduly influenced by others to attend mediation; and
- When the issues are symptoms of deep seated or historical antagonism between families or clans. Indeed there is a need to recognise that some disputes may not be amenable to resolution and that their dynamics should be managed and accounted for in proposed solutions.

Some extra questions were added to the Post Pilot Impact survey to capture issues around the behaviour that the Project is trying to encourage such as using mediation, encouraging others to use mediation, encouraging others to stick to their mediation agreement and a closed question asking people if they felt safer due to the Project<sup>28</sup>. Pleasingly over 6 out of 10 participants reported they were doing the key behaviours more than they used to. However, there were mixed responses from mediators about whether they felt happy with their training, income and if Elders' Rules were followed.

There are 7 key issues that emerged out of the fieldwork which will need to be addressed in order for long-term and sustainable success to be achieved. These issues could be resolved by the following

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Annual Report also details the proportion of the public feeling safe and satisfied with police services as a way of demonstrating value and effectiveness.

<sup>28</sup> Which was then followed by the question of how often people feel safer reported on above.

1. Proactive engagement of youth.
2. Broader representation of families as mediators.
3. More engagement of women as mediators.
4. Succession planning to ensure the Project's continued success when the current Mediation Coordinator moves on.
5. Marketing and in particular more promotion of when mediation is appropriate e.g. how Junkuri Laka can help community members and Service Providers as well as greater promotion of its success stories.
6. Establishment and promotion of 2 way referral pathways for all relevant Service Providers. A case management approach where there is better communication and coordination between Service Providers delivering services to the same client/family as well as more pooling of resources. This could benefit all clients and Service Providers as well as Junkuri Laka.
7. More attention to ensuring that mediation agreements are sustainable and that people are supported to undertake the behaviours the Project is trying to promote.

In relation to points 1, 2, and 3, the Project needs to identify ways to improve engagement with these groups. More engagement of these groups will encourage more people to use mediation and will reduce the risk that mediators could be seen as biased. It will also help people to keep their mediation agreements.

In relation to point 4, some progress has already been made in this area with the hiring of a full time young female trainee. However, the Project is still perceived to be very vulnerable if anything were to happen to the current Mediation Coordinator and lead mediator. In addition, it is unlikely that the next Coordinator will have the same level of managerial, technical, and legal skills so an effective succession plan is going to need a lot of careful consideration.

In relation to point 5, while most have a general idea of what mediation is, some are still unclear about what Junkuri Laka is and how it can help them, and when they should use mediation.

In relation to point 6, some Service Providers were unclear of the role of Junkuri Laka and how they might go about making a referral to mediation. Key organisations like the Wellbeing Centre are not making any referrals while others like Child Protection, Safe House, Youth Justice, and the Women's Shelter could make greater use of the service.

In relation to point 7, suggested strategies include:

- Giving participants the option of signing an agreement and if appropriate, offering participants the opportunity to decide what 'our story' is in the mediation and how it will be shared with community. Behavioural change theory and behavioural economics suggests that people are more likely to stick to commitments if they have to put their name to it and even more so if the agreement is publically shared.
- Follow up with the parties to a dispute at various intervals to ensure the mediation agreement is still working.
- Present mediation participants with a 2 minute tick and flick client satisfaction survey to test satisfaction with the process.

- Longitudinal tracking to see what works in terms of creating sustainable mediation agreements and to see what short, medium and long term outcomes of being involved in mediation has on participants.

Responses to the survey were tested to see if there were any differences or relationships between the following groups<sup>29</sup>:

- Men and women.
- Service Providers and community members.
- Age – three age categories were used 18-24, 25-44 and 44 years and over (44+).
- Involvement in the Project in terms of being a party to a dispute or supporting family/friend and those not involved in this way.
- Those who reported having a family member as a mediator versus those who did not have a family member as a mediator.

People with previous involvement in mediation or who had family members as mediators are associated with were a lot more positive across a range of measures and had a lot more knowledge about the Project than people who did not.

This suggests that it would be helpful to:

1. Increase the pool of mediators so more families are represented.
2. Promote the benefits and good news stories about the Project to those who have not been involved.

### **3.1.1 Participatory Methods**

The Most Significant Change participatory technique included 212 community members who voted that mediation / peacemaking has been most successful in the following ways:

1. Fights stop rather than going on, therefore there are less ongoing 'grudge' fights.
2. People are happier and less stressed.
3. It brings families back together.
4. There are less big fights.
5. More people go to mediation.
6. There are less criminal charges and less jail time.
7. People are able to get on with their lives.

They also voted on the biggest worries mediation / peacemaking needs to overcome to get better:

1. Encouraging more young people to get involved as mediators.

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<sup>29</sup> CBSR also tested by clan group but the numbers for Gangalidda and Yankaal were so small we were worried about possible identification issues. In addition the level of intermarriage between the different clan groups makes this analysis questionable at best. Finally, we felt highlighting differences between clan groups could be divisive to social cohesion on Mornington Island.

2. Encouraging more families to get involved as mediators.
3. Promoting the good news stories about how mediation works to bring families together.
4. Training up the next generation of leaders.
5. Getting more local people to run the mediation service more.
6. Providing more training for mediators.
7. Encouraging Jobfind and the Justice Group to set up a training activity around leadership and mediation.

People were also asked who should run the mediation service in the future. Nearly half (46%) voted for a combination of both a local person and an outsider to ensure the service would remain impartial and not be captured by one family or clan group. Around four in ten (36%) voted for a local person to run the mediation service and two in ten (16%) voted for an outside fella with no kinship ties to run the service. Under people's ideal the outsider would still play a key role, but be more in the background providing mentoring, managerial, technical, legal and data capture skills as well as being an 'impartial/authorising outsider of the last resort'.

There is also a need for longitudinal tracking of people who go through mediation to see how often they keep to their mediation agreement, if and why they break their agreement, and what long-term effect participating in mediation/s has on their ongoing involvement with the criminal justice system and in others areas of their life such as employment and caring for children and family.

These themes are echoed in the participant drawing below. The left hand represents the challenges that community members are dealing with every day. The right hand is offering hope (symbolised by the peace dove) and empowerment of families through mediation where community issues are put back 'in our hands'.

The message of hope involves:

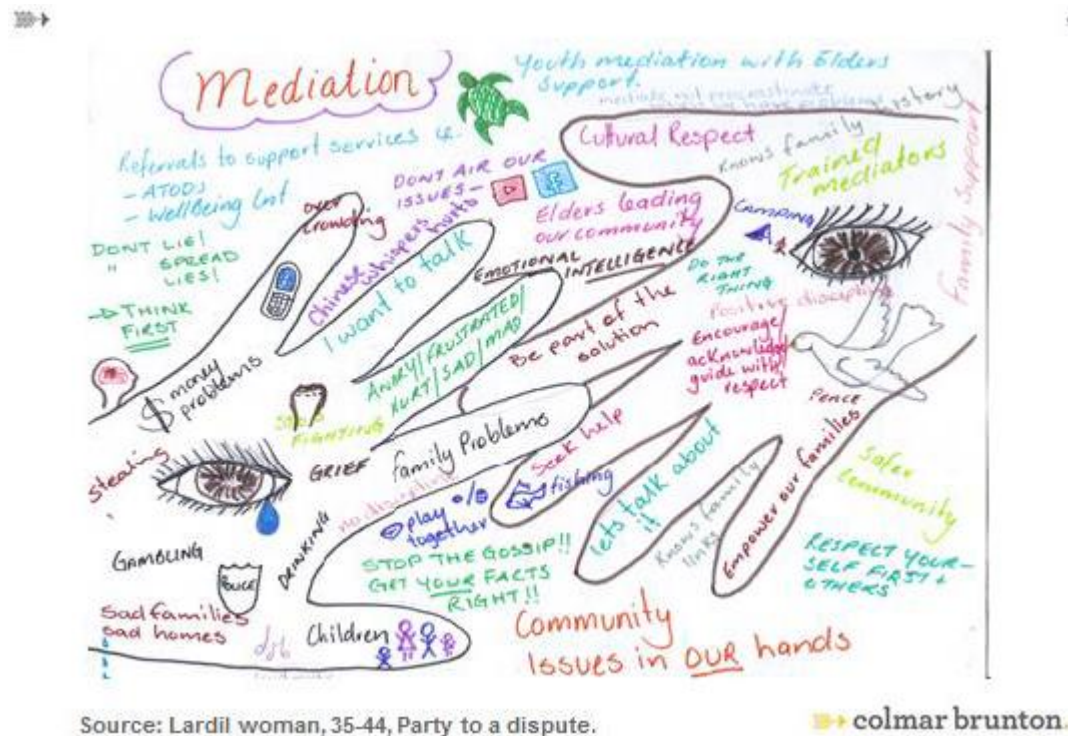
- Cultural respect with Elders leading the community;
- Trained mediators who know the family's history, links and connections;
- Youth mediating with Elders support and camping on country;
- Encouraging non-violent settlement of trouble, acknowledging what people are going through and the efforts they are making and always guiding people towards a better future through respect;
- Developing emotional intelligence of community members; and
- Referral to appropriate support services to help families deal with the issues that are getting them into trouble.

There is also a need for:

- Greater promotion of the benefits of mediation;
- An increased representation of women and families involved in the mediation process; and

- Mediation to be integrated with other services in a whole-of-government and whole-of-community approach to community safety. Succession planning is crucial to ensure these links and referral pathways are enduring.

**Figure 7: Drawing of MIRJ**



### 3.2 Secondary Data Analysis

The secondary data suggests that while overall crime is increasing, crimes against people such as assaults have reduced since mediation / peacemaking started. For offenses against people, Mornington Island’s reported offense rate sits between two other communities; mostly lower than Aurukun and higher than Doomadgee. However, there has been a reduction in the rate of crimes against people in Mornington Island when compared to the increased rate of this crime in the other communities.

There appears to be more diversions with 19% of all MIRJ cases involving CivM-Family and RJ-court diversions, and more charges dropped or reduced. Most MIRJ cases result in the withdrawal of a charge (32%) or the mitigation of a sentence. There is some evidence that the Project may have helped increase school attendance and enrolment both directly through its connection to the Banbaji Student Service and indirectly by helping people feel more confident that their children would be safe from teasing, bullying and fighting at school.

Police data relating to Mornington Island was analysed to identify any trends in crime rates in relation to the introduction of the Project. Overall, crime is on the increase on Mornington Island (as indicated by reported offenses). To a large extent, this increase is being driven by alcohol related offenses and disturbances to good order which may also be related to alcohol. Of particular note is a very large spike in reported offenses in 2009, presumably resulting from the introduction of alcohol restrictions at this time, in combination with an anecdotal report of zero tolerance approach to policing by the Police.

Hospital admission data for assault is not collected by the Mornington Island hospital but has been collected in relation to call-outs by the Ambulance/Paramedic service for the last two years. This data showed no general pattern and has been omitted from this analysis.

Data provided by Junkuri Laka Wellesley Islands Aboriginal Law relating to the characteristics of MIRJ cases were analysed. General characteristics of MIRJ revealed by these data were:

- The total number of MIRJ cases has been increasing rapidly over time;
- The most common sources of referral into MIRJ are Police, parties and courts. Referrals rarely come from schools or the Community Justice Group (CJG);
- Most engagements under MIRJ are planned. Far fewer are in response to a crisis and very few led to no engagement at all;
- By far the most common type of process used under the MIRJ Project is conflict management, Civil Mediation (within families) and Restorative Justice (court diversions) came in at a distant second and third;
- Most MIRJ cases are based on the needs of an individual. Fewer cases relate to the needs of a group or an organisation. The emphasis on a kinship model has been declining steadily.
- The three most common offense types addressed by the MIRJ Project generally relate to violence and public disorder - specifically, assaults, bodily harm and public nuisance;
- Encouragingly, the majority of MIRJ cases result in either settlement or reconciliation;
- Shuttle diplomacy, kinship consultation and circle conferencing are the most commonly used techniques under the Project;
- The Junkuri Laka office, the courthouse or private homes are the most common venues used for mediation. The Police Citizens Youth Club (PCYC) school and the festival grounds are rarely used; and
- Over the life of the project, the mean cost of an MIRJ case is \$2,265 (SD: \$3,198, based on costing data provided by MIRJ, not total funding data). A large range of costs were observed from a low of \$115 all the way to a high of \$26,900; and the mean cost of an MIRJ case has fallen dramatically since the program's introduction. Current costs are in the hundreds of dollars, rather than the many thousands of dollars that cases cost in the early days of the program.

Some approaches to MIRJ cases appear to lead to better outcomes than others. Specifically:

- Circle conferencing, interest based approaches and kinship consultation appeared to have achieved a slightly higher rate of positive outcomes compared with conflict coaching and shuttle diplomacy.
- Cases held at the courthouse and the JL Office appeared to have a greater likelihood of leading to a successful outcome compared with cases held at PCYC and private houses.

Further, some approaches to MIRJ Project cases seemed to be associated with a lower mean cost than others. Specifically:

- Circle conferencing and conflict coaching both demonstrated a lower cost compared with interest based approaches, shuttle diplomacy and kinship consultation.

- Cases held at PCYC and private homes were less expensive than cases held at the JL office.

### **3.3 Cost Benefit Analysis**

In an ideal world, MIRJ would reduce costs for the criminal justice system on the Island. Costs associated with MIRJ and conventional justice were contrasted to ascertain whether or not this was the case. Based on the data available, no firm conclusions could be reached. At face-value, MIRJ appears to cost *more* than conventional justice (\$689 per case for conventional justice vs. \$1,099 per case for MIRJ). However, given the impact that MIRJ Project appears to have had on reducing crimes against the person on Mornington Island and correspondingly the number of people who would otherwise have come into contact with the criminal justice system Colmar Brunton suggests that there are significant benefits and cost-savings that should be taken into account that are currently unable to be measured in dollar terms. Colmar Brunton were only in possession of a limited set of data and were not able to build a model that incorporated non-financial costs. Where there was a cost of cases in the early stages of the project this should be considered in the context of the projects stages and intent. Essentially the high cost is reflected in the funds spent not providing mediation but carrying out community development work to develop a model, educate the community and ourselves on Indigenous mediation and enlist broad community support. The intent was to develop a model capable of transfer to other communities and recent work commencing in Doomadgee and in Aurukun is benefiting from the early developmental work on Mornington Island. For example shorter lead times occurred in Aurukun because we had a model to discuss in our consultations.

### **3.4 Feedback to Community**

A feedback and consultation process was undertaken to ensure that the interpretation of the information collected from the community was correct and that the community felt their views and voices were clearly articulated in the report. Colmar Brunton believes that this has been a transformative evaluation. The participatory approach taken to evaluate the Project provided a space for community members to rethink and reflect on the programme. There is a sense that the consultation / evaluation process itself has raised and broadened the awareness of the mediation service across the community. People seemed to be clearer about mediation and more forthcoming with their support for it as an important feature of their community.

People were relieved that the evaluation found such strong support for mediation as they believe it will help ensure the service remains in the community and many feel the evaluation was useful because it has independently shown how important and useful the service is to the community.

People congratulated the government for providing funding to employ local people to collect and analyse data, provide input into the survey questions, research processes and feeding back the results. All strongly felt this is the way the government should fund future research on Mornington Island.

### **3.5 Conclusion and Recommendations**

Mediation / peacemaking was not designed to cure all the social problems on Mornington Island. Many felt that mediation was only part of a wider solution to address issues of chronic alcohol abuse, embedded norms around the social problems on Mornington Island. Most violence and trouble occurs when people are either drunk, high or bored (especially young people). The community might consider the collective impact that other programs may have in conjunction with mediation / peacemaking to reach the overall goals of the community and the shared measures of success. In particular the following areas could be considered:

- A comprehensive review of the Alcohol Management Plan (currently underway) and provision of more effective substance abuse rehabilitation programs. Some feel the Island needs its own Residential Rehabilitation Service. Suggestions include that it be located out of walking distance from the town and with permanent staff based on the Island rather than on a fly in fly out service model;
- The urgent need for economic development to create jobs or at least the provision of more productive activities by the Remote Jobs and Communities Program and other Service Providers that will engage currently disengaged youth and provide some type of structure to their lives; and
- The need for change around the social acceptability or legitimization of violence will help resolve conflicts and disputes in addition to effecting behavioural change. More research is required around how violence is learned as children are growing up as well as how and why adults use violence on Mornington Island to vent their rage and frustration. There is a need to identify what the alternatives are and how the alternatives can be encouraged. For example, funding of programs such as the 20 minute anti-violence/mediation presentation developed by the Banbaji Student Service for grade 3 children using puppets. Unfortunately, this project was not implemented due to a withdrawal of funding and the departure of the former PCYC Sargent and Banbaji Student Service coordinator.

If mediation / peacemaking is to realistically achieve its long term outcomes, these issues need to be addressed (at the same time as the Project addresses the program specific issues raised by this evaluation). The government needs to continue to work closely with the community to identify solutions to these issues. This would help mediation / peacemaking develop into peacekeeping (which in time may become a default behaviour rather than a service).

Junkuri Laka's Strategic Plan 2013-16 states:

*"First and foremost, Junkuri Laka wants to change the approach of all interventions from that of an "ambulance at the bottom of the cliff" to a development of conditions that will stop people falling off the cliff. Junkuri Laka wants to break the cycle of alcohol and welfare dependency, the cycle of lethargy and disinterest, the cycle of continuous involvement in the criminal justice system and substance abuse, the cycle of having to go off the island to develop yourself, and the drain that this puts on leadership and economic development."*

The most effective way the Project can deal with the wider systemic issues mentioned above, is to become a central conduit in a two-way referral process. To support this vision Junkuri Laka needs to build on the great progress made so far in collaborating with the Police, PCYC, corrections and the court, and extend to the Hospital, Ambulance/Paramedic service, Wellbeing Centre, Mission Australia (i.e. Safe House, Safe Haven, Community Development Officer, Night Patrol) and Save the Children.

In this way the Project can be seen as meeting community needs for a more holistic service encompassing, culture, justice, health and wellbeing, and education and training. Essentially, when clients first come to mediation they would be case managed and referred to services as required to minimise any future adverse contact with the criminal justice system.

The model would involve referral to health and wellbeing services as required to deal with physical and mental health issues like substance abuse and domestic violence. The model would also involve establishing vocational pathways and nationally accredited mediation and pre-employment training in partnership with the school and Remote Jobs and Communities Program/JobFind. This would strengthen the capacity of the Mornington



Island community to develop a reservoir of competent and professional mediators who could work across a cluster of communities such as Doomadgee, Mt Isa and Burketown.

The monitoring system would involve longitudinal tracking of participants and regular evaluation to foster continuous learning and to ensure the Project could demonstrate its outcomes to families, Service Providers and Government.

In terms of future policy Government may want to consider how they can determine collective impact and shared outcomes across the community for a range of programs. This programme has the potential to be used for other communities, however the following challenges to the current way Government does business needs to be addressed and refined.

- Ground up development has to be serious, genuine and allow time and capacity for relationships to develop.
- Even power balance in decision making – who is selecting the communities, are the communities truly determining if this project is for them?
- Long term funding agreements – a commitment to a slow but sure approach and no anxiety about funding renewals or funding cycles for Service Providers.
- Whole of Government and multi-agency approach – involving all jurisdictions and departments in the development and seeking of partnership.
- Whole of community approach – involving all organisations, Service Providers, and clan groups.
- One community, one goal focus – working with all services providers, stakeholders and the community to align the programme logic into meta-logic that collaborates and facilitates and does not compete with each other.
- Indigenous Research and Evaluation Capacity built on the ground to do ongoing monitoring, longitudinal data collection and data linkage to clearly demonstrate an outcome focus (not output). A baseline survey is essential to be able to demonstrate change over time, and will assist in identifying community readiness for the programme.
- Workforce strategy and Community Development plans aligned with training providers to meet the needs of the programme.

## 4. Survey & Consultation Findings

This section details the full results from the Pilot and post fieldwork in relation to each of the research objectives. This is presented in the tables and commentary below<sup>30</sup>. Where appropriate, findings from the document review have also been included.

Community members completed a survey that consisted of quantitative questions about mediation which were then explored further with qualitative questions. The data collection and other research instruments and forms can be found in Appendix H.

Care should be taken in interpreting the following charts and commentary. There is always the potential for 'gratuitous concurrence' in remote community research. That is, a tendency for Indigenous participants to agree with the question or provide an answer that they think the researcher wants to hear rather than providing an answer based on their own experience and perceptions. In this case the issue may have been accentuated by the use of a small incentive (\$20) and the perception that if people gave a positive answer they were more likely to keep receiving the mediation service. However, we used a number of strategies to mitigate this issue. Only very experienced community researchers who were on the lookout for signs of 'gratuitous concurrence' were assigned to the fieldwork for this project. We also worked with local Indigenous research practitioners to collect and analyse the data. We frequently asked for examples when people gave a very positive response meaning they had to justify and provide evidence for why they felt a certain way. This was greatly facilitated by having an open ended question following most of the quantitative questions. Finally, many interviews were conducted without incentives where people were happy to participate without having an incentive. Responses between those who were paid incentives versus those who were not, were also very consistent suggesting that incentives had little overall impact on responses.

Table 8 overleaf presents participant responses ranked in order from highest to lowest based on the proportion who felt the service attribute was happening either often or very often.

### 4.1 Support and usefulness of mediation

This section presents findings in relation to the support and usefulness of the MIRJ Project. Issues explored include why and when people and Service Providers use mediation and whether the Project is:

- Strengthening community capacity to sort out trouble without violence;
- Preventing the trouble before people start fighting;
- Reducing Indigenous people's contact with the formal criminal justice system;
- Inspiring community ownership; and
- Improving the justice system's responsiveness to the needs of community.

### In Summary

The majority of participants felt that mediation was used, often or very often when there was trouble. Very few participants felt that mediation was hardly ever or not used. Most felt that the use of mediation depended on the type of trouble and if people had already

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<sup>30</sup> Please note that percentages may not always add to 100% due to rounding.

tried resolving disputes in their own way first. For example, mediation was generally felt to be more suited for minor civil-type disputes like arguing, swearing, rumours/trash talking, disagreements and minor assaults, especially where the violence is reciprocal. In contrast more serious crimes such as serious assaults, domestic and sexual violence, and serious property offences were felt to be better dealt with by the Police and courts. In addition, most prefer to deal with conflict in their own way and usually only turn to mediation when the benefits of doing so start to outweigh the costs. Usually when fights have been ongoing or threaten to escalate out of control.

Some Service Providers like the School, Police, Probation/Parole, Courts, Women's Shelter, Shop, Post Office, Council and to a lesser extent the Hospital have a very close and cooperative relationship with the Project. In contrast other Service Providers like Save the Children, Mission Australia and the Wellbeing Centre have found the service a little difficult to work with. A few services did not know much about the mediation service or that it existed within the Junkuri Laka Justice Group. Service Providers, women and those not involved in the Project or those without family working as mediators are less likely to feel that mediation is used very often.

The majority of participants felt that mediation helps the community sort out its own trouble often or very often. Very few participants did not feel that mediation was helping the community to sort out its own trouble. The Project has undoubtedly built local capacity in relation to mediation skills and awareness and in facilitating the provision of a locally managed peacemaking service. Numerous qualitative examples were provided of people asking for formal mediation and using mediation informally in their own lives. There is qualitative evidence of medium and longer term skills transference and capacity building occurring. Furthermore, the quantitative data supports this assertion with most participants saying they use mediation more than they used to that they refer others more to mediation than they used to and that they remind people to stick to their mediation agreement more than they used to. In this way mediation can be seen as an agent of change. For more details please see Section 4.6. Behaviour.

Mediation in a broad sense is also being used in innovative ways to help the community sort out trouble. For example; making it easier for people who have been in jail to be reintegrated back into the community, mediations between employers and employees, and mediations between Service Providers like the Police and community members. In addition, the Junkuri Laka data base could potentially be used as a learning tool to help resolve future disputes.

Intensive efforts to recruit a local person with the managerial skills necessary to run the service have been unsuccessful due to the stressful and contentious nature of the work, uncompetitive pay rates and because most people with the required skills are already employed. It should be noted that a trainee has recently been recruited, but it is likely to take several years before she would have the capacity to run the Project.

The majority of participants felt that mediation hardly ever or never stops trouble before fighting. Very few participants felt that mediation was stopping trouble before fighting occurred. Most felt that mediation was almost always used after the fighting had already begun. Importantly most people qualified this statement by then saying that the mediation may not always stop the initial fighting but that it is very effective in preventing it escalating or spreading through the community and going on for extended periods of time.

Most also acknowledged that the Project in isolation could not completely stop the 'spontaneous and often drunken anger' (Service Provider) that leads to so much of the violence, swearing and trash talking between families on Mornington Island.

Notable exceptions are when the mediation involves disputes in the workplace, or those between Service Providers and community members such as police complaint matters. In

these cases mediation may well prevent the escalation of trouble and even violence before the disagreements become too serious.

Having assessed 87 matters, the July-December 2013 Performance Report concluded that mediations were occurring earlier before violence escalated and that the Project in partnership with referring Police has improved its early intervention response to community conflicts thus preventing their escalation.

The majority of participants felt that mediation is stopping adults getting into trouble with Police and courts or sometimes helps. Very few participants felt that mediation was not stopping adults in this regard. Many examples were provided of mediation stopping minor disputes that could have easily escalated into more serious criminal matters. Most feel there are less public nuisance events and other minor offense types than there otherwise might have been. There have also been at least 40 cases of pre-court diversions and 44 cases of court diversions (see Appendix D). Some people also want to change their lives and mediation may give them a second chance to stay out of trouble.

Most felt that social problems such as a lack of jobs (boredom) alcohol and other substance abuse and overcrowded housing were other drivers for why crimes occur. For example, many matters that come before the court either involve a breach of the Liquor Act, public nuisance offences where there is no victim, traffic offences or breaching court orders, rather than personal or family disputes. It appears that the Project in isolation has little control over these wider issues although it has had success in delivering point in time interventions that reduced petrol sniffing, inhalant abuse and car thefts.

The Police report that they work very closely with Junkuri Laka and have two meetings a week with the Mediation Coordinator to discuss court matters and community safety issues. The Police believe the Project is indispensable. It frees up police time and resources to focus on more serious matters. Police estimate that the mediation service saves them at least \$10-15K per year in terms of not having to pursue public nuisance offences that may otherwise have gone through the court system. Also, it diffuses situations before they become more serious while providing a timely and effective forum for dealing with minor police complaints and improving community perceptions of police legitimacy. Mediation has been identified as a reason for why there has not been an assault on Police for a number of years or a police shooting. There was only one instance of Taser use and there has been a recent reduction in the use of pepper spray from 2-3 times a week a few years ago to once or twice a year. The Police also estimate that in 95% of cases where they suggest mediation as an alternative or supplement to court proceedings, it is taken up and in most cases prevents a second fight.

There were mixed views about the effectiveness of mediation in stopping young ones/ children getting in trouble with Police and court with most feeling this happens sometimes and then just as many saying it happened often or very often as hardly ever to never. Many of the issues raised above in relation to adults also apply to young ones in terms of social problems like a lack of jobs (boredom) alcohol and other substance abuse and overcrowded housing. However, there is a perception that many of the property offences (such as break and enter and car thefts) and person on person violence offences on Mornington Island are caused by young people which could explain why participants perceive that mediation is having less of an effect in helping to keep them out of the formal criminal justice system.

There have been some notable successes such as the Banbaji Student Service and innovative approaches in reducing the incidence of car stealing, petrol/solvent sniffing, and school bullying/teasing. Typically these interventions are not part of the formal mediation process in the strict sense but they do contain elements of restorative justice. The Banbaji Student Services Project highlights the importance of:

- Stopping trouble before it can escalate into broader community fighting via monitoring social media, quick intervention at the PCYC or school when trouble is brewing. 'We jump on fighting quick.' (Service Provider);
- Talking about the consequences of fighting with the other children and their families and the wider community; and
- Ensuring the protagonists involved in a fight or dispute participate in an activity together like football or a BBQ or going out bush once everyone has had a chance to calm down.

Many young people feel disempowered and disrespected by older generations. They feel that they lack a voice in discussion of their circumstances and decisions that are made about what to do with them. They are often searching for fun and excitement as an escape from boredom. They are also seeking status and respect. Some young men spoke of intense competitive behaviour and rivalry around getting into trouble. Some mentioned being involved in competitions to see who could steal the most cars, who is the best at break-ins, who can get access to home brew and gunja, who knows the best ways to get high like distilling opal fuel so it can still be sniffed, who are the best fighters, and who are the best looking and so on and so forth.

Young people do not necessarily respect Elders who are involved in fighting, grog running, grog drinking, family violence, selling yeast for homebrew, selling gunja, selling or giving away homebrew/slygrog to children or other adults or Elders who take sides before, during or after mediation has taken place. Young people strongly feel there are not enough structured activities that they are interested in to keep them occupied during the late afternoon, evening and night, during weekends and school holidays. Although the PCYC and Youth Hub do provide activities young people want them to be doing more and extend their hours of operation.

The majority of participants positively supported mediation and felt it belongs to the community all the time, a lot or sometimes. There were only a few who felt that they didn't support mediation and that it hardly ever or never belongs in the community. In answering this question most talked about the service:

- Being useful in helping families sort out their own trouble in their own way;
- Minimising people's contact with the courts meaning less fines and jail;
- Involving highly respected Elders/younger leaders running mediations and sitting on the Justice Group;
- Giving parties to a dispute and their families some control over who should mediate, where it should happen and who should be present; and
- Being really needed by the community because it was helping families stay together and keeping people out of jail.

The Project is also perceived to be culturally accepting and understanding. The Project can be seen as a blend of both traditional Mornington Island Culture (i.e. involvement of the Elders as mediators, focus on kinship connections and restoring equilibrium in relationships etc.) and mainstream culture (Australian legal system). People are still resolving their disputes informally in their own way but if things get out of hand and they need help; they know they have a culturally safe and comfortable space to resolve disputes. So both ways continue to exist on Mornington, and the mix of ways operates also through the Project.

The Project is perceived to be accessible. For example, it has developed a network of local mediators who monitor the community and can be approached if there is trouble. All staff except the Mediation Coordinator are made up of local people and six hundred adults (close to the entire Indigenous adult population of Mornington Island) are members of Junkuri Laka. The Mediation Coordinator is a resident in the community rather than being a fly-in and fly-out service provider. Most nights the Mediation Coordinator and his wife can be seen taking their evening stroll and casually talking to people.

A few participants suggest that the Project has become less community driven over the past few years. Specific examples include:

- Some criticise the present coordinator for being too far in front of the community rather than letting the community take the lead;
- There is a perception that more families used to be represented in the pool of regularly working mediators - a few feel that over the last few years there has been a smaller number of mediators involved;
- The 11 Elders' rules have now been simplified to just 2 - confidentiality and respect - It is questionable if this reduction honours the developmental work conducted to develop these rules with the Moyenda Elders;
- More mediations are now held at the Court House - some participants feel intimidated by this while others feel safer if the situation is volatile; and
- Some feel the service is for the community and that it is there for them, but some are not sure if they own Junkuri Laka - there is a need for greater promotion around what the service can do for people.

It should be noted that these points were only raised by a few participants and should be carefully considered given that the community ownership question scored highest of all the questions in the Impact survey. Outputs from the Project have doubled since the present Coordinator took on the role and the overwhelming feel from participants is that he is accepted, and an embedded part of the community. Some also point out that he is available 24/7 and does a lot of work to assist community members which is not recognised and for which he is not remunerated. For example, in preparing application submissions for Blue Cards to the Queensland Commissioner for Children for people whose criminal record would otherwise bar them from working with children.

One key stakeholder observed that there may be a case for establishing a ceremonial peacekeeping monument as they have done in Yuendumu or something similar to what's been done in Aurukun in relation to the Aurukun Justice Group's opening ceremony DVD. During the ceremony a Cairns based Judge travelled to the community for the opening (in a robe).

## **Recommendations**

There is a need for greater promotion of when mediation is and is not appropriate, what it can and can't be used for, and how it can help community members and Service Providers. There is also a need to increase the membership of women and broaden the base of families who have a mediator working for them.

Mediation processes should be integrated with other processes and services in a whole-of-government and whole-of-community approach. Therefore, the Project needs to build on the great work that has been done so far to establish cooperative relationships with the Police, Courts, Probation/Parole, School, PCYC, Women's Shelter and extend to the Wellbeing Centre, Mission Australia (including Night Patrol) the Ambulance/Paramedic Service, Youth Hub and Save the Children. These services all operate their own outreach

services and work with the same client group (i.e. families with complex needs). They could potentially partner as surveillance agents for the Project in return for two way referral service and access to the mediation service's client group and the Justice Group Elders.

Succession planning is crucial to ensure these links and referral pathways are enduring and do not collapse due to future changes of staff or personality conflicts. It was suggested that a local person be employed with managerial skills to run the mediation service. This will require a competitive pay rate in compensation for the stress and contentious nature of being a mediator. Further, the pool of mediators could be widened to include more families.

Enhance skills transference by making it clear to all observers at the start of mediations that the skills and techniques that people observe will be equally applicable in their private lives. Learning by observation and doing in small groups is in tune with traditional learning styles that are still prevalent on Mornington Island today.

There is a need to establish and strengthen relationships with other Service Providers who can act as surveillance agents. The Program could work with the school and RJCP, PCYC and Youth Hub to develop a training activity around leadership and mediation for young people and job seekers.

There is a need to examine if there is scope to implement more preventative peacekeeping work in partnership with other Service Providers involved in implementing the 2014 Breaking the Cycle initiative. Further, there is a need to examine whether or not there is scope to implement more preventative peacekeeping work in tandem with other Service Providers involved in implementing the 2014 Breaking the Cycle Mornington Island Program.

Also, consideration of working with youth organisations to lobby the NRL to set up a program to engage young men in sport would be recommended. Once engaged they could then be case managed to referral services for justice (mediation and assistance with legal matters) and wellbeing services (healing, counselling, drug and alcohol services and family violence assistance). Further, there may be a need for employment services (RJCP pre-employment training, remedial practically based literacy and numeracy). A similar project could be considered for young women drawing on softball, touch footy or other activities identified in the Youth Action Strategy.

The research suggests that young men are interested in a range of career activities involving caring for country, primary industry, practical occupations around fixing and making things, adventure, and helping the community. There is clearly scope to introduce mediation training as part of helping the community. Programs, projects and activities based around the themes described above could be effective ways of engaging young men.

When young people first get into trouble, maximum effort should be put into ensuring they don't get into trouble again. This will require a whole-of-community effort and a case management approach with all relevant Service Providers pooling their resources and expertise to ensure these young people are given every chance to get back on track. This will provide a balance to offset the influence of older siblings and friends who may be constantly drawing them into a life of petty crime, violence and substance abuse.

The Program could consider the establishment of something symbolic that will remind people of the efforts and commitment local people have made in developing, implementing and making the Project a success.

As long as an outside Mediation Coordinator is employed their role should be more in the background as a mentor and guide, providing technical assistance and training as

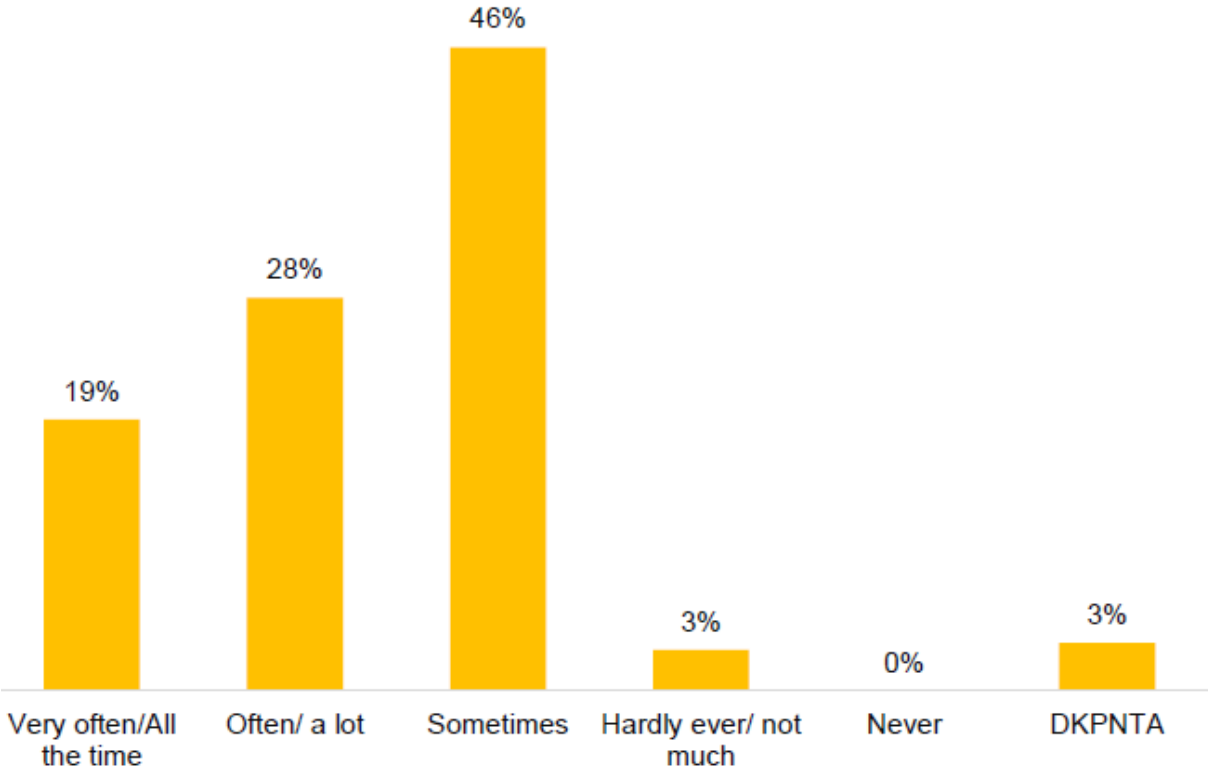
required to keep the office running and as an impartial 'authorising outsider' of the last resort. Local people should be seen more to be running the operation and as the face of the Project.

**4.1.1 Use of the MIRJ Project when there is trouble**

This subsection details if and when people use formal mediation through the Project when there is trouble.

At an overall level, the majority of participants felt that mediation was used, often or very often (47%) or sometimes (46%) when there was trouble. Very few participants felt that mediation was hardly ever or not used.

**Figure 8: How often is mediation used when there is trouble?**



Base: All participants were asked Q1 (n=207). One participant was not asked this question during the Pilot fieldwork.

Q1: [How often] do people use mediation when there is trouble?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

DKPNTA Don't Know and Prefer not to say

The following significant differences were observed:

- Service Providers were less likely to say that mediation was occurring very often (8%) than community members (23%);
- Those involved in mediation either as parties to a dispute or supporting family/friends were more likely to say that mediation was used very often (25%) than those who have not been involved in this way (8%);
- Those with family working as mediators were more likely to say that mediation was used very often (27%) than those without a family member working as a mediator (6%); and



- Men were more likely to say that mediation was used very often (26%) than women (14%).

Most felt that use of mediation depended on the type of trouble and if people had already tried resolving in their own way first. For example, mediation was generally felt to be more suited for minor civil-type disputes like arguing, swearing, rumours/trash talking, disagreements and minor assaults, especially where the violence is reciprocal. In contrast more serious crimes such as serious assaults, domestic and sexual violence, and serious property offences were felt to be better dealt with by the Police and courts. However, mediation can still operate by reducing ongoing trouble between the families of the offender and victim.

Most also prefer to deal with conflict in their own way and usually only turn to mediation when the benefits of doing so start to outweigh the costs, usually when fights have been ongoing or threaten to escalate out of control.

*"The number of successful mediations on Mornington Island is only a small proportion of the number of conflicts. In many instances a fair fight is viewed as a legitimate and effective way to end a matter and offers of mediation are viewed as unnecessary, counterproductive or even interfering. While popular attention is given to the practice of 'pay-back' less attention has been paid to the more pervasive practice of forgiveness and unassisted reconciliation or at least the normalising of relations. Many conflicts do properly resolve themselves while others may go unresolved and remain submerged until reignited by later events. Mediation is seen as important only in matters that threaten to escalate out of hand; have been carried on for too long; need resolution for cultural reasons (such as the need for reconciliation prior to the holding of a funeral); where important relationships are at risk of being lost or for other personal reasons<sup>31</sup>."*

This idea that people look to themselves first and only come to formal mediation when really needed is consistent with the Eight Step process for conducting mediations and 11 Elders' Rules developed by the local Moyenda Elders during the inception of the Project. These clearly state that formal mediation is only to be used as a last resort when people can't sort out their own problems (refer to the figure below). Furthermore, it states that serious offences and domestic violence are better dealt with by the courts, although surrounding issues may still be dealt with by mediation.

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<sup>31</sup> Venables (2012) [Mornington Island Restorative Justice Project: report on its development, implementation and transition to community management 2012](#), Department of Justice and Attorney General Dispute Resolution Branch pg 37.

**Figure 9: Conflicts appropriate for mediation based on the Eight Steps and 11 Elders’ Rules**

**What conflicts can go to peacemaking?**

(Conflict can mean a disagreement, dispute, argument, trouble or a fight).

Most people sort out their own conflicts and don’t need help. Peacemaking is for two people or two families who are in conflict and need help to sort it out.

Most conflicts can go to peacemaking if both families are willing to sort out their conflict and put it right. However, when people are charged with serious offences or there is domestic violence, the Elders and the Police agree that these are best dealt with by the courts and not by peacemaking.

However people who want to make their relationship better may agree to go for peacemaking to sort out other problems but violence in a relationship is dealt with by the court.

Source: Eight Steps for mediation and 11 Elders’ Rules

The school also has a focus on using outside mediation through the Banbaji Student Service when it can’t solve disputes internally, especially if they are likely to spread into the wider community. The school has its own policy for quickly resolving disputes before they flare up into a fight based around the five principles highlighted in the poster below: 1. Ignore; 2. Walk away; 3. Talk friendly; 4. Talk Firmly and 5. Tell someone (which may lead to mediation).

**Figure 10: Mornington Island State School High Five strategy for dealing with conflict/bullying/teasing**

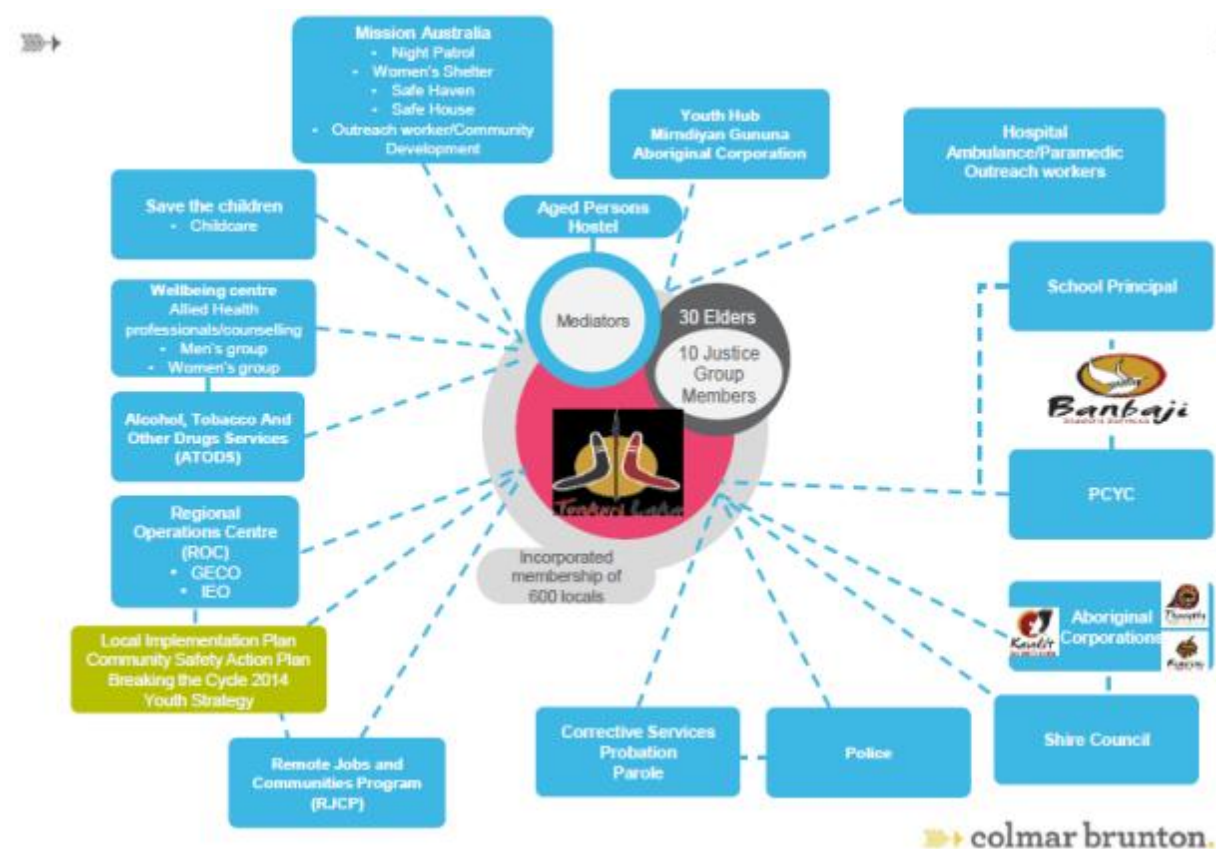


Mediations at the school or Police-Citizens Youth Club (PCYC) mostly involve a much-respected mediator (the Police Liaison Officer (PLO)) who has a deep understanding of family networks and relationships, culture and history. Therefore, he is able to point out relationships and connections between disputing parties. He can also say things to the ‘kids and the families’ that the teachers could never say without offending local people and damaging the school’s relationship with the local community. In this way the PLO is able to resolve the majority of disputes that the school is unable to do by themselves.

#### 4.1.2 Other Service Providers

Some Service Providers such as the School, Police, Probation/Parole, Courts, Women’s Shelter, Council and to a lesser extent the Hospital appear to have a very close and cooperative relationship with the Project. In contrast other Service Providers like Save the Children, Mission Australia (who auspices the 2014 Breaking the Cycle program) and the Wellbeing Centre have found the service ‘difficult’ to work with and a few did not know much about the mediation service or that it existed within the Junkuri Laka Justice Group. This may help explain why Service Providers were less likely to say that mediation was occurring very often (8%) and more likely to say they did not know (12%) than community members who were more likely to say that mediation was occurring very often (23%) and less likely to say don’t know (0%).

**Figure 11: Service mapping – Opportunities for greater collaboration with services on the left**



There are areas that complement each other which the Project could take advantage of to provide a more holistic service to community members and to ensure that no one falls through the cracks. The Project’s mediation services can help the community become more peaceful which will allow people to take more advantage of services. The Project could facilitate this by building on the great work it has done so far in building relationships with Service Providers on the right side of the diagram and extending links and cooperation to services listed on the left hand side from RJCP (bottom left) to Mission Australia (top right). In many cases the Project is servicing the same client group as these organisations (i.e. families with complex needs) hence the need for a quick and easy two way referral service process to be established between these services and the Project.

These services all operate their own outreach services so they could potentially partner as surveillance agents for the Project in return for two way referral service and access to the mediation service’s client group and the Justice Group Elders.

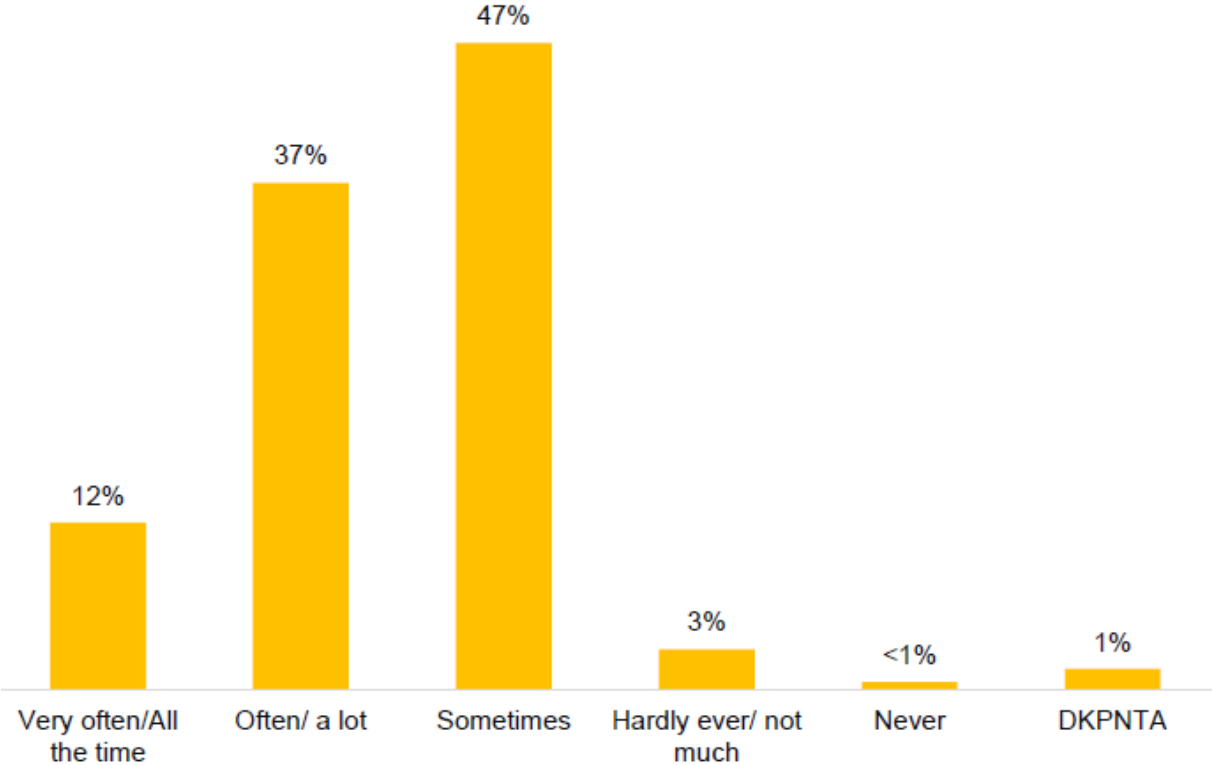
There will also be a need for succession planning to ensure these links and referral pathways are enduring and do not collapse due to personality conflicts or a change of staffing.

### 4.1.3 Strengthening community capacity to sort out trouble without violence

This subsection examines if the Project is helping to strengthen the Mornington Island community’s capacity to resolve disputes peacefully in their own way.

Results presented in Figure 12 indicate that the majority of participants felt that mediation helps the community sort out its own troubles (i.e. manage conflict without fighting, payback, family feuding, bullying) often or very often (49%) and sometimes (47%) helps. Very few participants did not feel that mediation was helping the community to sort out its own trouble.

**Figure 12: Does mediation help the community sort out its own trouble without fighting?**



Base: All participants were asked Q2 (n=208).  
Q2: [How often] does the mediation help the community sort out its own trouble (i.e. manage conflict) without fighting (payback, family feuding, bullying)?  
Note: “How often” was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

Service Providers were less likely to say mediation was often helping the community sort out its own trouble (30%) than community members (54%). Those involved in mediation either as parties to a dispute or supporting family/friends were more likely to say that mediation was often helping sort out trouble without fighting (57%), than those who were not involved (33%);

The Project has undoubtedly built local capacity in relation to mediation skills, awareness, and in facilitating the provision of a locally managed peacemaking service. Numerous qualitative examples were provided of people asking for formal mediation and also using

mediation informally in their own lives. Therefore, there is qualitative evidence of medium and longer term skills transference/capacity building occurring. In this way mediation can be seen as an agent of change. Furthermore, the quantitative data supports this assertion with most participants saying they use mediation more than they used to (64%) that they refer others more to mediation than they used to (68%) and that they remind people to stick to their mediation agreement more than they used to (61%). For more details please see Section 4.6. Behaviour.

Mediation in a broad sense is also being used in innovative ways to help the community sort out trouble, such as:

- Making it easier and paving the way for people who were convicted of serious offences to be reintegrated back into the community upon release from jail<sup>32</sup>;
- Mediations between employers and employees;
- Mediations between Service Providers like the Police and community members.; and
- The Junkuri Laka data base is collecting case histories of disputes, how they started and what worked to resolve them. This could potentially be used as a learning tool to help resolve future disputes on Mornington Island as well as in other similar communities. In this way the Project is building potential capacity for the community to more effectively resolve its own disputes.

In terms of strengthening community capacity to sort out disputes there is a pool of 30 mediators. This sounds impressive until you find that only a handful are regularly chosen to conduct mediations. This is echoed in the Project documentation. The July-Dec 2013 Performance Report states that despite intensive efforts, the employment, and training of a local person in management position has been unsuccessful. The key barriers cited are uncompetitive pay rates (at \$50k per year) and the stressful and contentious nature of the mediation role<sup>33</sup>. In addition, most people in the community who could do the job are already employed in less stressful occupations. Most of the work is done by the Mediation Coordinator and four Elders who act as local mediators.

*"Three of these are elderly and in poor health and out of a current pool of 20 mediators only one respected mediator could be described as young<sup>34</sup>."*

*(Service provider)*

The Performance Report from an earlier period (January-June 2012) stated:

*"...an external experienced manager has enabled the justice group to become operational after many years of inactivity, and has therefore given them the wherewithal to take on the peacemaking service, it has not increased the capacity of local people to manage a peacemaking service themselves<sup>35</sup>."*

The issue of sustaining mediation agreements was also raised. Much depends on whether people/families stick to their mediation agreement and if the Elders' rules are followed. Views are mixed on how often these things happen. One participant stated the following:

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<sup>32</sup> This approach has been effective at reducing recidivism on the Tiwi Islands. See Okazaki, (2011) The "Ponki" Victim Offender Mediation Program on the Tiwi Is. The Department of Justice Community Justice Centre NT Government.

<sup>33</sup> July-December 2013 Performance Report. Pg 2.

<sup>34</sup> Ibid pg2.

<sup>35</sup> January-June 2012 Performance Report. Pg 3.

*"Mediation sorts out conflict as long as they [mediators and parties to a dispute] stick to the Elders' Rules and people do what they agreed to do [i.e. stick to the mediation agreement]."*

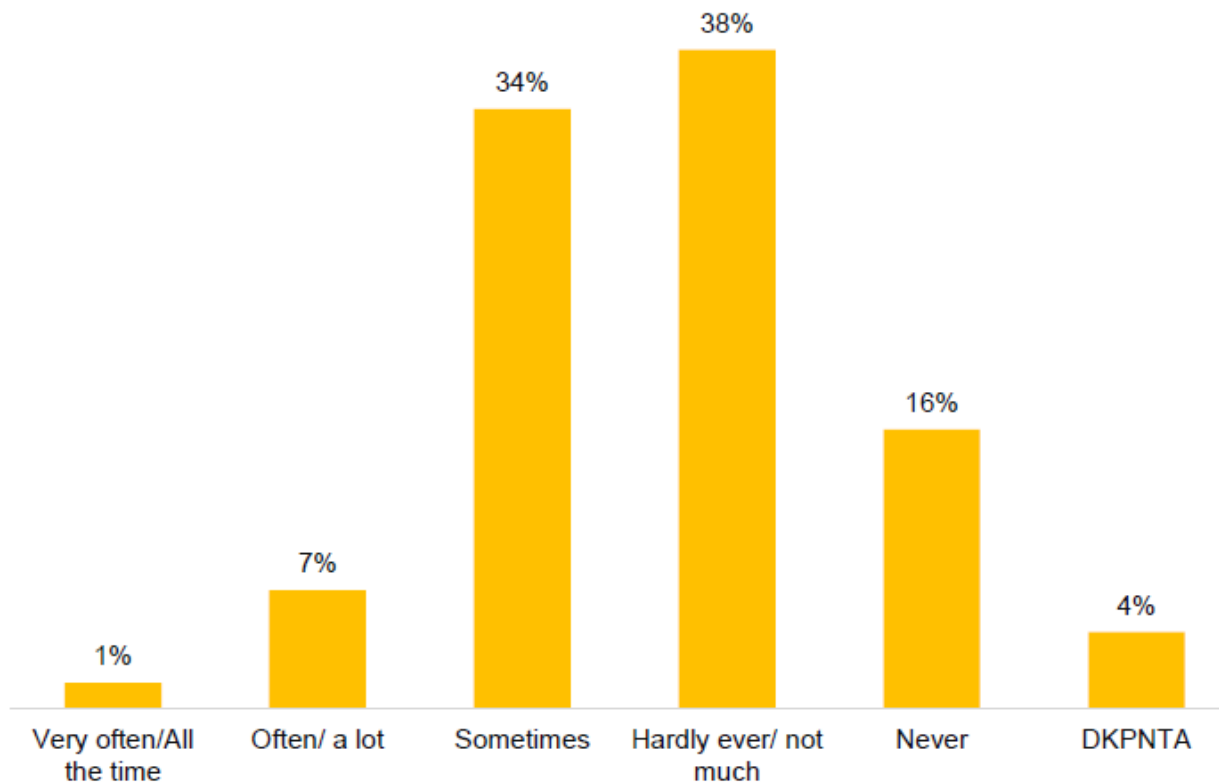
*(Man, 55-64 years, party to a dispute)*

#### 4.1.4 Stopping the trouble before people start fighting

This subsection examines if the Project is helping to stop disputes and trouble before people start fighting.

Results from Figure 13 indicate that the majority of participants felt that mediation hardly ever or never stops trouble before fighting (54%) and sometimes (34%) helps. Very few participants felt that mediation was stopping the trouble before the fighting occurred either very often (1%) or often (7%).

**Figure 13: Does mediation stop trouble before people start fighting?**



Base: All participants were asked Q3 (n=208)

Q3: [How often] does the mediation stop the trouble before people start fighting?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses. Note there was an error in the topline report where the scales were inadvertently reversed for this question.

Those involved in mediation were more likely to say that mediation hardly ever stops the trouble before fighting (43%) than those who were not involved (27%). They were also less likely to say this happens sometimes (28%), than those not involved. No other significant differences were observed.

Most feel that mediation is almost always used after the fighting has already begun. Notable exceptions are when the mediation involves disputes in the workplace, or those between Service Providers and community members such as police complaint matters. Most also acknowledged that the Project in isolation could not completely stop the

"spontaneous and often drunken anger" (Service Provider) that leads to so much of the violence, swearing and trash talking between families on Mornington Island.

Violence is still clearly an issue on Mornington Island. Staff at the hospital say that when they are on night duty people, especially women, are coming in with assault related injuries every night. This supports the view that despite the Project, levels of violence continue to be an ongoing problem.

In addition, the recent Remote Service Delivery Community Research Study conducted by CBSR participants found that 55% of people stated that there was less fighting than three years ago, while 34% said that a reduction in violence had not occurred (n=53). During the follow up Most Significant Change ballot voting with 109 community members, 'stop the home brew, gambling, drugs and fighting' were considered the key challenges that needed to be overcome to make Mornington Island a better place to live<sup>36</sup>.

Importantly, most also felt that while mediation may not stop the initial fighting, it is very effective in preventing it escalating or spreading through the community and going on for extended periods of time. Below are two examples of people's perceptions around the effectiveness of mediation.

*"Mediation as a diversionary activity is a point in time intervention that could be life changing. But the fighting is not decreasing, just the duration and size of fights has reduced. It has stopped the big out of control fights, but has not made people more peaceful towards each other. It's not therapeutic, but the community has got to a place where other things can happen. It's not paralysed by violence like some other communities...."*

(Key stakeholder)

*"When fights start up we can sort it out good quick."*

(Woman, 35-44 years, Party to a dispute)

The Project has proven effective at stopping secondary confrontations and ongoing trouble between families that often reverberate from the initial incident. A recent example is instructive of this. During the Pilot fieldwork a very serious incident involving a young girl who was allegedly raped by four 15-16 year old boys occurred. Mediation stopped the initial vigilante justice fighting between the two families, stopped the alleged perpetrators being assaulted by aggrieved family members, and then stopped the brother of one of the men who had been assaulting one of the alleged perpetrators, assaulting his own brother because he had a relationship with one of the alleged perpetrator's mother. Two days later both families went through mediation. Both sides cried and hugged and said that the matter was now in the hands of the Police and no further payback or recriminations were to happen.

Having assessed 87 matters, the July-December 2013 Performance Report concluded that mediations were occurring earlier, before violence escalates. Also, the report stated that the Project in partnership with referring to the Police has improved its early intervention response to community conflicts thus preventing their escalation<sup>37</sup>.

More preventative peacekeeping initiatives may be required if the Project is to have more impact in peacekeeping as opposed to peacemaking. Such initiatives may include Resilience Training, promotion of mediation and anti-violence messaging on social media or involving parties in a dispute in follow up activities together such as going out bush in

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<sup>36</sup> Department of the Prime Minister and Cabinet, 2014, Remote Service Delivery: Mornington Island Community Report, pg 4-9.

<sup>37</sup> Performance Report, pg 5.



tandem with other services like Night Patrol, the Wellbeing Centre, Ambulance Service, Mission Australia, the school, PCYC and the Youth Hub, such as those implemented by the Banbaji Student Service (see Appendix C).

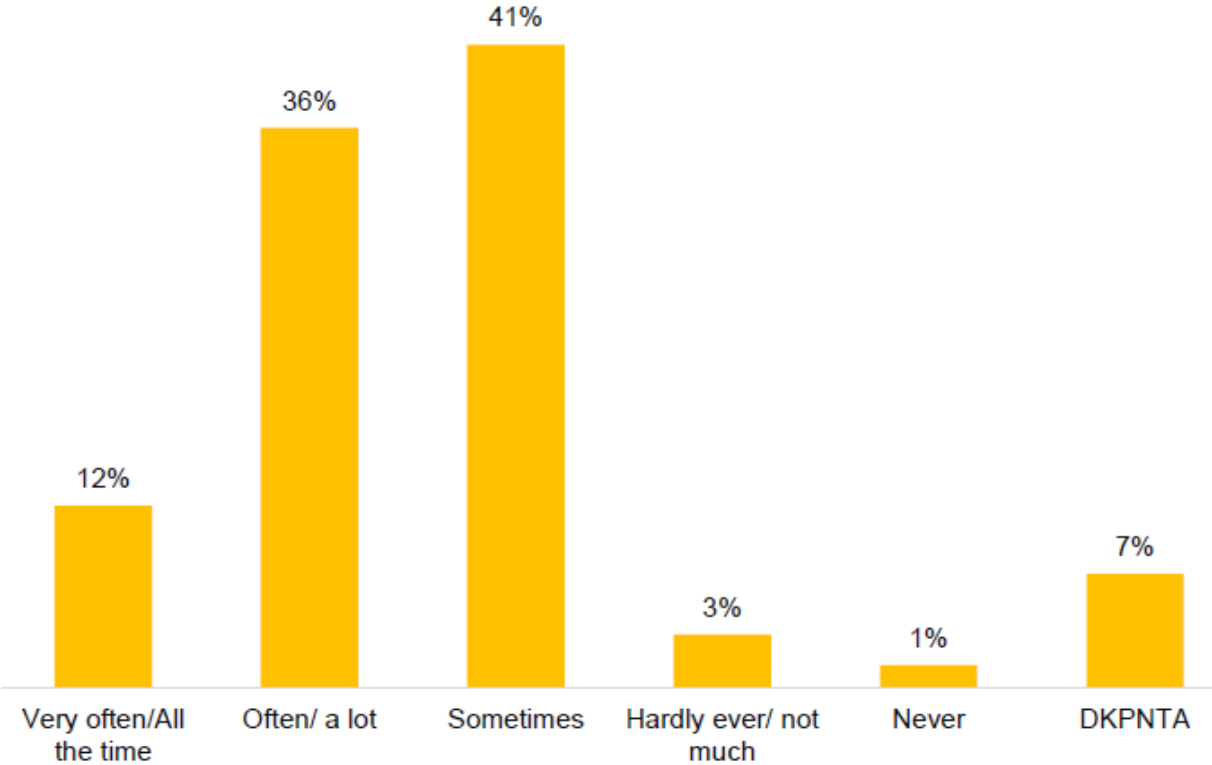
### 4.1.5 Reducing Indigenous people’s contact with the formal criminal justice system

This subsection examines if the Project is reducing or minimising Indigenous people’s contact with the formal criminal justice system.

#### Adults

The research findings summarised in Figure 14 indicated that the majority of participants felt that mediation very often or often stops adults getting into trouble with Police and courts (48%) or sometimes (41%) helps. Very few participants felt that mediation was not stopping adults getting into trouble with Police and court.

**Figure 14: Does mediation stop adults getting in trouble with police and court?**



Base: All participants were asked Q4 (n=208)  
Q4: [How often] does the mediation stop adults getting in trouble with the Police and court?  
Note: “How often” was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

The following significant differences were observed:

- Men were more likely to say that mediation often stopped adults getting into trouble with Police and courts (29%) than women (42%);
- Those involved in mediation were more likely to say that mediation often stopped adults getting into trouble with Police and courts (42%), than those not involved (25%);



Many examples were provided of mediation stopping minor disputes that could have easily escalated into more serious criminal matters. Quotes supporting these findings have been included below.

*"I have noticed people not coming back to court who have been referred to mediation."*

*(Service Provider)*

*"Relationships break down periodically. Mediation acts as the circuit breaker that stops offences occurring or escalating."*

*(Service provider)*

*"Mediation stops us from getting into trouble with the Police and helps understand the consequences of fighting with each other."*

*(Male, 18-24, Party to a dispute)*

Some people also want to change their lives and mediation may give them a second chance to stay out of trouble. Quotes supporting this ideal have been included below.

*"Some people want to change their lives and want their problems solved before they go to court." (Man, 55-64 years, Party to a dispute)*

*"It's giving people another step before the courts...its giving people a second chance."*

*(Service Provider)*

Most felt that social problems such as a lack of jobs and resulting boredom; alcohol and other substance abuse and overcrowded housing were other drivers for why crimes occur within the community. For example, many matters that come before the court involve either a breach of the Liquor Act, public nuisance offences where there is no victim, traffic offences or breaching DVOs, rather than personal or family disputes. The Project in isolation has little control over these wider issues, although it has had success in delivering a point in time interventions that reduced petrol sniffing, inhalant abuse and car thefts. Often Police make referrals so people still have contact with the formal criminal Justice system and then the matter goes to mediation. Sometimes charges are dropped or reduced or bail applications are granted depending on the seriousness of the offence.

The Police report that they work very closely with Junkuri Laka and have two meetings a week with the Mediation Coordinator to discuss court matters and community safety issues. The Police believe the Project is indispensable for the reasons outlined below.

- The project frees up police time and resources to focus on more serious matters rather than minor disputes that often turn out to be based on misunderstandings, rumours or trash talking.
- It diffuses situations before they become more serious. Police believe the recent tragic incident involving the alleged rape of a six year old girl by four young boys could have easily blown up into a full scale community riot (with all the social and financial costs that entails) were it not for the efforts of the mediation service.
- It provides a timely and effective forum for dealing with minor Police complaints, therefore diffusing issues with Police. In the six months prior to December 2014 there were 12 mediation cases involving complaints by residents against the Police. These meetings helped address miscommunication over Police procedure, decision making and Police conduct. In some instances the meetings led to Police

acknowledging they could have handled a situation better and offered an apology to the complainant who accepted the apology. This may well "...provide a much needed improvement in police community relations in a community that has known serious riots against the Police<sup>38</sup>."

- The police believe the mediation service is one of the reasons why there has not been an assault on police for a number of years, or a police shooting, only one instance of Taser use and a reduction in the use of pepper spray from 2-3 times a week a few years ago to once or twice a year more recently.
- The Mediation Coordinator who most people respect and trust carefully explaining police actions and thereby improving community perceptions of police legitimacy.
- The police estimate that in 95% of cases where they suggest mediation as an alternative or supplement to court proceedings it is taken up and that in most cases it prevents a second fight.
- The police estimate that the mediation service saves them at least \$10-15K per year in terms of not having to pursue public nuisance offences that may otherwise have gone through the court system.

Despite the Project's successes people continue to attempt to use the criminal justice system to sort out disputes that are primarily civil issues. A number of court officials stated that minor matters that come before the court in Mornington Island would never reach court in middle class Brisbane. In the 18 months prior to February 2013 of the about 730 adults on Mornington Island more than 75% appeared on criminal charges in the last 18 months<sup>39</sup>. Most of these cases probably also involved alcohol. For example, of all court matters that were dealt with in 2011-12, 80% involved alcohol as an important or determining factor<sup>40</sup>. The secondary data is inconclusive in relation to the effectiveness of the Project in reducing contact with the formal criminal justice system.

The Project was introduced in full in 2008/2009, coinciding with the spike in reported offenses described above. The peak seen in this year quickly dissipated in 2009/10 and reported offenses fell to levels comparable to those reported for the 2007/08 period. This rapid reduction could, at least in part, be due to the implementation of the MIRJ Project. However, it should be noted that total crimes then started to increase again starting in 2010/11, suggesting that any impact that the MIRJ Project had on reported offenses was short lived. The rise in reported offenses was probably due to an increase in alcohol related offenses. For more details Chapter 7).

Reported offenses for Mornington Island were contrasted with two comparator communities. For the purposes of this comparison, 45 rates per 100,000 persons were used. Whereas the previous sections reported on the total number of reported offenses, this section uses a simple rate that divides total offenses by the population (per 100,000) for each community. This conversion was made so that the communities could be meaningfully compared given differing population sizes.

For other offenses (predominantly comprising alcohol and public order offenses): Mornington Island's reported offense rate was similar to the two communities up until a spike that started in 2008 into 2010. This spike elevated Mornington Island's rate such that 'other' offenses have been consistently higher for the Island than the other communities since 2008.

## Young people

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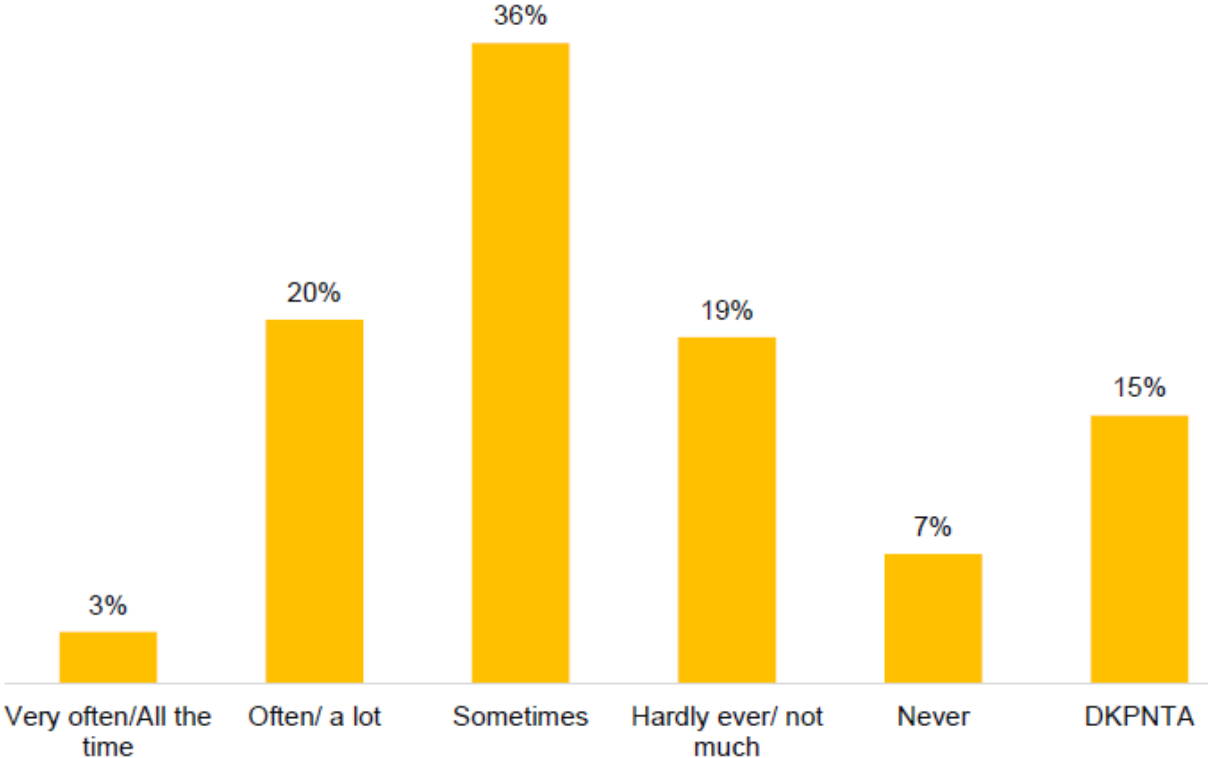
<sup>38</sup> Performance Report July-December 2014, pg 5.

<sup>39</sup> Junkuri Laka Strategic Plan 2013-2016 pg. 23.

<sup>40</sup> Junkuri Laka Strategic Plan 2013-2016 pg. 16.

There were mixed views about the effectiveness of mediation in stopping young people getting in trouble with police and court with most feeling this happens sometimes (36%) and then just as many saying it happened often or very often (23%) or hardly ever to never (26%). Fifteen per cent of participants who said they didn't know.

**Figure 15: Does mediation stop young ones/children getting into trouble with the Police and court?**



Base: All participants were asked Q5 (n=208)  
 Q5: [How often] does the mediation stop the young ones/children getting in trouble with the Police and court?  
 Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

Men (12%) were more likely to feel that mediation for young ones / children never stops trouble with police and courts than women (3%). Those not involved in mediation were more likely to say that they did not know if mediation for young ones / children stops trouble with police and courts (29%) than those involved (7%).

Many of the issues raised above in relation to adults also apply to young ones. However, there is a perception that many of the property offenses (such as break-and-enter and car thefts) and violence offences on Mornington Island are caused by young people which could explain why participants perceive that mediation is having less of an effect in helping to keep them out of the formal criminal justice system.

It should also be noted that young people in whatever society are often overrepresented in offending statistics because:

*"Juveniles are less mature — less able to form moral judgments, less capable of controlling impulses, less aware of the consequences of acts, in short they are less responsible and therefore less blameworthy, than adults... [Therefore] the law recognises that the cognitive, emotional and psychological immaturity of a young*

*person contributes to their breaching of the law and so allowance is made for youth and not just their biological age<sup>41</sup>."*

In addition, some key stakeholders felt there was now less scope for Youth Justice Conferencing because of changes to legislation in Queensland – specifically, in 2013 the diversionary option of Youth Justice Conferencing as a court order was abolished<sup>42</sup>.

However, there have been some notable successes such as the Banbaji Student Service and innovative approaches to reducing the incidence of car stealing, petrol/solvent sniffing, and school bullying/teasing. Typically these interventions are not part of the formal mediation process in the strict sense but they do contain elements of restorative justice. The Banbaji Student Services Project highlights the importance of:

- Stopping trouble before it can escalate into broader community fighting via monitoring social media, quick intervention at the PCYC or school when trouble is brewing. *"We jump on fighting quick."* (Service Provider);
- Talking about the consequences of fighting with the other children and their families and the wider community;
- Ensuring the protagonists involved in a fight or dispute participate in an activity together like football or a BBQ or going out bush once everyone has had a chance to calm down;
- Pointing out the fact that most families on Mornington Island are either connected or have a historical tradition of cooperation;
- Giving young men an outlet for aggression and competition via safe activities such as Bouncy Boxing;
- Provision of both before, after school and evening activities for young people. Combined with information sessions and the sharing of food;
- One on one or small group counselling follow up activities out bush with a respected Elder/leader; and
- Informing parents and report the more serious incidents to the Mediation Coordinator or the Police.

The success of the Banbaji Student Service is also likely to have been underreported as a lot of their mediation work is informal and may not have been recorded. In addition, the Banbaji Student Service has been less accessible to the school since the departure of the coordinator who was also the PCYC Sargent in Charge.

### **Engaging young people**

During interviews with young people the following issues became clear: Many young people feel disempowered and disrespected by older generations and they lack a voice in discussion of their circumstances or decisions made about what to do with them;

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<sup>41</sup> Foley, T. (2013) [Australasian Youth Justice Conference: Changing trajectories of offending and re-offending](#). Paper presented at Australasian Youth Justice Conference—Changing Trajectories of Offending and Reoffending. National Convention Centre Canberra 20-22 May 2013.

<sup>42</sup> Note that police can still refer matters to Youth Justice Conferencing but the courts cannot use this diversionary tool before sentencing.

Young people are searching for fun and excitement as an escape from boredom. They are also seeking status and respect. As they cannot get this from adults and Elders they often turn to their own peers in search of power, control, and status.

*"What starts fighting is kids saying to another you can't fight, you want to fight me? One kid tries to prove who is boss and tries to prove themselves in front of other kids."*

*(Male, 18-24, Part to a dispute)*

Some young men spoke of intense competitive behaviour and rivalry around getting into trouble such as competitions to see who could steal the most cars, who is the best at break-ins, who can get access to home brew and gunja, who knows the best ways to get high like distilling opal fuel so it can still be sniffed, who are the best fighters and who are the best looking etc etc etc.

*"Break into cars for the fun."*

*(Young person, anonymous)*

*"Get into fights...see who is strongest...fighting is fun."*

*(Young person, anonymous)*

Some also felt they were under pressure to drink homebrew from older members of their family. In addition, there were reports that older teenage boys sometimes take younger ones with them to commit offences like stealing cars because they know the young ones will not be charged.

*"If I don't drink I worry that my family won't want me...they say I'm trying to be a whitefella."*

*(Young person, anonymous)*

Some participants report that some children as young as five years of age are wandering the streets at night and are essentially being socialised by older children and taught how to have 'fun' based around drinking home brew, having sex with multiple partners, sniffing solvents and aerosols, breaking and entering, vandalism, fighting and stealing cars. A few young men we spoke to feel that anything is better than staying on Mornington Island even going to jail where they sometimes perceive they have more caring family or at least more brothers in the Aboriginal way.

*"Some young fellas want to go to jail because they got nothing here. The parents don't care about them and [in] jail they have lots of bros."*

*(Young person, anonymous)*

*"Lots of kids are shuffled [through] different families, and have no security [or] stability. The government needs to put stronger laws in [place] for parents. Kids follow parent's lead. It's all about how kids are brought up."*

*(Young person, anonymous)*

Young people do not necessarily respect Elders who are involved in fighting, grog running, grog drinking, family violence, selling yeast for homebrew, selling gunja, selling or giving away homebrew/sly grog to children or other adults or who take sides before, during or after mediation has taken place. Further, young people strongly feel there are not enough structured activities that they are interested in to keep them occupied during the late afternoon, evening and night, during weekends and school holidays. Although the PCYC

and Youth Hub do provide activities young people want them to be doing more and extend their hours of operation.

*"We need more activities at the PCYC, more discos, footy, boxing, softball soccer...the PCYC used to be open to 1030pm."*

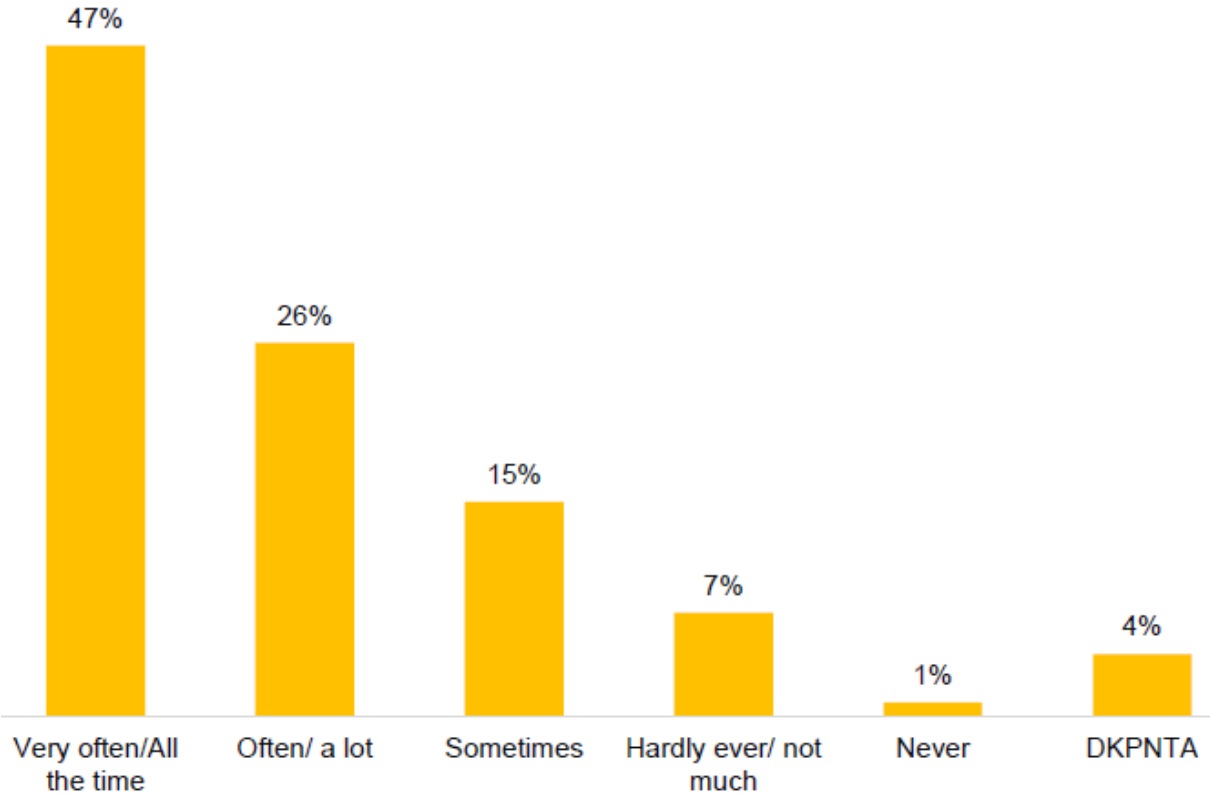
*(Male, 25-34, Support person of someone in a dispute)*

### 4.1.6 Inspiring community ownership

This subsection details the level of community ownership that the Project has instilled.

The majority of participants positively supported mediation and felt it belongs to the community all the time (47%) and a lot (26%) and sometimes (15%). There were only a few who felt that they didn't support mediation and that it hardly ever or never belongs in the community (8%).

**Figure 16: Does mediation feel like it's for your community?**



Base: All participants were asked Q6 (n=208)

Q6: [How often] does the mediation feel like it's for your community (i.e. like it belongs to you and you support it)?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

- Service Providers were more likely to say that mediation hardly ever felt like it was owned by the community (15%) than community members (4%);
- Those not involved in mediation were less likely to say that mediation often felt like it was owned by the community (30%) than those involved (54%);
- Those with family working as mediators were more likely to say that mediation very often felt like it was owned by the community (60%) than those without a family member working as a mediator (28%); and

- Older people (65%) were more likely to say that mediation very often felt like it was owned by the community than mid-aged people (40%).

The reasons why people responded positively to this question included the way in which the service was seen as:

- Being useful in helping families sort out their own trouble in their own way;
- Minimising their own or another family member's contact with the courts meaning less fines and jail;
- Involving highly respected Elders and younger leaders running mediations and sitting on the Justice Group;
- Giving parties to a dispute and their families some measure of control over who should mediate, where it should happen and who should be present; and
- Being really needed by the community because it was helping families stay together and keeping people out of jail.

### **Tradition, culture and Australian law**

The Project is also perceived to be culturally accepting and understanding. The kinship model includes elements of the traditional form of dispute resolution ceremony called "square up". For example, the emphasis on kin relationships and Elders' participation in overseeing the mediation process. The Project has provided a more formal, structured, consistent and safe way of resolving disputes.

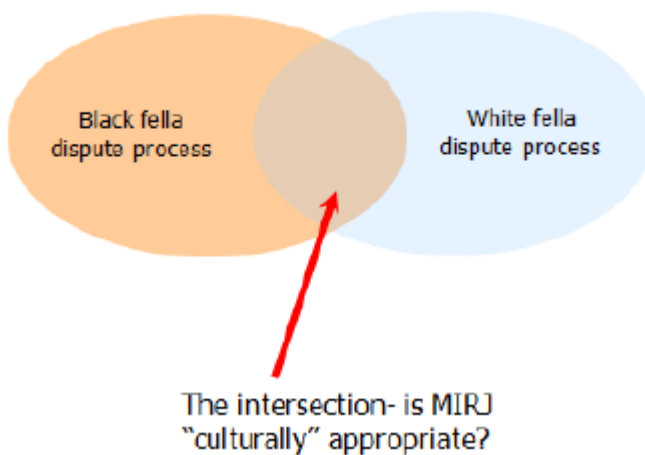
The kinship model, 11 Elders' Rules and Eight steps were developed in close partnership with local Moyenda Elders over an extended period of time. This enabled Elders to think "*long and hard*" (Service Provider) about the issues and take matters back to their families for comment before any decisions were made. It should be noted that some of the Project's activities now fall outside the kinship model such as when dealing with employment related disputes or police complaints. In these cases the kinship model is not used. In addition, some younger people have shown a preference for smaller more private mediations such as in the family home or court house (for increased safety) enabling more focus on exploring grievances and how to address them. In contrast, older people tend to focus more on the need to reconcile disputes through kin connection obligation<sup>43</sup>.

In summary the Project can be seen as a blend of both traditional Mornington Island Culture (i.e. involvement of the Elders as mediators, focus on kinship connections and restoring equilibrium in relationships etc) and mainstream culture (Australian legal system) as depicted in the figure below. The point where they both intersect is formal mediation i.e. the MIRJ Project.

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<sup>43</sup> Venables (2012) [Mornington Island Restorative Justice Project: report on its development, implementation and transition to community management 2012](#), Department of Justice and Attorney General Dispute Resolution Branch pg 38.

**Figure 17: Blend of Indigenous and non-Indigenous dispute resolution processes**



Source: Browning, Mark. (2010) Interim Evaluation Report, Mornington Island Restorative Justice (MIRJ) Project - 2010, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland pg 15.

People were still resolving their disputes informally in their own way but if things get out of hand and they need help they know they have a culturally safe and comfortable space to resolve disputes. So both ways continue to exist on Mornington, and the mix of ways operates also through the Project. These findings continue to show that, the mix of ways, depending on the context, is an accepted way to do the mediation business<sup>44</sup>.

*"The process [MIRJ] both preserves authority in, and returns authority to, the Elders and respected persons in the community and encourages them to be involved in the resolution of disputes. In that way, it upholds traditional community values which is important not only for that reason but because the courts can do only so much by way of facilitating settlement of disputes".*

*Magistrate Osborne (email dated 4 October 2010).*

## **Accessibility**

The service is also perceived to be out and about in the community. For example, it has developed a network of local mediators who monitor the community and can be approached if there is trouble. All staff except the Mediation Coordinator are made up of local people and six hundred adults (close to the entire Indigenous adult population of Mornington Island) are members of Junkuri Laka. This is an incredible and little known achievement!

The Mediation Coordinator is a resident in the community rather than being a fly-in and fly-out service provider. The importance of this cannot be underestimated. Community members much prefer Service Providers to be living in their community as they feel they have a better understanding of their circumstances as well as being more available. This is happening. Most nights the Mediation Coordinator can be seen walking around the community, often with a cigar in hand, casually talking to people as he and his wife do their daily exercise.

## **Community driven?**

A few participants suggest that the Project has become less community driven over the past few years. Specific examples include:

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<sup>44</sup> Browning, Mark. (2010) Interim Evaluation Report, Mornington Island Restorative Justice (MIRJ) Project - 2010, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland pg 15.



- Some criticise the present coordinator for being too far in front of the community rather than letting the community take the lead;

*"It's the <coordinator> show."*

*(Anonymous)*

*"[There] needs to be a change...<coordinator's> role needs total support from the Council. A blackfella should be in charge with coordinator as his deputy. [A] whitefella should not be running [the] whole show."*

*(Anonymous)*

*"<The coordinator> likes to take charge and organise things. Sometimes this rubs people up the wrong way. The net impact has been beneficial for the community. It's all part of his ambition and drive to get things done and make a difference."*

*(Service Provider)*

- There is a perception that more families used to be represented in the pool of regularly working mediators - a few feel that over the last few years there has been a smaller number of mediators involved;
- The 11 Elders' Rules have now been simplified to just 2 – confidentiality and respect; it is questionable if this honours the developmental work conducted to develop these rules with the Moyenda Elders;
- More mediations are now held at the Court House. Some participants feel intimidated by this while others feel safer if the situation is volatile.

*"Mediation feels like a whitefella thing. It [mediation] needs to be done more at the Council Chambers, Festival Ground or in people's houses."*

*(Woman, 35-44 years, Support person of someone in a dispute)*

*"It's [mediation] is a white fella thing. If it was black fella mediations would happen out bush."*

*(Man, 18-24, Party to a dispute)*

- Some feel the service is for the community and that it is there for them, but some are not sure if they own Junkuri Laka. There is a need for greater promotion around what the service can do for people.

It should be noted that these points were only raised by a few participants and should be carefully considered given that the community ownership question scored highest of all the questions in the Impact survey. Outputs from the Project have doubled since the present Coordinator took on the role and the overwhelming feeling from participants is that he is accepted, and an embedded part of the community who will be greatly missed when he eventually moves on, that he is there for the right reasons and is doing his best to make a difference and is a strong force for good on Mornington Island. Some also point out that he is available 24/7 and does a lot of work to assist community members which is not recognised and for which he is not remunerated. For example, in preparing application submissions for Blue Cards to the Queensland Commissioner for Children for people whose criminal record would otherwise bar them from working with children.

One key stakeholder observed that there may be a case for establishing a ceremonial peacekeeping monument as they have done in Yuendumu<sup>45</sup> or something similar to what's been done in Aurukun in relation to the Aurukun Justice Group's opening ceremony DVD. During the ceremony a Cairns based Judge travelled to the community for the opening (in a robe).

Organising such ceremony would have been incredibly difficult as it needed to ensure that all clans/families felt ownership of it. Something enduring and symbolic like this could further help to bolster Junkuri Laka's position in the community.

*"This relates to the issue/importance around the incorporation of culture to ensure something really 'belongs' to a community (a bit like how the Maoris create a 'marae' to create a sense of 'sacredness' of the space that resonates strongly among indigenous people)."*

(Key stakeholder)

## **4.2 Improving the justice system's responsiveness to the needs of community**

This section assesses whether the Project is enhancing the justice system's responsiveness to the needs of the community. In particular, it explores whether people feel that mediation sorts out trouble better than the Police or court and if it makes it better for everyone (both sides of a dispute and their families) when sorting out trouble compared to the Police and court.

### **In summary**

The majority of participants felt that mediation sorts out trouble better than police or court. There were very few who felt that it did not sort out trouble more effectively than the formal criminal justice system. Those who answered *sometimes* felt that much depended on the seriousness of the situation and people's willingness to want to sort out the problem. Some people are too angry, have too much pride, are 'hard heads' and want to keep the trouble going. Others want payback and won't be happy until they get satisfaction. Some also want their day in court regardless.

There are several key reasons why participants feel that mediation sorts out trouble better than the Police or court:

- It provides a timely, culturally safe space in which people feel comfortable participating in and are accepting of;
- It helps restore family relationships, healing of kinship ties, brings people back into town and keeps families together leading to less jail time, fines and court appearances means more time with the family;
- The Project is helping keep families together in a way that the formal criminal justice system does not;
- It resolves disputes more effectively because it sorts out the problems and gets to the root of causes of misunderstandings, rumours and trash talking;
- In addition, the process is informed by the local context and the relationships between those present in the mediation - these issues are often inaccessible or poorly understood in a more formal court setting; and

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<sup>45</sup> See [Work to start on Yuendumu Peace Park](#).

- In contrast to mediation, when people are processed by the criminal justice system and are fined or get sent to jail, the problem often continues or starts again when they come out of jail or other family members keep the fighting going in the absence of the perpetrator.

Often the parties to a dispute have reconciled before the matter is dealt with in court. If mediation could be used more often as the first point of call before criminal charges have been laid, then issues could be addressed to the satisfaction of both parties without any need for referral to the formal criminal justice system. The Mediation Coordinator feels the Project has vast untapped potential in sorting out rumours about what happened and who did what to whom from something more substantial in cases like sexual assault/abuse and domestic violence.

The majority of participants felt mediation makes it better for both sides of a dispute when sorting out trouble compared to the Police and court very often/often and sometimes. There were only a few who felt that they didn't think it makes things better hardly ever or never. Most feel that mediation balances or evens out the power relations between the disputing parties. In the safe environment of mediation the weaker party has a chance to have their say and victims can hold offenders accountable and talk about the impact the offender's actions had on them and their family. They also get to hear the offender's thoughts around what they were thinking and doing at the time of the dispute and what they are thinking now in terms of putting things right and this sometimes includes an apology.

Offenders are given the chance to take responsibility and be held accountable for their actions, they get to hear about the impact of their offending behaviour and as a result they may decide not to repeat this behaviour in the future. The offender also may gain a greater appreciation of the wider impact of their behaviour on the community. Seen in this light mediation provides benefits to both the victim and offender in the following ways:

- A safe space for parties to air concerns and for feelings and emotions and to be heard;
- A better understanding of the other party's concerns, feelings and emotions - it may help both parties to forgive;
- Future focus with the adoption of a manageable 'reality tested' plan of action;
- The achievement of some acceptable outcomes such as settlement or reconciliation;
- The regaining/maintaining of respect by the parties and in the case of reconciliation the restoration and healing of relationships; and
- An understanding of the mediation process providing an alternative way to resolve differences going forward;

Mediation is also felt to be culturally safe because both sides in a dispute save face in a private safe place. It provides an avenue to apologise without shame or losing respect in the eyes of the wider community. Therefore, people feel less need to resort to violence to save face and maintain respect and relatedness. The importance of this cannot be underestimated in helping to maintain peace in a small isolated community like Mornington Island where people have no choice but to find ways of getting along.

Only a few felt that mediation may benefit the perpetrator more than the victim, especially if the perpetrator and their family have more power, control or influence in the community. In these cases the victim may be under family pressure to participate in

mediation because the victim's family needs to stay on good terms with the perpetrator's family.

There were a few cases at the school where students have used mediation to 'bad mouth' a teacher rather than resolve a dispute.

## **Recommendations**

An introduction of a 2 minute, simple follow up survey after mediation may be used to ensure both parties were happy with the process. Using a Likert-type scale, questions could include: Was the mediator fair? Were you treated with respect? Did you have a chance to have your say? Are you happy with the outcome or can you live with the outcome? Did the mediation help you understand your conflict and think about it differently? Will the agreement stop you from arguing/fighting over this matter in the future? Do you commit to keeping to the agreement and to walk away with 'one story'? (So parties can share the outcome with the wide community).

Further follow up with the parties a couple of days later, a week later and a month later may ensure ongoing compliance with the agreement. The outcomes of this process need to be documented and recorded to support ongoing training and continuous improvement in the Project's operations. A new data field also needs to be created that longitudinally tracks participants to gauge the long term impact of participation in the Project on life circumstances such as continued contact with the formal criminal justice system, repeated use of the mediation service, participation in referral services such as health, mental health, wellbeing and employment. **Please see Appendix H for possible examples of the data forms that could be used.**

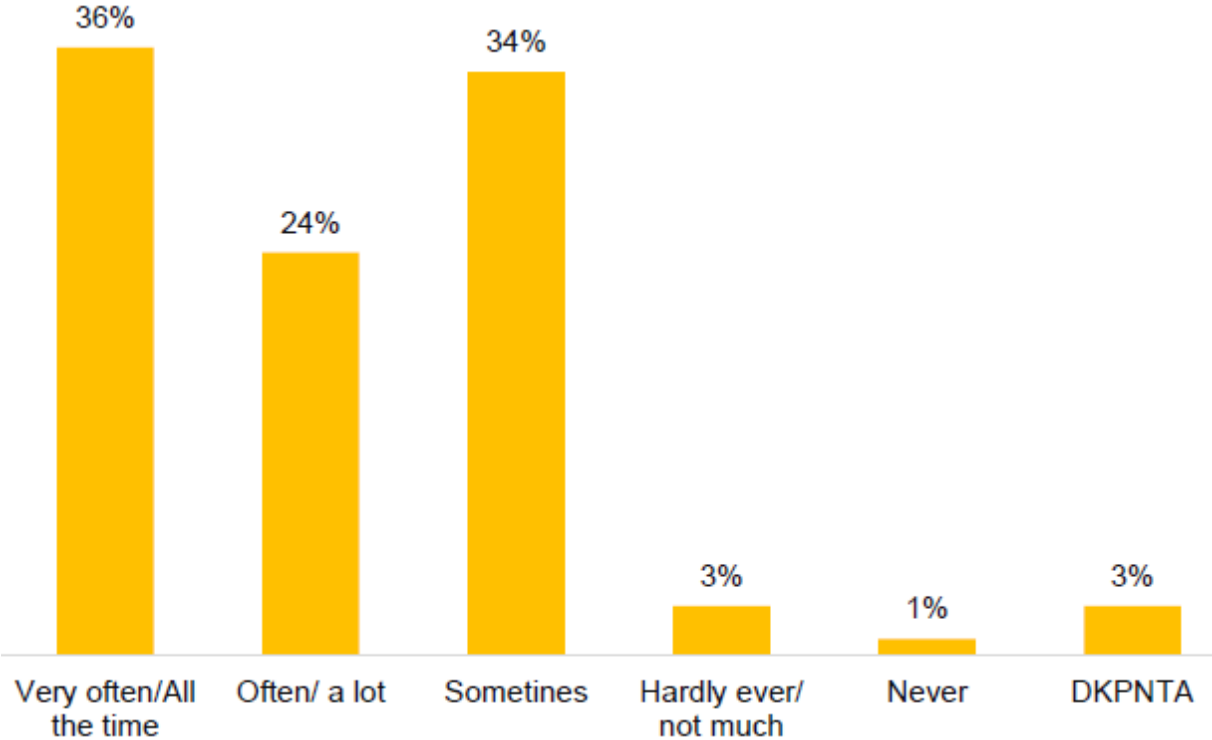
As much as possible, during intake or preparation procedures ensure that the parties to a dispute are entering it in good faith to resolve issues rather than using it as a tool to air grievances, score points and/or intimidate.

### **4.2.1 Does mediation sort out trouble better than the Police or court?**

This subsection explores if mediation is a more effective way of sorting our disputes compared to the formal criminal justice system.

The majority of participants felt mediation sorts out trouble better than police or court very often/often (60%) and sometimes (34%). There were very few who felt that it did not sort out trouble better than the formal criminal justice system.

**Figure 18: Does mediation sort out trouble better than police or court?**



Base: All participants were asked Q7 (n=208)

Q7: [How often] does the mediation sort out trouble better than the Police or court?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

Only one notable significant difference was observed: Those with family working as mediators were more likely to say that mediation very often sorted out trouble better than the Police or court (45%) than those without a family member working as a mediator (16%).

Sometimes to very often was the predominant response from most participants. Those who answered *sometimes* felt that much depended on the seriousness of the situation and people’s willingness to want to sort out the problem. Some people are too angry, have too much pride, are ‘hard heads’ and want to keep the trouble going. Others want payback and won’t be happy until they get satisfaction. Some also want their day in court regardless.

There are several key reasons why participants felt that mediation sorts out trouble better than the Police or court for the following reasons. Primarily, it provides a timely, culturally safe space in which people feel comfortable participating in and are accepting of.

*"Mediation is our thing. Sometimes white law is not for us. Mediation involves our Elders."*

*(Man, 55-64 years, Party to a dispute)*

Further, it helps restore family relationships, healing of kinship ties, brings people back into town and keeps families together. Less jail time, fines and court appearances means more time with the family – so the Project is helping keep families together in a way that the formal criminal justice system does not.

Mediation resolves disputes more effectively because it sorts out the problems and gets to the root of causes of misunderstandings, rumours and trash talking. In addition, the process is informed by the local context and the relationships between those present in the mediation. These issues are often inaccessible or poorly understood in a more formal court setting.

In contrast to mediation, when people are processed by the criminal justice system and are fined or get sent to jail, the problem often continues or starts again when they come out of jail or other family members keep the fighting going in the absence of the perpetrator.

*"Mediation sees the community as the victim rather than the state as the victim. Both sides get a chance to talk things over, so there is a natural equality...it's not just for the stronger party to win. Both sides say sorry and they deal with the real underlying issues. The police and courts don't resolve the question of 'why' the fight started in the first place."*

*(Service Provider)*

*"Mediation helps the community solve its own problems before it goes to court and the Police."*

*(Man, 55-64 years, Party to a dispute)*

With no formal civil justice or arbitration system, a cultural need arises to resolve disputes quickly to reinforce relatedness, combined with "...rather different tolerance levels for physical interaction, civil disputes on Mornington tend to 'bleed into' the criminal justice system quite easily (and literally). The criminal justice system is utterly unequipped to deal with matters where there may be two sides to a story, as it uses criteria to gauge its involvement that are external to the parties. On numerous occasions the result of that is that the parties to what they would consider to be a civil dispute end up both being treated as defendants in criminal procedures, without the actual dispute between them being addressed at all [if it had any substance to start with<sup>46</sup>]."

Often the parties to a dispute have reconciled before the matter is dealt with in court. If mediation could be used more often as the first point of call before criminal charges have been laid, then issues could be addressed to the satisfaction of both parties without any need for referral to the formal criminal justice system. The Mediation Coordinator felt that the Project has vast untapped potential in sorting out rumours about what happened and who did what to whom from something more substantial in cases like sexual assault/abuse and domestic violence.

There is a grey area here between where mediation is appropriate and where the ordinary law of the land should apply in an environment where violence is routinely used to sort out disputes and disagreements. The Elders' Rules clearly state: "*when people are charged with serious offences or there is domestic violence...these are best dealt with by the Police and not by peacemaking*<sup>47</sup>." Yet some participants felt that young people and perpetrators of domestic and family violence just keep 'getting away with it'.

#### **4.2.2 Does mediation make it better for both sides of a dispute?**

This subsection explores if mediation works for both sides in a dispute.

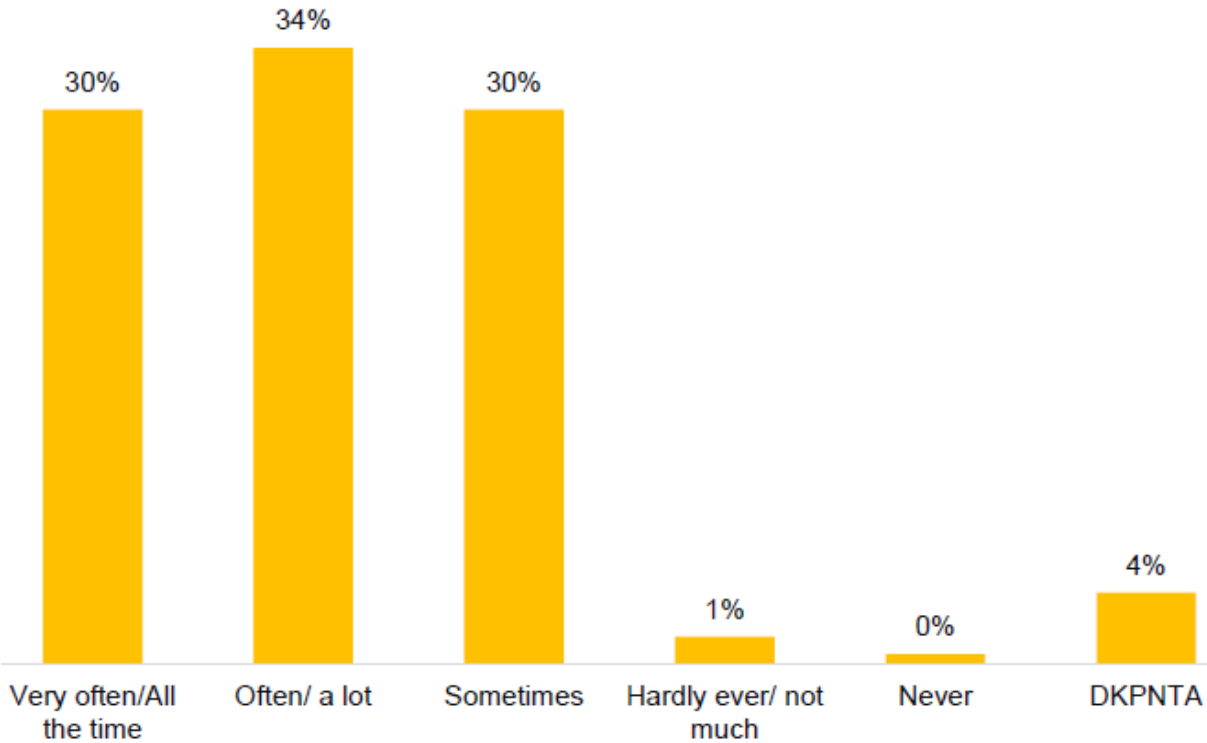
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<sup>46</sup> Junkuri Laka Strategic Plan 2013-2016 pg. 23.

<sup>47</sup> Browning, Mark. (2010) Interim Evaluation Report, Mornington Island Restorative Justice (MIRJ) Project - 2010, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland.

The majority of participants felt mediation makes it better for both sides of a dispute when sorting out trouble compared to the Police and court very often/often (64%) or sometimes (30%). There were only a few who felt that mediation makes it better for both sides hardly ever or never.

**Figure 19: Is mediation is better for both sides?**



Base: All participants were asked Q8 (n=208)  
 Q8: Does the mediation make it better for everyone when sorting out trouble compared to the Police and court?  
 Note: To make this question more explicit the question was modified for the Post Pilot fieldwork to "How often does the mediation make it better for everyone (both sides of a dispute and their families) when sorting out trouble compared to the Police and court? Changing the question in this way may have reduced the number of sometimes and increased the number of very often responses.

Those not involved in mediation were less likely to say that mediation very often makes it better for both sides of a dispute (19%) than those involved (36%). A similar difference was noted for those with family working as mediators than those who did not (37% and 22% respectively).

Most felt the mediation makes it better for everyone (both sides of a dispute and their families) when sorting out trouble compared to the Police and court. This is because it was perceived to balance or even-out the power relations between the disputing parties. In the safe environment of mediation the weaker party has a chance to have their say and victims can hold offenders accountable and talk about the impact the offender's actions had on them and their family. They also get to hear the offender's thoughts around what they were thinking and doing at the time of the dispute and what they are thinking now in terms of putting things right and this sometimes includes an apology.

Offenders are given the chance to take responsibility and be held accountable for their actions, they get to hear about the impact of their offending behaviour and as a result they may decide not to repeat this behaviour in the future. The offender also may gain a greater appreciation of the wider impact of their behaviour on the community. Seen in this light mediation provides benefits to both the victim and offender in the following ways:

- A safe space for parties to air concerns and for feelings and emotions and to be heard;
- A better understanding of the other party's concerns, feelings and emotions - it may help both parties to forgive;
- Future focus with the adoption of a manageable 'reality tested' plan of action;
- The achievement of some acceptable outcomes such as settlement or reconciliation;
- The regaining/maintaining of respect by the parties and in the case of reconciliation the restoration and healing of relationships; and
- An understanding of the mediation process providing an alternative way to resolve differences going forward.

*"It [mediation] helps the weaker side because the other side has to listen and can't act all high and mighty. It balances power because they can say what they might be afraid to say outside and they sometimes get an apology. It lets the stronger side know enough is enough and they [are] not [to] carry it on"*

*(Woman, 25-34 years, Party to a dispute)*

Mediation is also culturally safe because both sides in a dispute save face in a private safe place. It provides an avenue to apologise without shame or losing respect in the eyes of the wider community. Therefore, people feel less need to resort to violence to save face and maintain respect and relatedness

Mediation services fit with the culturally traditional idea of peacemaking. Kinship or relation-based consensus finding works better than the non-Indigenous concept of a rights based approach, particularly in its ability to restore relationships between parties to a dispute<sup>48</sup>. The importance of this cannot be underestimated in helping to maintain peace in a small isolated community like Mornington Island where people have no choice but to find ways of getting along. Traditionally, Aboriginal customary law is aimed at restoring a balance between people, especially family or kinship groups of the parties to a dispute.

*"The primary desired outcome is satisfaction of the aggrieved, both the victim and the victim's kin, and not just retaliation against the perpetrator (and their kin) nor simply justice for the individual victim, and certainly not the perpetrators moral rehabilitation. It is Westerners, not classically minded Aboriginal people, who concentrate largely on the individualities of perpetrator and victim"<sup>49</sup>.*

A few felt that mediation may benefit the perpetrator more than the victim, especially if the perpetrator and their family have more power, control or influence in the community. In these cases the victim may be under family pressure to participate in mediation because the victim's family needs to stay on good terms with the perpetrator's family.

*"People get forced to go...one family say I want you to go and have sort out."*

*(Man, 18-24, Party to a dispute)*

<sup>48</sup> Junkuri Laka Strategic Plan 2013-2016 pg. 24.

<sup>49</sup> Sutton, Peter. (2009) *The Politics of Suffering: Indigenous Australia and the end of the liberal consensus*, Melbourne University Press.



There have also been cases at the school where students have used mediation to 'bad mouth' a teacher rather than resolve a dispute.

### **4.3 Restoring local leadership and Elder authority**

This section details issues around whether the Project is strengthening and developing local leadership. Issues explored include young people's interaction with mediators/Elders, whether young people and adults listen and take notice of mediators/Elders, if young people want to learn the mediation business and if being a mediator helps the Elders to get more respect and authority from the community.

#### **In summary**

The majority of participants felt mediation helps Elders to do more things and talk more to the young people. There were a few who felt that it didn't help much in this regard. Participants who felt this was happening said mediation provides another forum for Elders to talk to young people. It may also help restore their authority as it provides a relatively informal process where Elders have authority to talk to young people. People who did not think this was happening spoke of young people's general level of disengagement and how some young people felt Elders' knowledge was outdated and irrelevant to their circumstances. Some young people also spoke of being shamed and spoken down to by Elders during mediation. These participants felt that Elders needed to get more involved in young people's lives before mediation through participation in childcare, the school, PCYC and the Youth Hub.

The majority of participants felt that the young people sometimes listened and took notice of the Elders doing the mediation. The remaining participants had mixed views with some saying very often or often and others saying hardly ever or never. Some felt that young people might listen to the Elders at mediation but do not necessarily take notice of them. However, there are cases where the intervention of the Elders has made an observable difference in terms of reducing trouble in relation to social media trash talking and bullying, car stealing, petrol/solvent sniffing and bullying and teasing at the school.

Much also depends on the mediator themselves and if the young people in question have an existing positive relationship with them. For example, some young people say they are more likely to listen to the Police Liaison Officer as a mediator as they have spent a lot of time with young people through the Banbaji Student Services Program and PCYC.

Some young people feel they have lost respect for Elders because the Elders in question have done 'too many bad things' or they don't see the worth of Elders. Yet some participants pointed out that as soon as young people face a crisis in their life they immediately turn to the Elders for help, advice and assistance. Sometimes, timing is also important as young people need to be given time and space to calm down before they go to mediation.

The majority of participants felt that the adults often or very often listened and took notice of the Elders doing the mediation. The remaining participants felt this occurred sometimes with very few saying hardly ever or never or did not know. Adults were felt to have more maturity and respect for the status of Elders as well as having more interest in resolving conflict and restoring family relationships than younger people. However a number of people also felt that adults listen to the Elders at the time but when they leave mediation the trouble often starts up again.

There were fairly mixed results for the question about '*young people want to learn the mediation business*' from often to hardly ever with a lot of participants simply saying they did not know. The majority of participants felt that young people want to learn about mediation, though only sometimes. Just as many said often as hardly ever or don't know. Some feel that young people are more interested in doing other things like sleeping all

day, wandering around at night, music, sports, hooking up with the opposite sex rather than settling disputes between families via mediation.

However, not all participants were of this opinion: some indicated that young people are searching for status and respect. Therefore, some felt there was a need to grant mediators more status in the community. Some felt more promotion of success stories, access to a car and ongoing employment would lift the status of mediators.

The majority of participants felt that mediation helps the Elders get respect from the people sometimes, often or very often with very few saying hardly ever or never. Some Elders clearly enjoy mediating and feel that they are gaining more respect by taking on their traditional role of actively engaging in resolving disputes and keeping and making the peace. Most also felt that Elders get respect and authority back by being unbiased and helpful during mediation.

Some feel that Elders are respected or not, based on their past behaviour in relation to alcohol, violence and their ability to work with different clan groups in an unbiased way. Most strongly feel that only respected Elders should be working as mediators.

The majority of participants trust that mediations are confidential with only a few saying that mediations were not conducted in confidence. However, most participants mentioned that it was difficult to keep matters confidential on a small island where everyone is more or less related. There is a perception that it tends to be the families in a dispute rather than the mediators who tend to break confidentiality agreements. However a few also mentioned that mediators have sometimes broken confidentiality as well.

The majority of participants felt that mediations are fair and impartial. Very few felt that mediations were unfair or partial. This finding may be related to the fact that many participants feel that there needs to be a wider representation of different family groups. The need to employ more family members to ensure impartiality maybe more about managing expectations and perceptions of procedural fairness, as much as improving any shortcomings of the Project. It also seems reasonable to suggest that if impartiality was consistently being breached the Project would have lost credibility and people would not be using it as much as they do. Most also report that the Mediation Coordinator often conducts mediations with one local Elder. Both of these parties are perceived to be impartial: The Mediation Coordinator because he is an outsider with no kinship ties and the local Elder because he is highly respected and connected either though birth or marriage to both of the two largest clan groups on the Island.

The Mediation Coordinator reported that the need to be fair and impartial is talked about 'all the time' and reinforced through role playing and formal training such as the recently completed training on being in control of strong emotions. Parties to a dispute have limited choice over who can act as a mediator, but they have more choice over who can attend as a support person which also helps perceptions of impartiality and balance.

The majority of participants trusted that people are never forced into mediation. Very few felt that people were forced. The low level of no shows (4 out of 396 cases) and walk outs (2 out of 396 cases)<sup>50</sup> since the inception of the Project suggests that mediation is voluntary. In addition, out of a potential total 457 cases since 2009, the parties to a dispute have chosen not to engage on 52 occasions. Nearly half this number relates to conflict management when the parties involved are not interested in formal mediation.

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<sup>50</sup> See Appendix D for more details.

## Recommendations

Encourage Elders and young people participate in mediation training together to learn from each other and build intergeneration connections.

Work with Mission Australia, the Wellbeing Centre and RJCP to facilitate Justice Group/mediation Elders working in the school, PCYC, Youth Hub and taking young people out bush to learn culture, kinship obligations and respect via hunting, fishing, spear and boomerang making cultural activities and storytelling.

Consider dispersal as a way to manage conflict. For example, work with other services involved in the 2014 Breaking the Cycle Mornington Island to establish and provide a two-way referral pathway to a sobering up shelter or residential rehabilitation service.

- Consider working with the school, RJCP, PCYC, Night Patrol, Mission Australia and the Youth Hub to create case management engagement and participation pathways for young people into mediation training.
- Lift the status of mediators by providing a uniform, badge, locker, regular work, ongoing professional development.

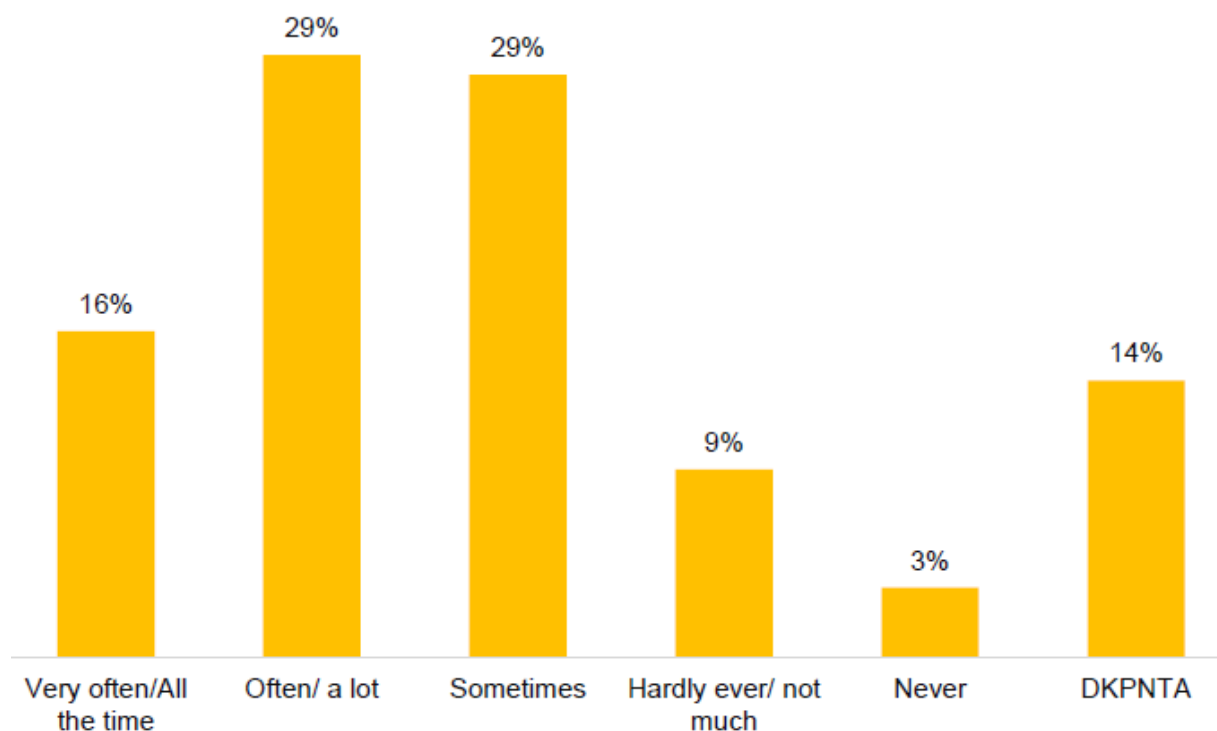
Promote the mediators through photographs on the Junkuri Laka notice board, newsletter, website and in the Mission Australia's Community Newsletter and via local radio. Ideally there should be a poster for every service provider with pictures of mediators and notes saying which clan or family group they identify with or are connected to.

### 4.3.1 Mediator/Elder interaction with young people

This subsection explores if mediation is helping Elders interact more with young people.

The majority of participants felt mediation helps Elders to do more things and talk more to the young people either often (29%) or sometimes (29%). There were a few who felt that it didn't help much or never (12%) or didn't know (14%).

**Figure 20: Does mediation helps Elders do more things and talk more to the young people?**



Base: All participants were asked Q9 (n=207). One person was not asked this question in the original version of the Pilot.

Q9: [How often] does the mediation help Elders do more things and talk more to the young people?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

The following demographic differences were observed:

- Those not involved in mediation were more likely to say that mediation hardly ever helps Elders than those involved (14% and 4%);
- Mid-aged (27%) and older people (42%) were more likely to state that mediation often helped
- Elders than younger people (10%);
- Women were more likely to state that mediation hardly ever helps Elders (14%) than men (4%).

Most felt this was happening either sometimes or often/a lot. Participants who felt this was happening said mediation provides another forum for Elders to talk to young people. It may also help restore their authority as it provides a relatively informal process where Elders have authority to talk to young people.

*"Mediation is helping build a bridge between young people and Elders in the Justice Group."*

*(Male, 25-34 years, Party to a dispute)*

A few participants also talked about the way young people and Elders relate at mediation with the Elders sometimes pointing to family connections and past examples of cooperation between protagonist's families and 'breaking into yarns' about what it was

like for them growing up and what it means to be a strong man or woman in the traditional sense.

People who did not think this was happening spoke of young people's general level of disengagement and how some young people felt Elders' knowledge was outdated and irrelevant to their circumstances. Some young people also spoke of being shamed and spoken down to by Elders during mediation. These participants felt that Elders needed to get more involved in young people's lives before mediation through participation in childcare, the school, PCYC and the Youth Hub.

*"Young people need to learn about mediation instead of having to listen to the Elders talk about the old days that these young ones can't relate to. But they need guidance from the Elders and a reminder of culture. They need to work with the Elders and learn from them and the Elders need to pass on this knowledge before they all pass away or we will lose what little we have left." (Female, 35-44 years, Part to a dispute)*

Some felt that the Elders needed to be more involved at the school teaching kids culture and the stories of the land and the dreaming. This would help them re-establish their value to younger generations and cultivate better relationships with young people based on mutual respect. There have also been occasions when the Police Liaison Officer has taken troubled young men out bush as a follow up activity to mediation and this has proven a very successful strategy in reducing repeat offending.

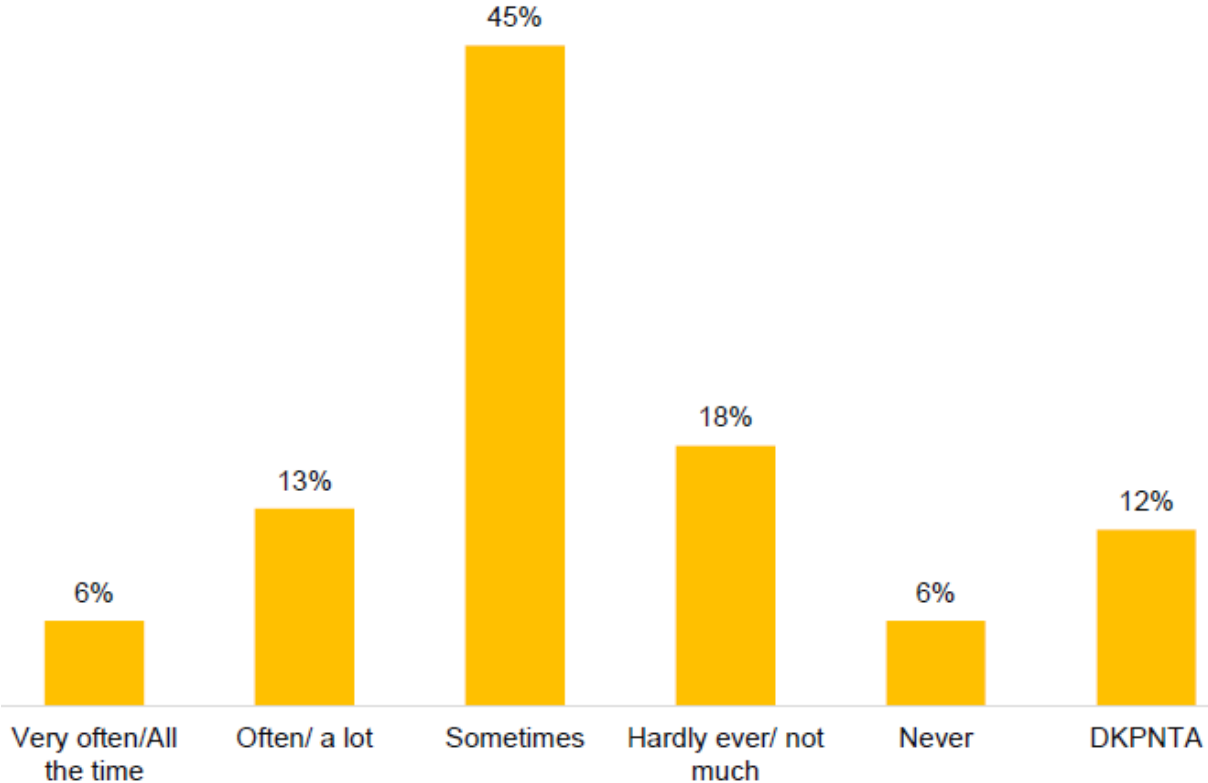
#### **4.3.2 Elder influence on young people and adults**

This subsection explores if mediation young people and adults listen to Elders during mediation.

##### **Young people**

The majority of participants (45%) felt that the young people sometimes listened and took notice of the Elders doing the mediation. The remaining participants had mixed views with 19% saying very often or often and 24% saying hardly ever or never and 12% did not know.

**Figure 21: When Elders are doing mediation do the young people listen and take notice?**



Base: All participants were asked Q10 (n=208)

Q10: When the Elders are doing the mediation, [how often] do the young people listen to them and take notice?

Note: "How often" was added to the middle of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

The following demographic differences were observed:

- Those not involved in mediation were more likely to feel young people never take notice of Elders doing mediation than those involved (11% and 4% respectively);
- Mid-aged (40%) and older people (50%) were less likely to feel young people sometimes took notice of Elders than younger people (70%); and
- Service Providers (25%) were more likely to say young people often took notice of Elders during mediation than community members (9%)

Many felt this was only happening sometimes (if at all) as young people were often perceived to have less respect for Elders compared to adults and often do not listen to them. This has been an ongoing issue since the inception of the Project.

As expressed in an earlier evaluation in 2010: Younger people are not receptive to Elders "...pulling them up... [and] may not fully participate in MIRJ processes<sup>51</sup>." Some felt that young people listen to the Elders at mediation but do not necessarily take notice of them. However, there are cases where the intervention of the Elders has made an observable difference in terms of reducing trouble in relation to social media trash talking and bullying, car stealing, petrol/solvent sniffing and bullying and teasing at the school.

<sup>51</sup> Browning, Mark. (2010) Interim Evaluation Report, Mornington Island Restorative Justice (MIRJ) Project - 2010, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland, pg17.

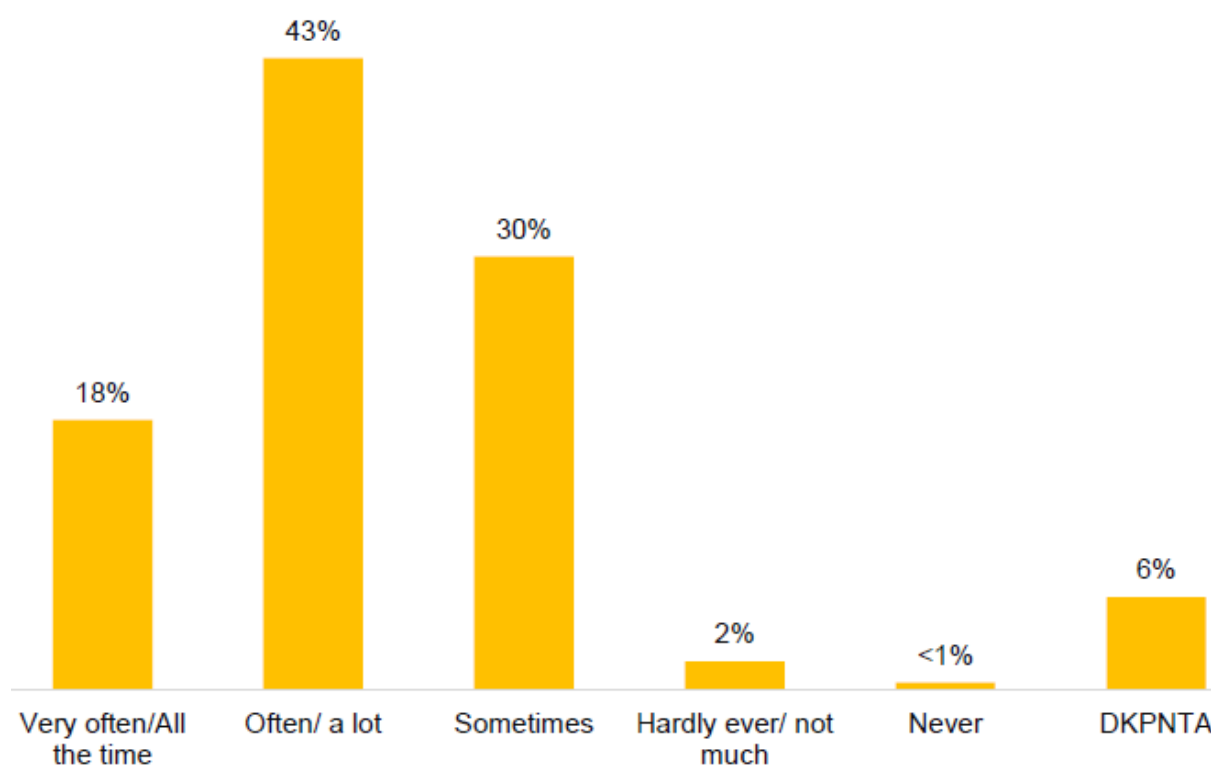
It also depends on the mediator themselves and if the young people in question have an existing positive relationship with them. For example, some young people say they are more likely to listen to the Police Liaison Officer as a mediator as he has spent a lot of time with young people through the Banbaji Student Services Program and PCYC. Some young people feel they have lost respect for Elders because the Elders in question have done 'too many bad things' or they don't see the worth of Elders. Yet some participants pointed out that as soon as young people face a crisis in their life they immediately turn to the Elders for help, advice and assistance.

Sometimes timing is also important as young people need to be given time and space to calm down before they go to mediation.

## Adults

The majority of participants felt that the adults often (43%) or very often (18%) listened and took notice of the Elders doing the mediation. The remaining participants felt this occurred sometimes with very few saying hardly ever or never or did not know.

**Figure 22: When Elders do the mediation do adults listen to them and take notice?**



Base: All participants were asked Q11 (n=206). Two people were not asked this question during the Pre and Post Pilot fieldwork.

Q11: When the Elders are doing the mediation, [how often] do the adults listen to them and take notice?

Note: "How often" was added to the middle of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

A number of demographic differences were observed:

- Community members involved in mediation were more likely to say that adults often take notice of Elders during mediation than those not involved (50% and 39% respectively);
- Women were more likely than men to say adults often take notice and listen to Elders during mediation than men (54% women vs 29% men);and

- Mid-aged people (13%) were less likely to feel adults often took notice of Elders doing mediation than younger people 18-24 years (35%) and older people (27%).

Generally participants felt that Elders were listened to by adults during mediation with most participants giving a sometimes to very often response. Adults were felt to have more maturity and respect for the status of Elders as well as having more interest in resolving conflict and restoring family relationships than younger people.

However, a number of people also felt that adults listen to the Elders at the time but when they leave mediation the trouble often starts up again.

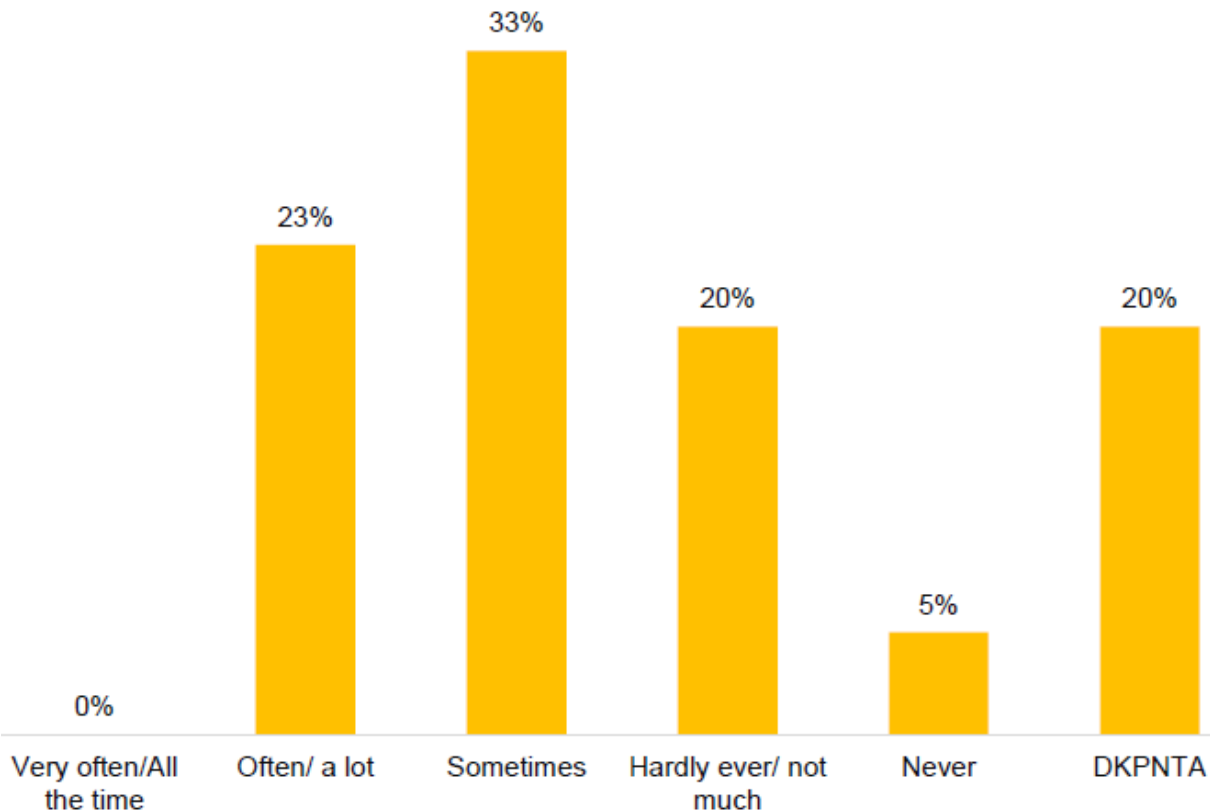
Some community members felt that recalcitrant trouble makers should be sent off the Island to live in another community until they are ready to say sorry. Others talked about the need for a sobering up shelter or residential bush rehabilitation centre for chronic substance abusers, users of violence and habitual petty criminals where people can access counselling and support away from the distractions, negative influence of peers or older siblings and stress of the township.

**4.3.3 Do young people want to learn about mediation?**

This subsection explores if young people want to learn about and learn from mediation.

The majority of participants felt that young people want to learn about mediation sometimes (33%) and the just as many said often (23%) as hardly ever (20%) or don't know (20%).

**Figure 23: Do young people want to learn the mediation business?**



Base: All participants were asked Q12 (n=205). Three people were not asked this question during the Pre and Post Pilot fieldwork.

Q12: [How often] do the young people want to learn the mediation business?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.



Women were more likely to say young people often want to learn the mediation business (29% vs 16%). Service Providers were more likely to say that young people never want to learn about the mediation business (12%) than community members (2%).

There were fairly mixed results for this question from often to hardly ever with a lot of participants simply saying they did not know. Some feel that young people are more interested in other things like sleeping all day, wandering around at night, music, sports, hooking up with the opposite sex rather than settling disputes between families via mediation.

Some felt there was a need to grant mediators more status in the community. Some felt more promotion of success stories, access to a car and ongoing employment would lift the status of mediators.

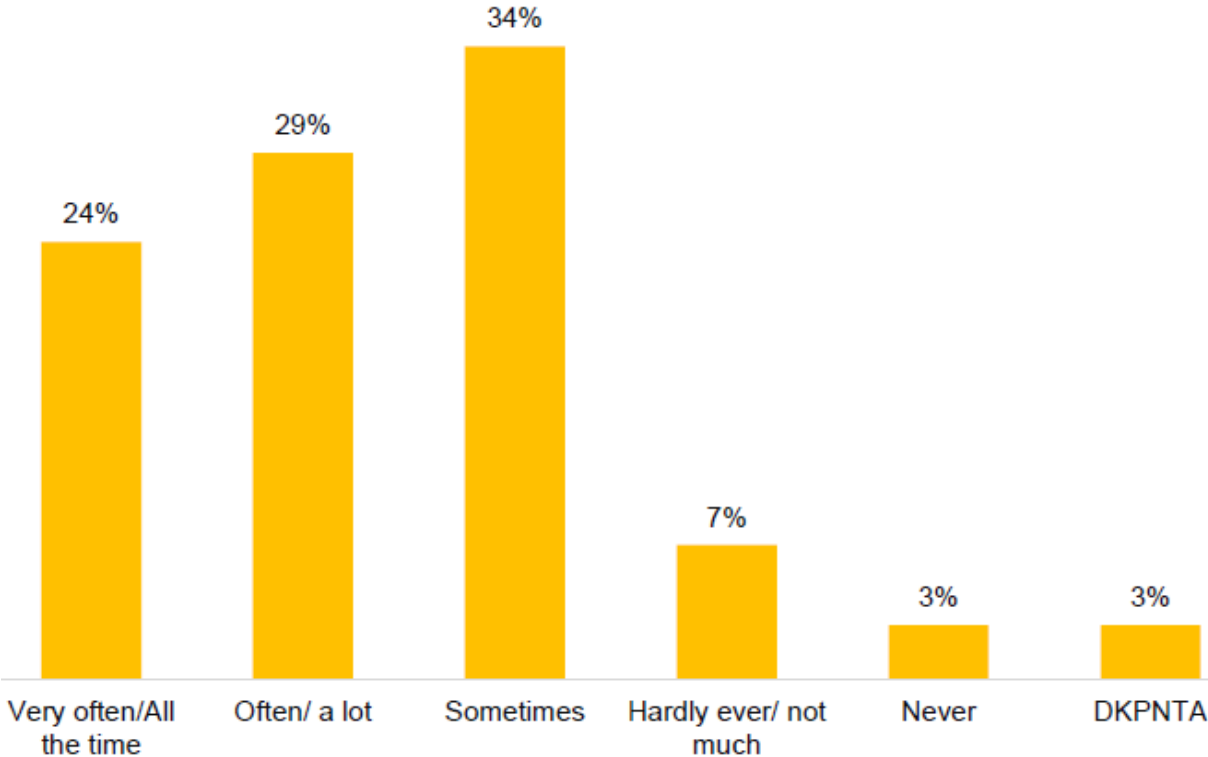
*"Sometimes the young fellas say 'you're not my boss...this is all bullshit' and laugh at the Elders."*

*(Man, 45-54, Party to a dispute)*

**4.3.4 Does mediation help Elders to get respect?**

This subsection explores if mediation is helping Elders to get more respect from the community. The majority of participants felt that mediation helps the Elders get respect from the people sometimes (34%) often (29%) and very often (24%) with very few saying hardly ever or never.

**Figure 24: Does mediation help Elders to get respect?**



Base: All participants were asked Q13 (n=206). Two people were not asked this question in the Pilot and Post Pilot fieldwork.

Q13: [How often] does the mediation help the Elders to get respect from the people here?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way did not seem to affect the overall pattern of responses.

Those involved in mediation (32%) were more likely to say that mediation very often helps Elders to get respect than those not involved (10%). Service Providers were more likely to feel mediation hardly ever helps Elders get respect from the people than community members (14% and 5% respectively).

Some Elders clearly enjoy mediating and feel that they are gaining more respect by taking on their traditional role of actively engaging in resolving disputes and keeping and making the peace. Most also felt that Elders get respect and authority back by being unbiased and helpful during mediation.

Some felt that whether Elders were respected or not was determined by their past behaviour in relation to alcohol, violence and their ability to work with different clan groups in an unbiased way. Most strongly feel that only respected Elders should be working as mediators.

Sometimes Elders "*...go out on a limb and make themselves vulnerable*" (Service Provider) by being involved in mediation. Occasionally their authority is challenged during mediation as they are accused of not being independent due to family connections or not having the authority to talk for people because there is disputed parentage or people married the wrong way.

#### **4.4 Perceptions of the mediation process**

This section details results in relation to the mediation process in terms of confidentiality, impartiality and voluntary participation.

##### **In summary**

The majority of participants trust that mediations are confidential with only a few saying that mediations were not conducted in confidence. Most participants mentioned that it was difficult to keep matters confidential on a small island where everyone is more or less related. There is a perception that it tends to be the families in a dispute rather than the mediators who tend to break confidentiality agreements. However a few also mentioned that mediators have sometimes broken confidentiality as well.

##### **Recommendations**

Mediators and parties to a dispute and supporting family members and observers need to be given the option of if they want to sign a commitment to keeping all or some parts of the mediation confidential. The consequences of breaking confidentiality should be explained to all those present in clear ways that they understand. Mediators need to declare their interests, any perceived conflict of interest and family connections before the mediation takes place. It is also recommended that mediators continue to receive training around the need to be impartial.

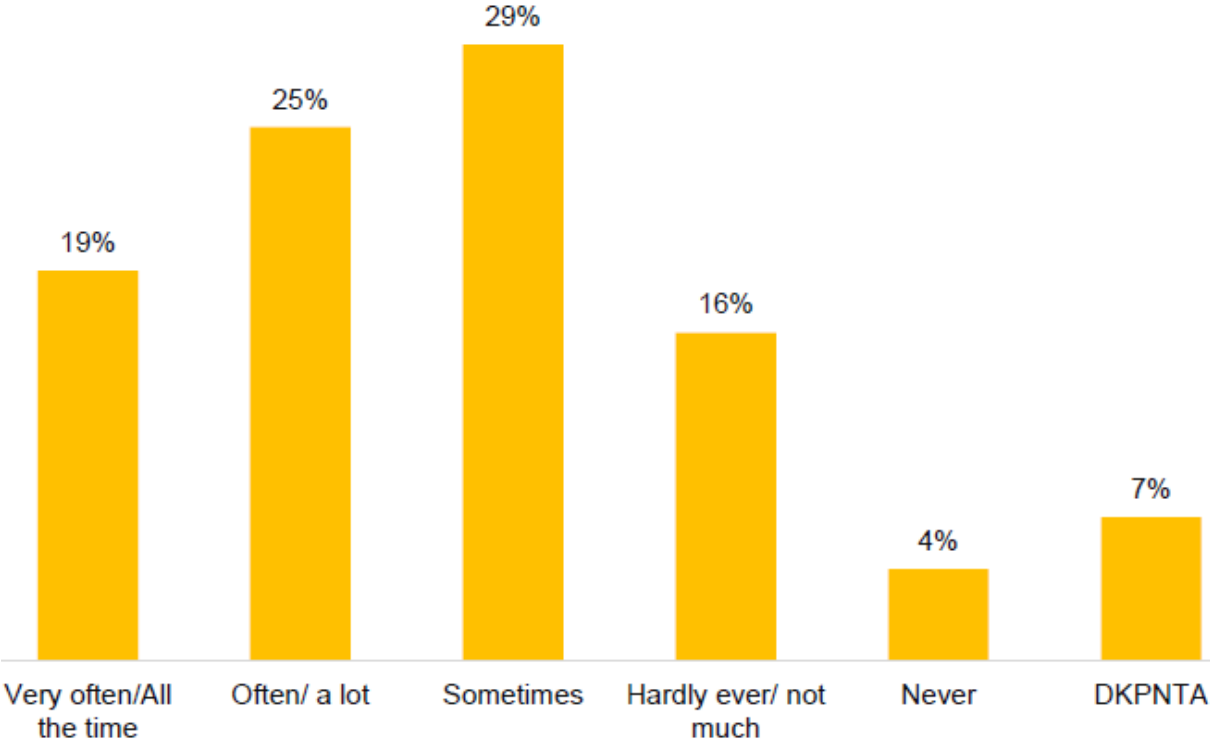
When a wider pool of mediators has been trained, participants in mediation should be given maximum choice over who they want to mediate or co-mediate. During intake and preparation ensure that parties to a dispute genuinely want to attend and are not being overly pressured by police, family or mediators.

##### **4.4.1 Confidentiality**

This subsection explores if people feel that the mediation process is confidential.

The majority of participants trust that mediations are confidential sometimes (29%) often (25%) and very often (19%) with a few saying hardly ever (16%) or never (4%).

**Figure 25: Are mediations are confidential?**



Base: All participants were asked Q14 (n=205). Three people were not asked this question in the Pilot and Post Pilot fieldwork.

Q14: Do you trust that mediations are confidential unless otherwise agreed?

Note: To make this question clearer the question was modified for the Post Pilot fieldwork to "How often are mediations confidential unless otherwise agreed?" Changing the question did not seem to change the overall pattern of responses.

No notable significant differences were observed for this measure.

Most participants mentioned that it was difficult to keep matters confidential on a small island where everyone is more or less related.

A few also talked about rumours and the importance of everyone agreeing to leave mediation with the one story. The size of the mediation is very much a factor. The more people involved the less chance that everyone will say the same story. However, paradoxically, there may be more chance that the agreement will be sustainable because more interested parties have witnessed the mediation.

It should be noted that sometimes it is important that the wider community know the matter has been settled to avoid ongoing fighting.

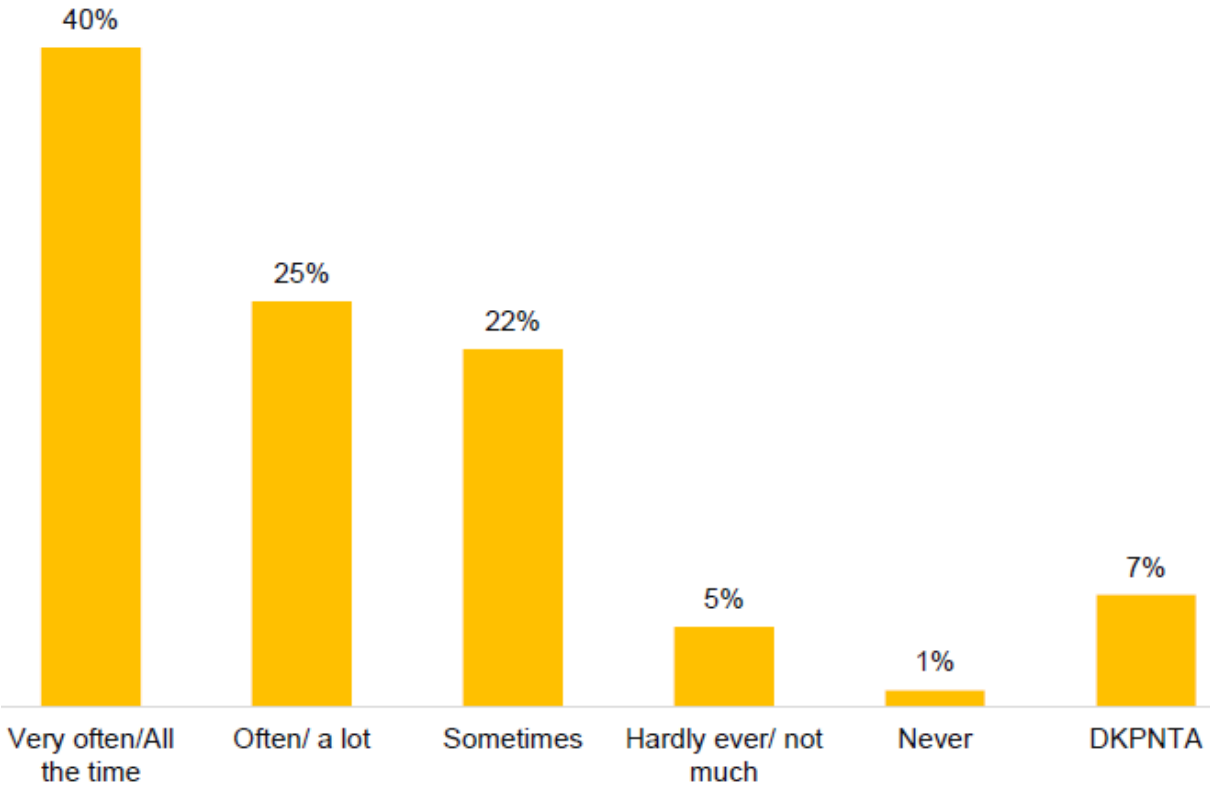
There is a perception that it tends to be the families in a dispute rather than the mediators who tend to break confidentiality agreements. However a few also mentioned that mediators have sometimes broken confidentiality as well.

**4.4.2 Impartiality**

This subsection explores if people feel that the mediators are fair and neutral.

The majority of participants feel that mediations are fair and impartial very often (40%) often (25%) and sometimes (22%). Very few felt that mediations were hardly ever fair and impartial.

**Figure 26: Will mediators always be fair (impartial)?**



Base: All participants were asked Q15 (n=205). Three people were not asked this question in the Pilot and Post Pilot fieldwork.

Q15: Do you trust that the mediators will always be fair (impartial)?

Note: To make this question clearer the question was modified for the Post Pilot fieldwork to "How often are the mediators fair (impartial)? Changing the question in this way may have reduced the sometimes category and increased the very often category.

Service Providers were more likely to feel that mediations are hardly ever impartial (10%) than community members (3%). Those with family working as mediators were more likely to say that mediators were very often fair and impartial (45%) than those without a family member working as a mediator (24%).

There is clearly very strong support for mediators being impartial. This finding may be related to the fact that many participants feel that there needs to be a wider representation of different family groups. The need to employ more family members to ensure impartiality maybe more about managing expectations and perceptions of procedural fairness, as much as improving any shortcomings of the Project.

In addition, it seems logical to argue that if impartiality was consistently breached the Project would have lost credibility and people would not be using it as much as they do. Most also report that the Mediation Coordinator often conducts mediations with one other local Elder. Both are perceived to be impartial, the Mediation Coordinator because he is an outsider with no kinship ties and the local Elder because he is connected either though birth or marriage to both of the two largest clan groups on the Island.

The Mediation Coordinator reports that the need to be fair and impartial is talked about all the time and reinforced through role playing and formal training like the recently completed training on being in control of strong emotions.

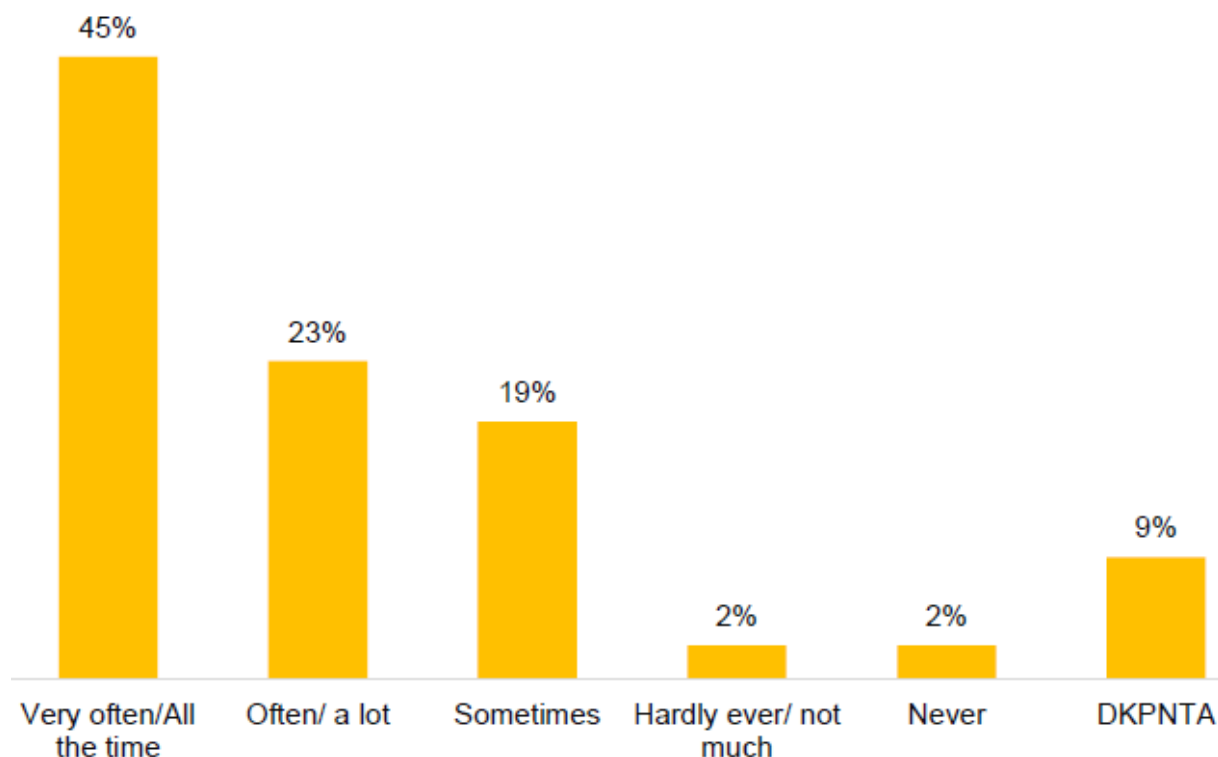
Parties to a dispute have limited choice over who can act as a mediator, but they have more choice over who can attend as a support person which also helps perceptions of impartiality and balance.

### 4.4.3 Voluntary participation

This subsection explores if people feel that participation in the mediation is voluntary.

The majority of participants feel that people are never forced into mediation very often (45%) often (23%) or sometimes (19%). Very few felt that people were forced into mediation.

**Figure 27: How often is mediation voluntary?**



Base: All participants were asked Q16 (n=205). Three people were not asked this question in the Pilot and Post Pilot fieldwork.

Q16: Do you trust that the people are never forced into mediation?

Note: To make this question clearer the question was modified for the Post Pilot fieldwork to "How often is mediation voluntary?" Changing the question in this way did not seem to change the pattern of the overall responses.

Service Providers (33%) were less likely to feel that mediation was very often voluntary than community members (49%). Those without family working as mediators were more likely to say that mediations were never voluntary (8%), than those without a family member working as a mediator (0.8%).

There was fairly strong support for mediations being voluntary. Although some people, particularly young men felt there were elements of coercion if people were given a stark choice between being processed by the court versus attending mediation. A few felt that some people did not realise they had a choice when asked by police to go to mediation i.e. they felt they had to do what the Police were saying. This is a concern given that police are the source of around a third of mediation referrals.

There were also isolated reports of parties to a mediation being 'badgered into mediation' by family, mediators or the Mediation Coordinator. These reports should be balanced by the fact that most people feel that participation in mediation is voluntary and that the Police, mediators and the Mediation Coordinator all strongly refute that they put undue pressure on people to attend mediation.

The low level of no shows (4 out of 396 cases) and walk outs (2 out of 396 cases)<sup>52</sup> since the inception of the Project suggests that mediation is voluntary. In addition, out of a potential total 457 cases since 2009, the parties to a dispute have chosen not to engage on 52 occasions. Nearly half this number relates to conflict management when the parties involved are not interested in formal mediation.

## **4.5 Perceptions of safety**

This section details perceptions of community safety.

### **Summary**

The majority of participants feel safer because of mediation on Mornington Island. Very few felt unsafe. Most feel that mediation is helping make Mornington Island a safer place to live and that people are generally happier and less stressed due to mediation. This finding was less apparent for Service Providers who were more mixed in their responses. In answering this way many Service Providers (both local and non-local/non-Indigenous) said they never felt unsafe on Mornington Island.

Most also felt that without mediation their community would go back to how it was before with more fighting overall, as well as more serious and bigger fights, more jail time and more hospital admissions. People feel safer because there are less big fights and less ongoing fights and family feuding.

### **Recommendations**

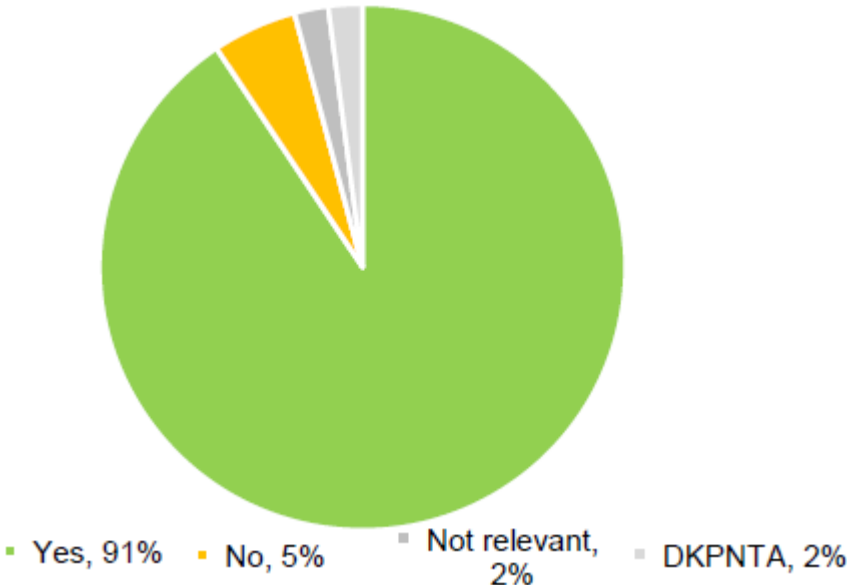
Recommendations about the needs to promote the program to non-users and the wider community also apply here. For example, there is a clear need to promote the impact the Project is having on perceptions of community safety to all Service Providers. This would also be a good opportunity to ask for their cooperation in marketing mediation to their client base and to inspire a whole-of-community approach to improving community safety.

The majority of participants (91%) feel safer because mediation is happening on Mornington Island. Service Providers were more mixed in their responses. In answering this way many Service Providers (both local and non-local/non-Indigenous) said they never felt unsafe on Mornington Island.

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<sup>52</sup> See Appendix D for more details.

**Figure 28: Feel safer because mediation is happening on Mornington Island**



Base: All participants in the Post Pilot fieldwork were asked Q17 (n=96).

Q17: Do you feel safer because mediation is happening on Mornington Island?

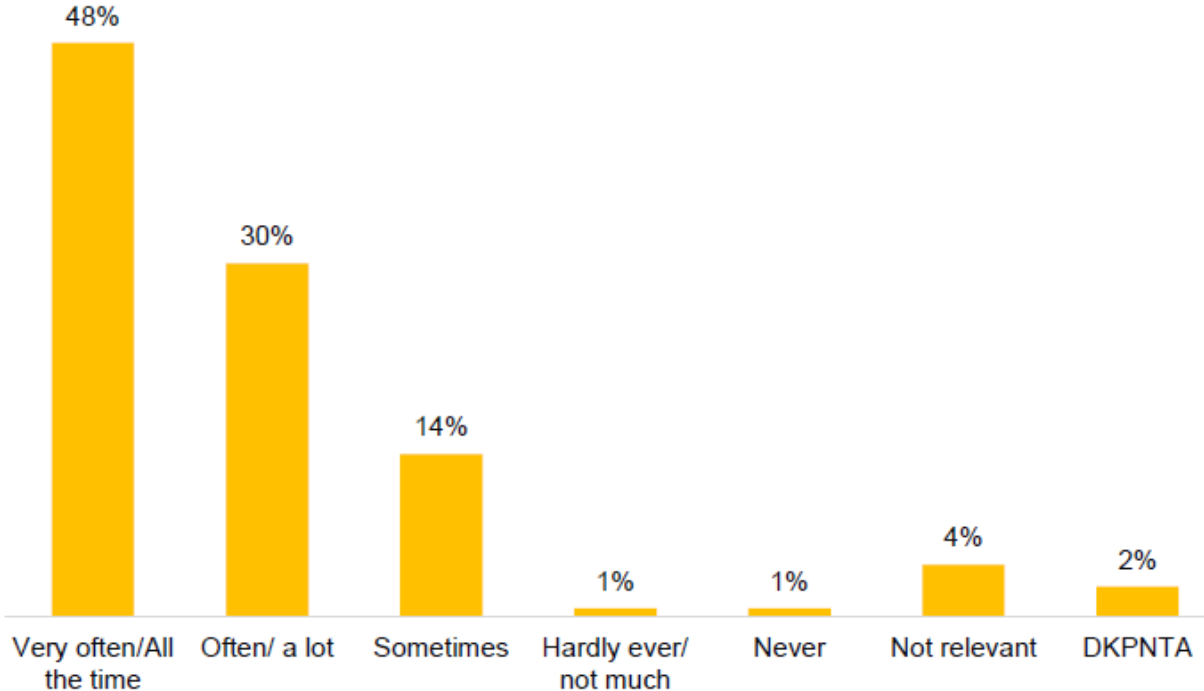
Participants in the Pilot and Post Pilot fieldwork were also asked:

*[How often] do you feel safer because mediation is happening on Mornington Island?*

The majority of participants feel safer because of mediation on Mornington Island very often (48%) often (30%) and sometimes (14%). Very few felt that they hardly ever or never feel safer.

Service Providers (79%) were less likely to feel safer because of mediation than community members (100%). Those involved in mediation were more likely to feel safer due to mediation (96%), than those not involved (70%);

**Figure 29: How often do you feel safer because mediation is happening on Mornington Island?**



Base: All participants were asked Q (n=161). Note this was a late addition to the Pilot fieldwork which accounts for the missing responses in relation to other Pilot questions.

Q17a: [How often] do you feel safer because mediation is happening on Mornington Island?

Note: "How often" was added to the beginning of the question for the Post Pilot fieldwork. Changing the question in this way may have reduced the numbers of sometimes and increased the number of very often responses.

The following significant differences were observed:

- Service Providers were less likely to very often feel safer (26%) than community members (59%);
- Those involved in mediation were more likely to say that they very often feel safer (70%) than those not involved (23%); and
- Similarly, those with family working as mediators were more likely to say that that they very often feel safer (59%) than those without a family member working as a mediator (33%).

Most felt that mediation is helping make Mornington Island a safer place to live and that people are generally happier and less stressed due to mediation. Most also felt that without mediation their community would go back to how it was before with more fighting as well as more serious and bigger fights, more jail time and more hospital admissions.

People feel safer because there are less big fights and less ongoing fights and family feuding.

*"Fights that have gone on for generations have now stopped."*

*(Elder, anonymous)*

*"When there is a problem we know they are there to help us. They are there for us at all times."*



(Male, 45-54, Party to a dispute)

*"I have lived here all my life. I am 42 and I can see the changes. Before mediation we had no way of solving the fights or working through the issues."*

(Female, anonymous)

## 4.6 Self-Reported Behaviour

This section looks at three self-reported behaviours the Project is trying to encourage:

1. Where appropriate, using mediation to resolve disputes rather than violence or the Police and courts;
2. Where appropriate, encouraging others to use mediation rather than violence or the Police and courts; and
3. Where appropriate, reminding or encouraging others to keep to their mediation agreement. How frequently people are perceived to be keeping to the mediation agreements is also examined.

### In summary

The majority of participants said they used mediation more than they had previously. Most people say this because it has helped them in the past or because they have heard or observed it helping other people. Some of the people who were not using mediation more than previously also said they have always used mediation whether formally or informally and others said they had no need to use mediation because they did not get into trouble. A few who were not using mediation more explained that they had negative experiences of past mediations and say they would never use mediation again.

Further, the majority of participants encouraged others to use mediation more than they used to. Most people say they are encouraging others to use mediation more than they used to because they don't want to see other family members or friends fighting and getting hurt. The majority of participants also remind or encourage others to keep to their mediation agreement. People do this to keep others safe from getting hurt or going to jail and to maintain a more peaceful and safer community. Finally, the majority of participants felt that people stick to their mediation agreement. Very few felt that people break their mediation agreement.

How agreements are negotiated had a major bearing on their sustainability: Decisions must be owned by Indigenous parties to be sustainable and for parties to a dispute take responsibility. Most people say that mediation agreements are only kept sometimes for the following reasons:

- Some people go to mediation with no intention of settling the matter and are going for other reasons such as to stay out of jail or use the process for point scoring or political reasons;
- The mediation agreements are often broken when people get drunk or high or when people become stressed or they hear rumours and trash talking;
- Some people feel the right family or clan mediators were not present, especially the mother's eldest brother - often the right Elders are not present
- Some people may feel they have been unduly influenced by others to attend mediation; and

- When the issues are symptoms of deep seated or historical antagonism between families or clans. Indeed some felt there was a need to accept that some disputes may not be amenable to resolution and that their dynamics should be managed and accounted for in proposed solutions.

## **Recommendations**

CBSR recommends a whole-of-community behaviour change strategy is designed and implemented in consultation with the community to encourage more people to do each of these behaviours. **See Chapter 10: Behaviour change** for more details around how such a strategy could be implemented and what is needed to encourage each of the target behaviours.

The Program should also ensure that a member from each clan group is present at all larger mediations. Further, as far as possible ensure the mother's oldest brother is present at mediations. The Program should also ensure a gender balance appropriate to the parties involved in the mediation.

CBSR recommends that the Program ensures that parties are ready for mediation and genuinely want to work through the issues to achieve a settlement or reconciliation. Participants should be given the option of signing an agreement and if appropriate, offer for the agreement to be published in the Junkuri Laka newsletter or noticeboard. Behavioural change theory and Behavioural economics suggests that people are more likely to stick to commitments if they have to put their name to it and even more so if the agreement is publically promoted via publishing in a newsletter.

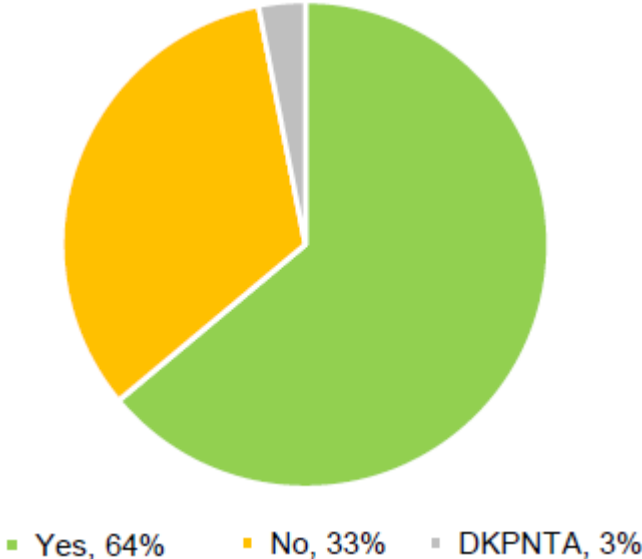
There is a need for evaluating, monitoring, renegotiating, modifying or adapting strategies and solutions as required to ensure mediation agreements are sustainable and satisfaction with the process. It would be desirable to implement longitudinal tracking to see what works in terms of creating sustainable mediation agreements. Present mediation participants with a 2 minute tick and flick client satisfaction survey to test satisfaction with the process and address any emerging issues so that any dissatisfaction does not become a rationale for not keeping the mediation agreement or not taking part in future mediations. Follow up is also required with the parties to a dispute at various intervals to ensure the mediation agreement is still working.

### **4.6.1 Using mediation rather than violence or the Police and courts**

This subsection examines if people are using mediation more than they used to.

The majority of participants (64%) said they used mediation more than they used to.

**Figure 30: Use mediation more than you used to**



Base: All respondents who were asked this question in the Post Pilot fieldwork (n=97)  
Q18: Do you use mediation more than you used to or not?

Those with family working as mediators were more likely to say they use mediation more than they used to (74%) than those without (40%). Those previously involved in mediation were more likely to say they use mediation more than they used to (72%), than those not involved (35%).

Most people say they are using mediation more than they used to because it has helped them in the past or because they have heard or observed mediation helping other people.

Some of the people who were not using mediation more than previously also said they have always used mediation wether formally or informally and others said they had no need to use mediation because they did not get into trouble. A few who were not using mediation more explained that they had negative experiences of past mediations and say they would never use mediation again. These negative experiences included:

- A mediator who once turned up drunk;
- Mediators perceived to have taken sides and not remained impartial;
- Mediators or other family present not keeping parts of the mediation confidential as had been agreed at the mediation;
- Other parties kept breaking the mediation agreement and no resolution was found until the Police stepped in;
- Sometimes not all the relevant family members are present or there is uneven representation with more family members turning up to support one side;
- Involved parties not turning up at the same time leaving one party waiting around sometimes for hours;
- People turning up to mediation to meet their own agendas rather than seeking a genuine end to the conflict, for example turning up to get charges dropped - one case was highlighted when a young woman stabbed her sister, went to mediation and the charges were dropped and then three weeks later the same girl stabbed and seriously injured another girl;

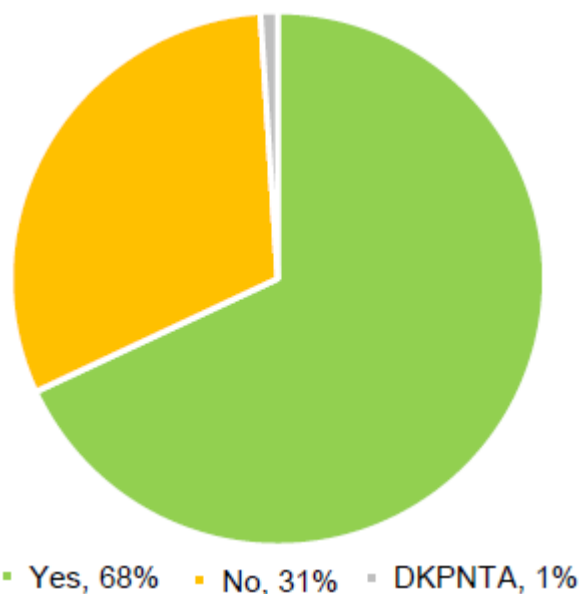
- A few have felt bullied during mediations and complain that everyone was swearing at each other; and
- Experience of a lack of meaningful restitution to the aggrieved party - sometimes sorry does not make participants feel any better.

While these issues were only voiced by a few participants, their influence on others could be disproportionate as they are likely to be telling other family and friends that mediation is a waste of time.

#### 4.6.2 Encouraging others to use mediation rather than violence or police and courts

This subsection examines if people are encouraging others to use mediation more than they used to. The majority of respondent (68%) encourage others to use mediation more than they used to.

**Figure 31: Encourage others to use mediation more than you used to**



Base: All respondents who were asked this question in the Post Pilot fieldwork (n=97)  
 Q19: Do you encourage others to use mediation more than you used to or not?

Those with a family member working as a mediator were more likely to encourage others to use mediation (77%) those without a family member working as a mediator (35%). Young people were more likely not to encourage others use mediation (27%) than older people aged 45 years or older (10%). Service Providers Community were more likely to encourage others to use mediation (40%) than community members (21%).

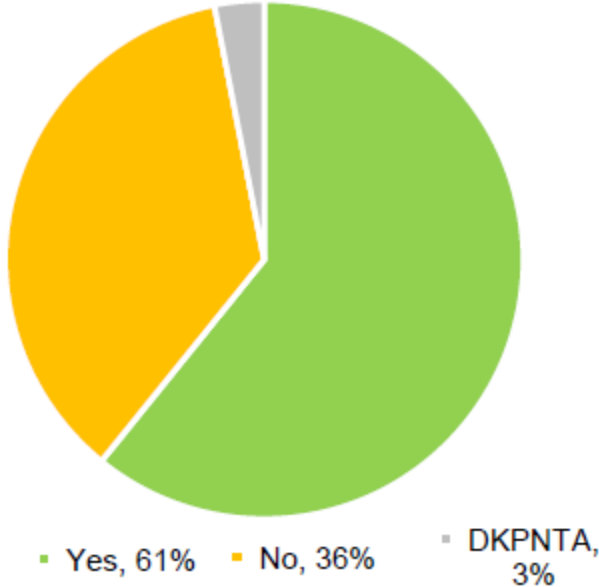
Most people say they are encouraging others to use mediation more than they used to because they don't want to see other family members or friends fighting and getting hurt.

#### 4.6.3 Reminding or encourage others to keep to their mediation agreement

This subsection examines if people are reminding or encouraging others to keep to their mediation agreement more than they used to.

The majority of participants (61%) remind or encourage others to keep to their mediation agreement.

**Figure 32: Remind or encourage others to keep to their mediation agreement**



Base: All participants who were asked this question in the Post Pilot fieldwork (n=97)  
Q20: Do you remind or encourage others to keep to their mediation agreement?

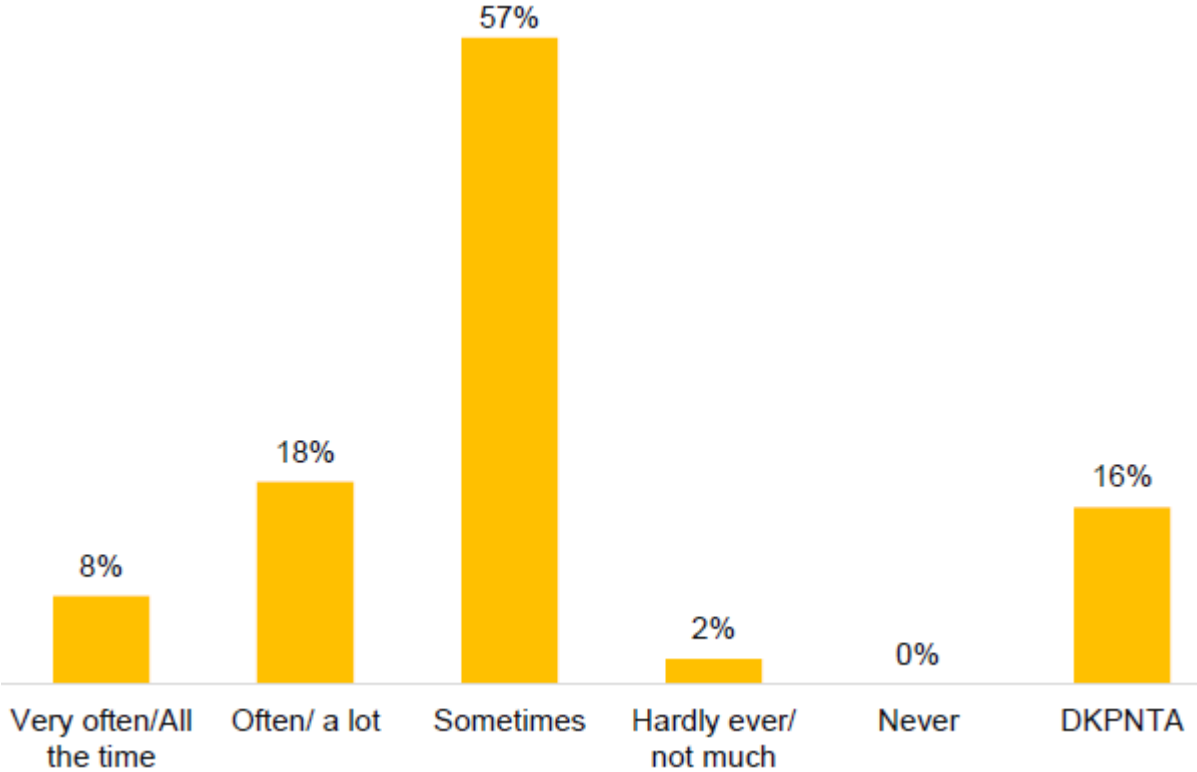
Those with a family working as mediators were more likely to encourage others to stick to their mediation agreement (73%) than those without (30%). Those previously involved in mediation were more likely to encourage others to keep to their mediation agreement (68%) than those not involved (35%).

Participants remind others to keep to their mediation agreement to keep them safe from getting hurt or going to jail and to maintain a more peaceful and safer community.

**4.6.4 How often do people keep to their mediation agreement?**

The majority of participants felt that people stick to their mediation agreement sometimes (57%) often (18%) and very often (8%). Very few felt that they hardly ever or never people stick to their mediation agreement but sixteen per cent said they didn't know.

**Figure 33: How often do people keep to their mediation agreement**



Base: All participants who were asked this question in the Post Pilot Fieldwork (n=90). Please note this was the last question to be added after a few Post Pilot interviews had already been completed.

Q21: How often do people stick to their mediation agreement?

How agreements are negotiated had a major bearing on their sustainability: Decisions must be owned by Indigenous parties to be sustainable and for parties to a dispute take responsibility. Most people say that mediation agreements are only kept sometimes for the following reasons:

- Some people go to mediation with no intention of settling the matter and are going for other reasons such as to stay out of jail or use the process for point scoring or political reasons;
- The mediation agreements are often broken when people get drunk or high or when people become stressed or they hear rumours and trash talking;
- Some people feel the right family or clan mediators were not present, especially the mother’s eldest brother - often the right Elders are not present “[The local lead mediator] does his best but does not represent all clan groups.” (Woman, 35-44, Support person of someone in a dispute);
- Some people may feel they have been unduly influenced by others to attend mediation; and
- When the issues are symptoms of deep seated or historical antagonism between families or clans - indeed some felt there was a need to accept that some disputes may not be amenable to resolution and that their dynamics should be managed and accounted for in proposed solutions.

## 4.7 Mediator perceptions

This section covers questions that were only asked of mediators in relation to training/mentoring, remuneration, and compliance with the Elders' Rules. Please note that only 14 mediators of the 20 involved answered these questions.

### In summary

There were mixed responses regarding the training mediators received – some were happy, some neither happy nor unhappy, some unhappy. Some felt their training had been excellent, others could not remember receiving any training, and a few said they had provided the training to others and to the Mediation Coordinator. Overall most felt that some 'refresher' training on mediation would be helpful. The most often mentioned training needs for mediators were:

- to see and learn from how other communities operate mediations services and felt it would be great to have access to a help line or online community of mediators where people could share stories, what works and good practice;
- more training on how to run a mediation session and talk strongly, effectively and assertively;
- more training on various elements of mediation such as in-take procedures, preparation of the parties to a mediation and reality testing mediation agreements;
- more training/mentoring on how to manage confidentiality and impartiality in a small island community setting.

There were also mixed responses from mediators regarding how often the Elders' Rules were followed. Some felt they were mostly followed, some felt they were sometimes followed, some felt that they were hardly ever followed. Some felt that while there is no specific reference to them the basic principles like keeping things confidential, being impartial and showing respect to both sides were always applied. Other were puzzled by the term Elders' Rules and seemed to have no recollection that they ever existed (quite a few responded 'don't know' to the question described above).

Given these rules were developed by local Elders and respected leaders after intensive consultation and many meetings it is somewhat surprising that the Elders' Rules are not remembered or referred too. Essentially the rules and the people who signed off on them are the architects of the peacemaking service on Mornington Island. They mark the genesis of an innovative and effective partnership between families, community and government dedicated to using communication rather than violence to resolve conflict.

### Recommendations

The Program should provide mediators with regular professional development opportunities in line with the training needs outlined above. Although past efforts at formal training have been disappointing, the ultimate goal should be that all mediators have undertaken and completed the 38 hour National Mediation Accredited Training course, applied to the Mornington Island context and redesigned with locally relevant role plays, narratives and other practically based and applied exercises that draw on non-identifiable case studies from the MIRJ Project database. Consider also training mediators in small groups based on kinship ties or peer relationships so participants can support and learn from each other.

Consideration should also be given to developing a regional panel of mediators who can work across Mornington Island, Doomadgee, Mt Isa, Burketown and Aurukun

communities. Services could be run by local people with an outside coordinator being responsible for training, mentoring, complex administration, and accounts across this cluster of communities. This could be achieved by working with the Northern Territory mediators in communities like Tiwi Island and Yuendumu to create an online community hub for Indigenous mediators to share stories, what works and cross pollinate good practice.

The Program should ensure mediators are always paid for undertaking formal mediations and training.

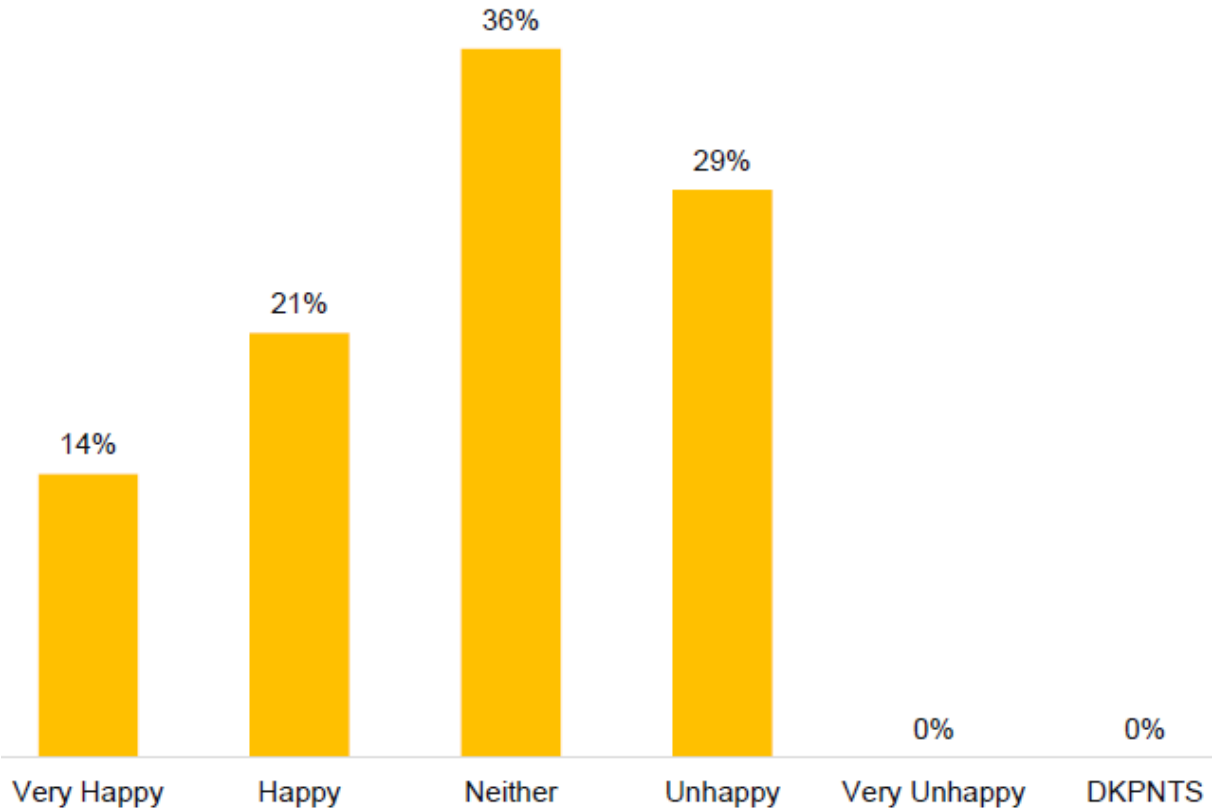
The Elders’ rules could be broken down into 6-8 key points for easy access and to help people remember the basics. All mediators to have a locker where they can keep their private things including training materials, evaluation forms and a copy of the Elders’ Rules. The Program could purchase a large banner placed in the Junkuri Laka conference room with the Eight Steps for Mediation and Elders’ Rules highlighted. To symbolise that the service honours the commitment and work of the Moyenda Elders as the peace architects of mediation on Mornington Island.

**4.7.1 Training**

This subsection examines mediator training issues.

There were mixed responses regarding the training they received from the mediators surveyed who felt that they were very happy or happy (35%) neither happy nor unhappy (36%) or unhappy (29%).

**Figure 34: Training received as a mediator**



Base: Only asked of selected mediators (n=14)  
 Q24: How happy are you with training you received as a mediator?

Some felt that training had been excellent, other could not remember receiving any training, or at least they did not recognise it as training when they were doing it. A few



said they had been the ones providing the training to others and to the Mediation Coordinator.

While on the job training and mentoring is critical for ongoing capacity strengthening, overall most felt that a refresher course on mediation would be helpful. The most often mentioned training needs for mediators were:

- Some wanted to see and learn from how other communities operate mediations services and felt it would be great to have access to a help line or online community of mediators where people could share stories, what works and good practice;
- Some wanted more training on how to run a mediation session and talk strongly, effectively and assertively;
- Some wanted more training on various elements of mediation such as in-take procedures, preparation of the parties to a mediation and reality testing mediation agreements;
- Some wanted more training/mentoring on how to manage confidentiality and impartiality in a small island community setting.

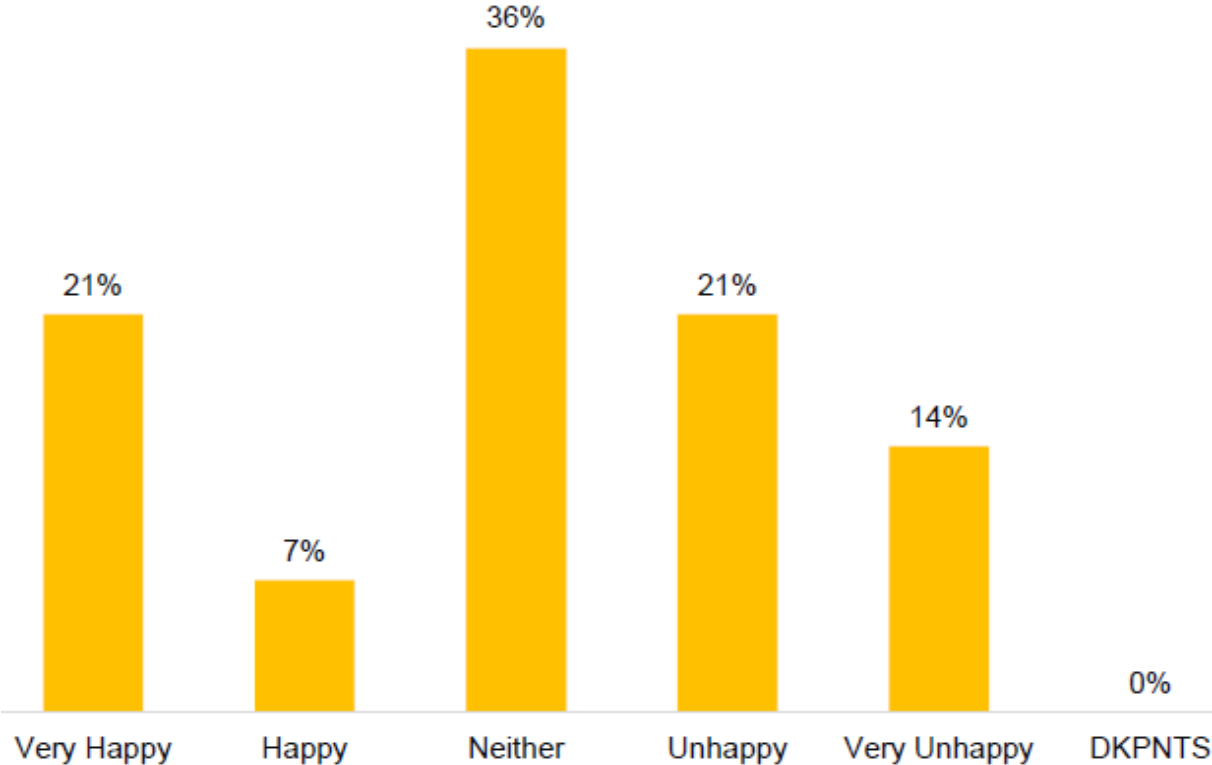
Although past efforts at formal training have been disappointing, the ultimate goal should be that all mediators have undertaken and completed the 38 hour National Mediation Accredited Training course, applied to the Mornington Island context and redesigned with locally relevant role plays, narratives and other practically based and applied exercises that draw on de-identified case studies from the MIRJ Project database.

#### **4.7.2 Remuneration**

This subsection examines remuneration for mediators.

There were mixed responses regarding the pay received by mediators. Some were very happy or happy (28%) neither happy nor unhappy (36%) or unhappy or very unhappy (35%).

**Figure 35: Pay you get as a mediator**



Base: Only asked of selected mediators (n=14)  
Q25: How happy are you with pay you get as a mediator?

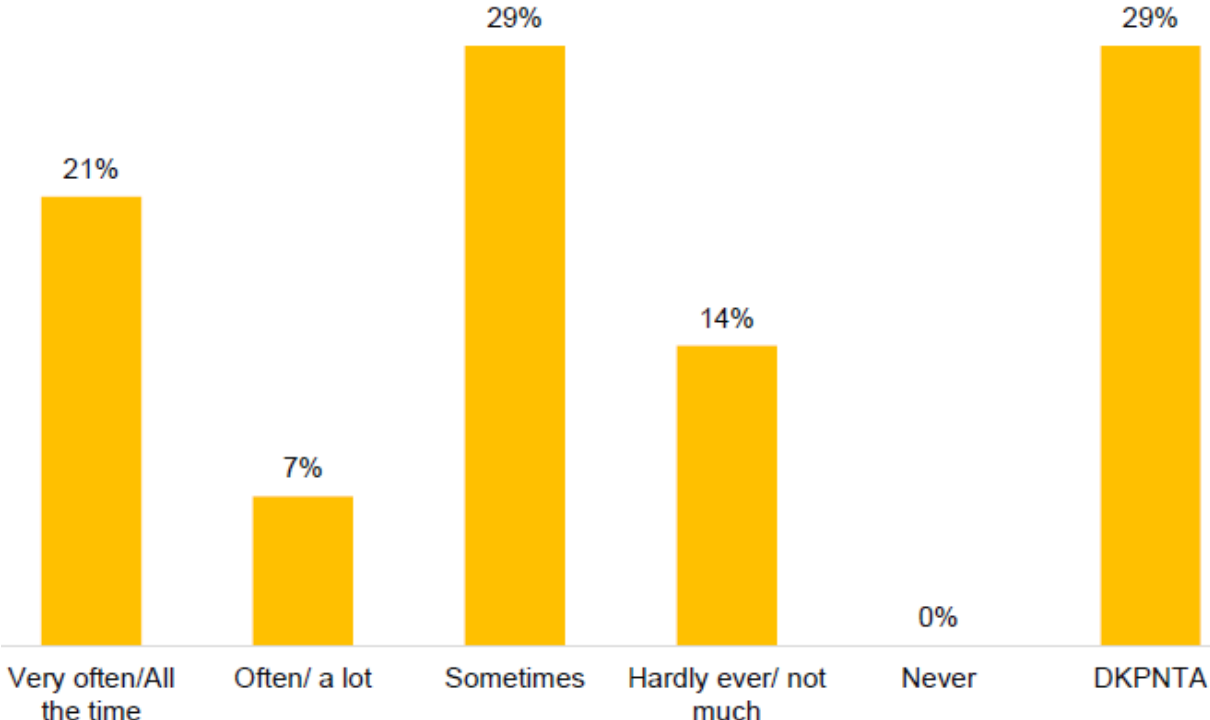
Again there were varied views on levels of remuneration for being a mediator. While most felt that \$40 per hour was a good rate of pay, a few felt they had often not been paid to conduct mediations and a few also spoke of being paid \$90 for a full day’s work. Some would also like to be doing more mediations and have greater consistency of employment.

**4.7.3 Elders’ Rules followed**

This subsection examines if the Elders’ Rules are being followed.

There were mixed responses from mediators regarding how often the Elders’ Rules were followed. Some felt they were followed very often or often (28%) some felt they were followed sometimes (29%) or hardly ever (14%) and around a third responded with don’t know (29%).

**Figure 36: Elders’ Rules followed?**



Base: Only asked of selected mediators (n=14)  
 Q26: How often are the Elders’ Rules followed?

Again there were varied views regarding how often the Elders’ Rules are applied. Some felt that while there is no specific reference to them the basic principles like keeping things confidential, being impartial and showing respect to both sides were always applied. Other were puzzled by the term Elders’ Rules and seemed to have no recollection that they ever existed. Even some of the people who had originally signed off on them do not recall them, at least they do not recall them by that name.

Despite the fact that these rules were developed by local Elders and respected leaders after intensive consultation and many meetings; the Rules are often not remembered and referred too. Essentially the rules and the people who signed off on them are the architects of the peacemaking service on Mornington Island. They mark the genesis of an innovative and effective partnership between families, community and government dedicated to using communication rather than violence to resolve conflict. CBSR believes they should be enshrined to honour the hard work, dedication and commitment of those who developed them. At the very least they should be more readily accessible to mediators.

**4.8 Success factors**

This section outlines participants’ views on the factors that have underpinned the success of the Project. Primarily, participants spoke of the effectiveness of the community development approach – the length of time the former Mediation Coordinator spent on the ground (4 years) building trust, relationships and developing a model in close partnership with the Moyenda (respected Elders).

*"Working with them [the Moyenda] to develop something of their own that respected traditional knowledge".*

*(Key stakeholder)*

Further, the presence of long-term funding commitment from government was praised, so people began to trust that mediation was 'here to stay' and would not be taken away when funding priorities changed.

The former Mediation Coordinator did not arrive with an agenda, pre-conceived ideas or templates for what had to happen. The model was built from the grass roots up. The same principle applied to the establishment of the PCYC / Changing the Cycle / Banbaji Student Service via Dave Ives, Frank Watt and Alan Seckington. In both cases project staff had maximum flexibility to develop and deliver in line with community needs and aspirations.

The kinship model was developed in consultation with families and Elders and eleven rules for mediation and an eight step process model of peacekeeping emerged. The model has a strong reliance on kinship, cultural and family knowledge and building the capacity of the community and local ownership are key aims and outcomes. The project has utilised a strengths-based approach to empowering the kinship system in order to resolve the conflicts that occur within it. As aforementioned, some of the Project's current activities such as employment related dispute or police complaints do not draw on this model for their success

The outstanding quality of the coordinators that have been involved in the Project since its inception was also raised as a strength. The first coordinator's community development 'slow and sure approach' was just what was required initially with a very fragile and volatile community with limited patience and support for government initiatives (experiments) that are 'flavour of the month' and then withdrawn when funding priorities change. The first Coordinator's approach was perfect for gaining grass roots support during the developmental and implementation stages of the Project. The second coordinator's managerial, technical, mediation and legal skills have taken the Project to another level by almost doubling the amount of outputs and outcomes achieved since he took over. However, the downside of having such exceptional Coordinators is that they make succession planning to full community management and control a difficult exercise. It could be argued that *"an irreplaceable former coordinator has been replaced by an irreplaceable current coordinator."* (Key Stakeholder)

Participants identified clear advantages (economies of scope) with the MIRJ Project being incorporated into the Justice Group's overall operations. For example, the mediation coordinator's presence in court during pre-sentencing is one of the reasons why referrals from the court and police have increased.

Ultimately: Stakeholders felt that the Project is working because people want it and feel it is leading to concrete actions that are helping the community deal with disputes in their own way. Mediation concerns family business which is an essential part of everyone's lives on Mornington Island.

## **4.9 Unintended consequences**

This section outlines participant's views on the unintended consequences of the Project.

### **Summary**

There is some evidence the Project in combination with other unrelated strategies may have improved school attendance. Average attendance was 56% out of 185 enrolments in 2008 and increased to 75% out of 306 enrolments by 2014. According to a key stakeholder and a teacher at the Mornington Island State School, the grades of some senior male students in practice Naplan tests actually improved if they were participating in the Banbaji Student Service before they attended school in the morning.

Some Service Providers such as the school and the store (two of the largest employers of local people) reported less staff absenteeism when relatively large community disputes were resolved by mediation. However, no supporting quantitative evidence was available to support these assertions.

The Project was always intended to be community driven and owned. However, it has become reliant on an outside Mediation Coordinator and a handful of local mediators. Furthermore, only one local person does most of the work. Most mediations have been carried out by only one local mediator who has completed 192 mediations. The next most experienced mediators have only mediated on 36 and 27 occasions respectively. The presence of a highly skilled Mediation Coordinator with a background in mediation, law and computer systems also means it will be very hard to find an adequate replacement. The reliance and dependence on an outsider who has developed close links with the Police had led some to perceive that the Project is now being run by the Mediation Coordinator and the Police rather than by the local Elders of the Justice Group.

## **Recommendations**

The Program should ensure that local Elders are given maximum autonomy and control over running the MIRJ Project. Further, the Program should promote the community controlled elements of the Project such as the choice people have over where the mediation will be held and who should attend. Being more transparent over elements such as where mediations are being held will counter false perceptions that mediations are 'always' held at the court house.

### **4.9.1 School attendance**

School attendance rose at certain points due to mediation. Bullying, teasing and fights originating from the school were dramatically reduced due to the activities of Junkuri Laka and the Banbaji Student Service. The latter won an award for their work at the 2013 Australian Crime and Violence Prevention Awards based on their achievement of improving school attendance and reducing community violence originating from student disputes (see Appendix C). The Head Master who has been at the school for a number of years felt that the rise in school attendance and enrolments (average attendance was 56% out of 185 enrolments in 2008 and increased to 75% out of 306 enrolments by 2014) over the last few years was in part due to the mediation service.

*"Kids and families know that they can come to school and we can support them around managing conflict. "Families know we have that [mediation] resource."*

*(Service Provider)*

*"[Without the mediation service] we would have more conflict in the school and it would affect our attendance. There would be more conflict and tension between families"*

*(Service Provider)*

*"[Without the mediation service] there would be more fights starting in the school which would then lead to more conflict out in the community."*

*(Service Provider)*

*"Mediation is a valuable program that is really making a difference to us. It is helping us to provide a safe and supportive environment for the kids. Is it perfect and does it work in all cases? No, but its making a significant difference."*

*(Service Provider)*

A safer school environment with less teasing and bullying has given students and parents increased confidence that young people can attend school safely. Parents are also more confident that the school has a system in place to deal with fights and arguments that get out of hand or threaten to spread out into the wider community.

According to a key stakeholder and a teacher at the Mornington Island State School, the grades of some senior male students in practice Naplan tests actually improved if they were participating in the Banbaji Student Service before they attended school in the morning. Activities such as 'bouncy boxing' let them channel their aggression and raw physical energy enabling them to be more focussed and attentive in class and improving their performance in practice Naplan testing.

#### **4.9.2 Employment - reduced staff absenteeism**

Some Service Providers such as the school and the Store (two of the largest employers of local people) reported less staff absenteeism when relatively large community disputes were resolved by mediation. However, no supporting quantitative evidence was available to support these assertions.

#### **4.9.3 Reliance on an outsider and mostly just one local**

The Project was always intended to be community driven and owned. However, it has become reliant on an outside Mediation Coordinator and a handful of local mediators. Furthermore, only one local person does most of the work. The table below shows that most mediations have been carried out by only one local mediator who has completed 192 meditations. The next most experienced mediators have only mediated on 36 and 27 occasions respectively.

**Table 6: Number of mediations conducted per mediator**

<b>Mediator</b>	<b>Number of mediations conducted per mediator</b>
1	192
2	36
3	27
4	22
5	21
6	19
7	17
8	7
9	5
10	5
11	3
12	2
13	1
14	1
15	1

Mediator	Number of mediations conducted per mediator
16	1
17	1

Source: Junkuri Laka. Please note this data is only partially complete as provided on 28 May 2014. However, it still gives a strong indication of how much work is being conducted across the pool of mediators.

The presence of a highly skilled Mediation Coordinator with a background in mediation, law and computer systems also means it will be very hard to find an adequate replacement. While the need for a coordinator not connected to families by kinship remains, unintentionally the recruitment of such a highly skilled and competent CEO has reinforced dependence on an outsider and will make it very difficult to find a replacement. Capacity building and training and succession planning efforts will need to be a primary focus over the next 12 months. Even after that time ongoing training and mentoring will be crucial.

#### 4.9.4 Mediation Coordinator and Police are running the Project

The reliance and dependence on an outsider who has developed close links with the Police had led some to perceive that the Project is now being run by the Mediation Coordinator and the Police rather than by the local Elders of the Justice Group.

*"It's not the same since Phil and Monty [Project Manager and previous Mediation Coordinator] started it. Now it's the <coordinator> Show. <Coordinator> and the cops run it so our Elders just along with it and support what they say. We need to bring back the first model and let the Elders run it."*

(Anonymous)

*"There is a lack of leadership and say from the Elders so it's not community owned anymore."*

(Anonymous)

*"I preferred it when Phil and Monty started it. They had almost all the Elders there with the right families and they would lead the talks whereas now <coordinator> talks over the Elders and they just support what he says. This is why less people are doing mediation. People wanted mediation before so they could sort their business out but that's when the Elders had more say. Now they don't people fight and only do mediation when told to by the cops."*

(Anonymous)

*"It's the same Elder/s always attending mediation...they need to share it around or the families won't listen let alone the young people."*

(Anonymous)

*"Go back to how Phil and Monty ran it. It was deadly back then. They knew their place and supported the Elders...not like now."*

(Anonymous)

*"Bring back more Elders so they know what Elders to use for that family [involved in mediation]."*

(Anonymous)

*"Go back to people's homes so it's more personal and friendly instead of the cops or <coordinator's> office."*

(Anonymous)

#### **4.10 Applicability of the MIRJ Project model**

This section describes how the MIRJ Project model could be applied elsewhere.

##### **Summary**

The model described here is capable of transfer to other communities. However, the degree of confidence in its sustainability will rely on a community development implementation approach, closely following the Project Manager's modus operandi in executing the establishment and implementation of the MIRJ Project. That is, respected Elders and leaders need to be given maximum responsibility and ownership of the design and for the eventual running of the Project.

Establishing mediation services in other communities can be informed by the Mornington Island experience and based on these learnings similar projects in other communities could conceivably be established more effectively within a shorter timeframe.

##### **Summary**

The following points should be considered for roll-out of future mediation programs:

- The mediation project needs to develop as a local initiative informed by the local context;
- The project needs to build on existing community strengths, resources, knowledge, and positive traditional aspects of culture;
- Respected Elders/leaders and other family representatives' input is needed to design how the Project will work;
- Funding needs to be long term;
- Surveying young people, Elders, respected leaders, women and families and enlisting widespread community support provides the Project legitimacy and authority to proceed with implementation;
- Justice Groups or Community Safety Reference Groups are clear starting points to ensure the future sustainability;
- There is a need for ongoing training, professional development and appropriate remuneration;
- There is a need to raise awareness of what mediation is, how it works, how and when it can and should be used and how and when it can't and shouldn't be used and what the benefits are;
- The need for more effective two-way referral processes with key agencies outside the Justice arena;
- The need for intensive and early succession planning, traineeships and ongoing capacity building to ensure that local people can run the service; and



- The need to include a wider representation as possible of different family groups, young people and women in the available pool of mediators.

The MIRJ Project was developed as a pilot program to see if an effective mediation model could be developed with possible applications to other remote Aboriginal and Torres Strait Islander communities.

The model described here is capable of transfer to other communities. It can be argued that remote communities which share a similar social and cultural make up with similar social problems may benefit from similar solutions. However the degree of confidence in its sustainability will rely on a community development implementation approach, closely following the Project Manager's modus operandi in executing the establishment and implementation of the MIRJ Project. That is, respected Elders and leaders need to be given maximum responsibility and ownership of the design and for the eventual running of the Project. Establishing mediation services in other communities can be informed by the Mornington Island experience and with these learnings could occur more effectively within a shorter timeframe<sup>53</sup>.

The MIRJ Project may inform the establishment and operation of mediation services in other communities in the following ways.

- Project managers arrive in community informed by what works on Mornington Island and elsewhere, but the mediation project needs to develop as a local initiative informed by the local context. *The ideal situation is that the community feels they have come up with the idea themselves.* (Key stakeholder)
- The project needs to build on existing community strengths, resources, knowledge, and positive traditional aspects of culture.
- Respected Elders/leaders and other family representatives' input is needed to design how the Project will work. Peacemaking will only be effective with the support and involvement of families, their Elders and other respected persons including younger people.
- Funding needs to be long term with a commitment from both State and Federal agencies that the Project will be supported as long as it can demonstrably prove it is working to make the community safer, building local capacity to resolve disputes peacefully and reducing Indigenous peoples' contact with the formal criminal justice system.
- Surveying young people, Elders, respected leaders, women and families and enlisting widespread community support provides the Project legitimacy and authority to proceed with implementation.
- Longitudinal tracking of participants in the Project is required to unequivocally demonstrate the Project is meeting its outcomes.
- Justice Groups or Community Safety Reference Groups are clear starting points to ensure the future sustainability of the Project.
- The Kinship Consultation Model of mediation, may work as a starting point but can be changed as required to suit local needs. *"For example, families may provide*

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<sup>53</sup> Venables, Phil. (2012) Mornington Island Restorative Justice (MIRJ) Project - Report on its Development, Implementation and Transition to Community Management 2012, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland, pg 44.

*authority for Elders or their Justice Group to conduct all mediation and remove the right of families to choose<sup>54</sup>.”*

- The need for ongoing training, professional development and appropriate remuneration. This could include creating a panel of mediators that could work in cluster of communities like Mornington Island, Doomadgee, and Aurukun.
- The need to raise awareness of what mediation is, how it works, how it can and can't be used and what the benefits are to people through the promotion of good news stories and case studies disseminated via multiple channels.
- The need for more effective two-way referral processes with key agencies outside the Justice arena.
- The need for intensive and early succession planning, traineeships and ongoing capacity building to ensure that local people can run the service.
- The need to include a wider representation of different family groups, young people and women in the available pool of mediators.
- The location, physical space needs to be on neutral ground. A central location close to the shops, government hub and other justice services will provide easier access for community members without transport than having it at either one or the other end of town.
- The service provider nexus. The mediation service needs to build relationships with all relevant Service Providers from the start. This is the only way of ensuring that participants get the holistic help they need to stop them from reoffending.

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<sup>54</sup> Venables, Phil. (2012) Mornington Island Restorative Justice (MIRJ) Project - Report on its Development, Implementation and Transition to Community Management 2012, Dispute Resolution Branch, Department of Justice and Attorney General, Queensland, pg 43.

## 5. Participatory exercises

This section presents participant's views on the achievements and challenges of the MIRJ Project via three participatory techniques.

1. A hybrid of the Most Significant Change technique.
2. Participatory drawing exercise.
3. Projection.

The activities that participants most enjoyed were also explored.

### In summary

Based on a ballot of 212 community members, the Project has been most successful in the following ways:

1. Fights stop rather than going on - less ongoing 'grudge' fights;
2. People are happier and less stressed;
3. Brings families back together;
4. Less big fights;
5. More people go to mediation;
6. Less criminal charges and less jail time; and
7. People able to get on with their lives.

The project needs to improve in order or priority in the following ways:

1. Get more young people involved as mediators;
2. Get more families involved as mediators;
3. Telling people more about good news stories, how mediation works brings families together;
4. Train up the next generation of leaders;
5. Local people need to run mediation more;
6. More training for mediators; and
7. Jobfind and Justice Group set up a training activity around leadership and mediation.

During the Most Significant Change ballot voting, participants were asked who should run the mediation service in the future. Participants were given a choice of a local person, or an outsider with no kinship ties or a combination of the two. Nearly half (46%) voted for a combination of both a local person and an outsider to ensure the service would remain impartial and not be captured by one family or clan group. Around a third (36%) voted for a local person to run the mediation service and just under a fifth (16%) voted for an outside person with no kinship ties to run the service. Under the ideal model the

Mediation Coordinator would still play a key role, but they would be more in the background providing managerial, technical, legal and data capture as well as being an 'impartial/authorising outsider of the last resort'. Similar to how the Government Engagement Coordinators (formerly Government Business Managers) in the Northern Territory are stepping back and letting the Indigenous Engagement Officers take more of a leading role in their respective communities.

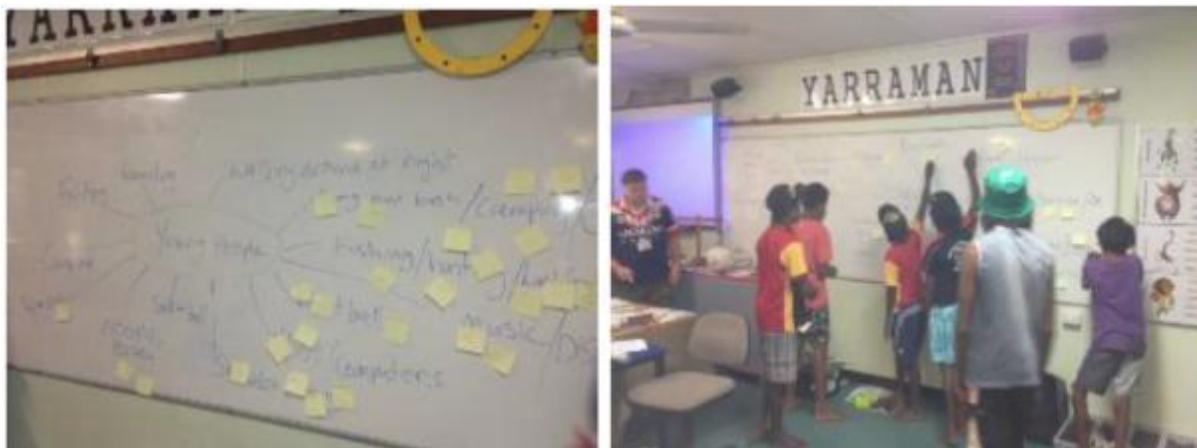
Based on participant drawing exercises, the Project is bringing hope to people by healing and restoring family relationships and letting the community solve its own problems in its own way. Based on a projection exercise with a few selected participants, the MIRJ Project needs to slow down and become warmer, more welcoming, patient, understanding, agreeable, collaborative and cooperative.

## Activities

The participatory exercise revealed they were most interested in the following activities:

- Going out bush, camping, fishing and hunting.
- Sports like shadow or play boxing, football, indoor soccer, noodle hockey, bike riding and swimming.
- Music and discos (this is where young men and women frequently 'hook-up').
- X box and computers.

**Figure 37: Activities that young men enjoy doing**



**Figure 38: Occupations/careers that interest young men**



After voting on their favoured activities, the young men were asked about what jobs they were interested in. The results can be seen in the bottom right photo. Key career interests included:

1. Jackaroo i.e. cattle farming.
2. Ranger / Tour guide.
3. Trades like carpentry, electrician, road technician and technology / computer engineer
4. Services that help our mob like Youth Worker, Night Patrol, Police Liaison Officer, teacher or lawyer.
5. Airplane pilot.

Clearly, young men are interested in a range of career activities involving caring for country (point 2) primary industry (point 1) practical occupations around fixing and making things (point 3) adventure (points 1, 2, and 5) and helping the community (point 4). There is therefore scope to introduce mediation training as part of point 4. Programs, projects and activities based around the themes described above should be effective ways of engaging young men.

There are also likely to be different segments of young people with different needs that require different strategies. Three segments based on age could include:

1. Up to 15 - 'Children';
2. 16-24 year olds - 'Kidults'; and
3. 25 years + - 'Mature'.

Then within these segments there are likely to be various levels of carer/parental guidance, school or training attendance, confidence, ability to engage with non kin and criminal or anti-social behaviour.

With limited resources it may be logical to focus on group 1 and 2 who are more receptive and less likely to have entrenched negative behavioural patterns and long criminal records. When these young people first get into trouble, maximum effort should be put into ensuring they don't get into trouble again. This will require a whole-of-community effort and a case management approach with all relevant Service Providers pooling their

resources and expertise to ensure these young people are given every chance to get back on track. This will provide a balance to offset the influence of older siblings and friends who may be acting as a constant influence to get involved in petty crime and violence. Essentially older siblings, family and friends are often acting as recruiting agents for the next generation to become involved in antisocial and destructive behaviours that are causing so much damage to the Mornington Island community<sup>55</sup>.

Ideally the Project could become more involved with the 2014 Breaking the Cycle Mornington Island initiative being overseen by Mission Australia. The initiative has comprehensive strategies to deal with youth issues and Junkuri Laka could play a key role in supporting these from the justice perspective through mediator training, capacity strengthening and as a central conduit for two-way referrals.

Apart from wandering the streets at night, the activity that engages most young men on Mornington Island is the evening football league. This level of engagement suggests a real opportunity to harness to popularity of sport as a means to discourage illegal and harmful past times.

This assertion is backed by CBSR research on an AFL program in Wadeye. The AFL Northern Territory set up a Program with local Elders, leaders and Traditional Owners in Wadeye built around the Wadeye Football Club. The project engaged all of the 20 clans of Wadeye whose young people aspire to play for Wadeye Magic (Wadeye's representative AFL team). They play in the Darwin League every Saturday during the Northern Territory Football League (NTFL) season. But young men can only be considered for selection if they stay out of trouble, undergo health checks and attend employment or training activities during the week. The project has been one of the good news stories to come out of Wadeye over the past few years<sup>56</sup>.

There is a clear opportunity for the NRL to undertake a similar project in partnership with respected Elders and leaders on Mornington Island. In fact members of the Titan Football team recently visited Mornington Island as part of the Titans for Tomorrow project so there are already established links to at least one NRL Football Club. Such a project is a proven effective way to engage young men<sup>57</sup>. Once engaged they could then be case managed to referral services for justice (mediation and assistance with legal matters) and wellbeing services (healing, counselling, drug and alcohol services and family violence assistance). Further, there may be a need for employment services (RJCP pre-employment training, remedial practically based literacy and numeracy).

A similar project could be considered for young women drawing on softball or touch footy or other activities identified in the Youth Action Strategy<sup>58</sup>. Unfortunately, due to the gender representation of the research team, mainly young men were approached for in depth qualitative interviews during this study and evidence collected in relation to the needs of young women is less comprehensive.

## **5.1 A hybrid of the Most Significant Change technique**

After analysing the completed interviews towards the first week of the Post Pilot fieldwork, the following lists (see tables below) were compiled of the biggest changes that have occurred on Mornington Island since the inception of the Project in 2008/9 as well as

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<sup>55</sup> Some participants feel that it was young people from other communities first introduced local young people to paint sniffing and distilling opal fuel so it is suitable for sniffing. Now these "skills" are passed on intergenerationally between older and younger young people. Noel Pearson has observed the same pattern occurring with alcohol in the Cape York communities. See Pearson, Noel (2009), *Up From The Mission*, Black Inc, pg 176.

<sup>56</sup> See [Wadeye Magic a boost for remote Northern Territory community](#).

<sup>57</sup> [http://www.dss.gov.au/sites/default/files/documents/06\\_2012/wadeye\\_afl\\_prog\\_eval.pdf](http://www.dss.gov.au/sites/default/files/documents/06_2012/wadeye_afl_prog_eval.pdf)

<sup>58</sup> CBSR has requested a cop of this from the Regional Operations Centre.

the biggest challenges that still needed to be overcome to make the Project more effective. These lists were then compiled into two ballot papers (see Appendix E).

Team members presented these lists to community members during the second week of the Post Pilot fieldwork and community members were asked to vote for the 1st, 2nd, and 3rd biggest changes that had occurred since the inception of the Project as well as the 1st, 2nd, and 3rd biggest challenges that still needed to be overcome to make the Project more effective.

People readily engaged with this process with 212 people participating in the voting. Our lead local research practitioner reported really enjoying this part of the research. Community members also enjoyed receiving instantaneous feedback on the survey results and being provided with an opportunity to comment and rank their preferences based on what other people had been saying.

The first table displays frequency weighted data results (where voting a variable as a first choice is worth three points, voting a variable second choice is worth two points and voting a variable third choice is worth one point) for the biggest changes on Mornington Island since the inception of the Project. The second table displays frequency weighted data results for the biggest challenges that need to be overcome to make the Project more effective.

### 5.1.1 Biggest changes in the last three years

**Table 7: Three biggest changes due to the MIRJ Project (based on weighted data)<sup>59</sup>**

<b>Biggest changes in the last three years</b>	<b>Weighted Score</b>	<b>%</b>
1. Fights stop rather than going on – less ongoing ‘grudge’ fights	210	17%
2. People are happier and less stressed	143	11%
3. Brings families back together	164	13%
4. Less big fights	146	12%
5. More people go to mediation	114	9%
6. Less criminal charges and less jail time	107	8%
7. People able to get on with their lives	102	8%
8. More people telling others to go to mediation rather than fight	94	7%
9. More children going to school	60	4%
10. Elders getting stronger as leaders	52	4%
11. Less people go to hospital	43	3%
12. People are safer	31	2%
<b>Total</b>	<b>1266<sup>60</sup></b>	<b>100%<sup>61</sup></b>

<sup>59</sup> Where voting a variable as a first choice is worth 3 points, voting a variable second choice is worth 2 points and voting a variable third choice is worth 1 point). Participants in the voting process included Community members and their families and service providers.

According to analysis of this data, the top seven changes that have occurred since the inception of the Project are as follows.

1. Fights stop rather than going on - less ongoing 'grudge' fights.
2. People are happier and less stressed.
3. Brings families back together.
4. Less big fights.
5. More people go to mediation.
6. Less criminal charges and less jail time.
7. People able to get on with their lives.

These results are relatively consistent with the Impact survey results. People perceive there are fewer ongoing fights and big fights than there otherwise would have been in the absence of the Project. This results in people being happier and less stressed and is helping to heal the community by restoring relationships, bringing families back together and helping people get on with their lives (i.e. go to shop, attend Service Providers, attend community events and funerals). These benefits are inspiring more people to use mediation and to encourage other people to use mediation. Less contact with the formal criminal justice system (i.e. court and jail time) also means more time with family. These issues are explored in more detail in the participatory drawing exercise below.

Despite, the positive perception that participants had around the Project improving community safety in the Impact survey, it scored at the bottom of all the choices listed for the Most Significant Change. There could be a couple of reasons for this.

1. Some people already feel safe on Mornington Island, especially non-Indigenous and Indigenous Service Providers, community leaders and older men. These participants did not vote for safety because they have always felt safe in their community.
2. Alternatively, others feel that safety remains a key issue despite the efforts of the Project, especially in relation to young people, women and children and/or when alcohol or other mind altering substances are involved. These participants did not vote for safety because they do not feel that they or members of their family are any safer due to the Project.

**5.1.2 Biggest challenges that need to be overcome**

**Table 8: Biggest challenges that need to happen to make the Project more effective (based on weighted data)<sup>62</sup>**

<b>Biggest changes that still need to happen</b>	<b>Weighted Score</b>	<b>%</b>
1. Get more young people involved as mediators	203	16%

<sup>60</sup> Only 211 out of 212 votes could be entered as valid.  
<sup>61</sup> Scores may not equal 100 due to rounding.  
<sup>62</sup> Where voting a variable as a first choice is worth 3 points, voting a variable second choice is worth 2 points and voting a variable third choice is worth 1 point). Participants in the voting process included Community members and their families and service providers.



<b>Biggest changes that still need to happen</b>	<b>Weighted Score</b>	<b>%</b>
2. Get more families involved as mediators	177	14%
3. Telling people more about good news stories, how mediation works brings families together	145	12%
4. Train up the next generation of leaders	132	11%
5. Local people need to run mediation more	127	10%
6. More training for mediators	123	10%
7. Jobfind and Justice Group set up a training activity around leadership and mediation	122	10%
8. Other services need to refer/partner with mediation to help the people	111	9%
9. Move Junkuri Laka building into town	73	6%
10. Mediators need to be more fair/ neutral	44	4%
<b>Grand Total</b>	<b>1257<sup>63</sup></b>	<b>100%</b>

The top seven challenges that need to be overcome to make the Project more effective are as follows.

1. Get more young people involved as mediators;
2. Get more families involved as mediators;
3. Telling people more about good news stories, how mediation works brings families together;
4. Train up the next generation of leaders;
5. Local people need to run mediation more;
6. More training for mediators; and
7. Jobfind and Justice Group set up a training activity around leadership and mediation.

These findings reflect several key themes.

First, the importance of engaging young people to try to keep them out of trouble and improve their long run life prospects. Many of the current generation of Elders are getting older and some talk down to the young people during mediation or talk about how it was for them in the missionary days. This conduct makes some young people feel that what the Elders are saying is meaningless and irrelevant to their circumstances. In addition, according to some participants some of the Elders are involved with or supporting the very behaviours that they are chastising young people about. These are some of the reasons why some young people say they have little respect for some of the Elders. Young people also feel it also depends on the way a young person is brought up. If their parents have been around and taught them 'right way' they are more likely to have respect for Elders. Alternatively, if they have been brought up without parental guidance

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<sup>63</sup> Only 210 out of 212 votes could be entered as valid.

and left to wander the streets at night they are more likely to just walk out of mediation with a smile on their face. Therefore, there appears to be a need for more young people and for young leaders to step up and become mediators. There is a need to identify and groom young leaders in the school, PCYC, Youth Hub and in Sport and Rec activities. Potential candidates include those who have the confidence to speak up, remain impartial, have control over their emotions, and generally stay out of trouble.

Second, the urgent need to widen the pool of mediators so that more families feel represented. Most participants feel this will encourage more people to choose mediation, and also encourage parties to a dispute to stick to their mediation agreement. A key part of widening the pool of mediators will involve increasing the number of women available to act as mediators (especially when the parties involved in a dispute include women or if the issues involve women’s business).

Third, the need for more promotion of the Project’s success stories, for example, how it works and how it can help both community members and Service Providers, what it can and can’t be used for, how people and services can make a referral and also how they can lodge a complaint if they are unhappy with the service they receive or outcome of a mediation. A number of community members and Service Providers were unsure about the specifics of mediation and how it could help them. One service provider who had been on the Island for two years and is always out and about in the community working at the coal face, had not even heard of mediation before they participated in a research interview.

Fourth, the need for the service to be run more by local people. This will involve intensifying efforts at succession planning and capacity building and for the Mediation Coordinator’s role to step back and be there more as an impartial observer, mentor, and facilitator to help guide local people who will lead and be the face of the operation. During the Most Significant Change ballot voting, participants were asked who should run the mediation service in the future. Participants were given a choice of a local person, or an outsider with no kinship ties or a combination of the two. Nearly half (46%) voted for a combination of both a local person and an outsider to ensure the service would remain impartial and not be captured by one family or clan group. Around a third (36%) voted for a local person to run the mediation service and just under a fifth (16%) voted for an outside person with no kinship ties to run the service.

**Table 9: Who do you want to run the mediation service?**

<b>Who do you want to run the mediation service?</b>	<b>Count</b>	<b>%</b>
Both local person and outsider	97	46
Local person	77	36
Outside person / no kinship ties	34	16
Don't know	4	2
<b>TOTAL</b>	<b>212</b>	<b>100</b>

Base: n=212

Under the ideal model the Mediation Coordinator would still play a key role, but they would be more in the background providing managerial, technical, legal and data capture as well as being an ‘impartial/authorising outsider of the last resort’. Similar to how the Government Engagement Coordinators (formerly Government Business Managers) in the Northern Territory are stepping back and letting the Indigenous Engagement Officers take more of a leading role in their respective communities.

Finally the need for more training. This training needs to be highly practical in nature, based on situations that occur time and time again in mediation via participatory techniques such as role playing and narrative based scenarios. The Project's data base represents a virtual treasure trove of case studies detailing what mediation strategies and techniques work best in which situations. These could form the basis of practical training and continuous learning.

In addition, the school is searching for a pathway into participation and engagement for its senior students. Presently Year 11 students have few choices– they either go to boarding school or stay in the community where there are few jobs for school leavers. There is an opportunity here for students who are used to the structure of going to school to be engaged in mediation training either through the PCYC, Youth Hub or RJCP. If the training is to include leadership elements, then ideally it will be holistic in nature covering life, relationships, culture, leadership and mediation skills. For example it could include:

- Acquiring mediation skills as an alternative to the use of violence;
- Encouragement of self-respect and self-belief and teaching around how to take control of their own lives and make decisions for themselves;
- What it means to be a strong man/woman in the traditional sense (provider, protector, and teacher);
- Ability to recognise and take up opportunities when they arise;
- Overcoming personal obstacles and strong emotions with confidence;
- Ability to access and benefit from contemporary knowledge and the Australian economy;
- Ability to learn about and understand Australian law and how it relates to their lives, including the meaning of equality and citizenship;
- To learn work skills;
- To counteract negative aspects of traditional culture as it is now interpreted and imposed on them including drinking circles, unreciprocated demand sharing, tall poppy syndrome and the acceptability of violence; and
- To apply cross-cultural counselling, the principles of counselling and to learn how to make use of it.

As far as possible, training involve the active two-way sharing of knowledge and drawing on participants' experience and understanding of kinship and culture to direct how and who should conduct mediations<sup>64</sup>.

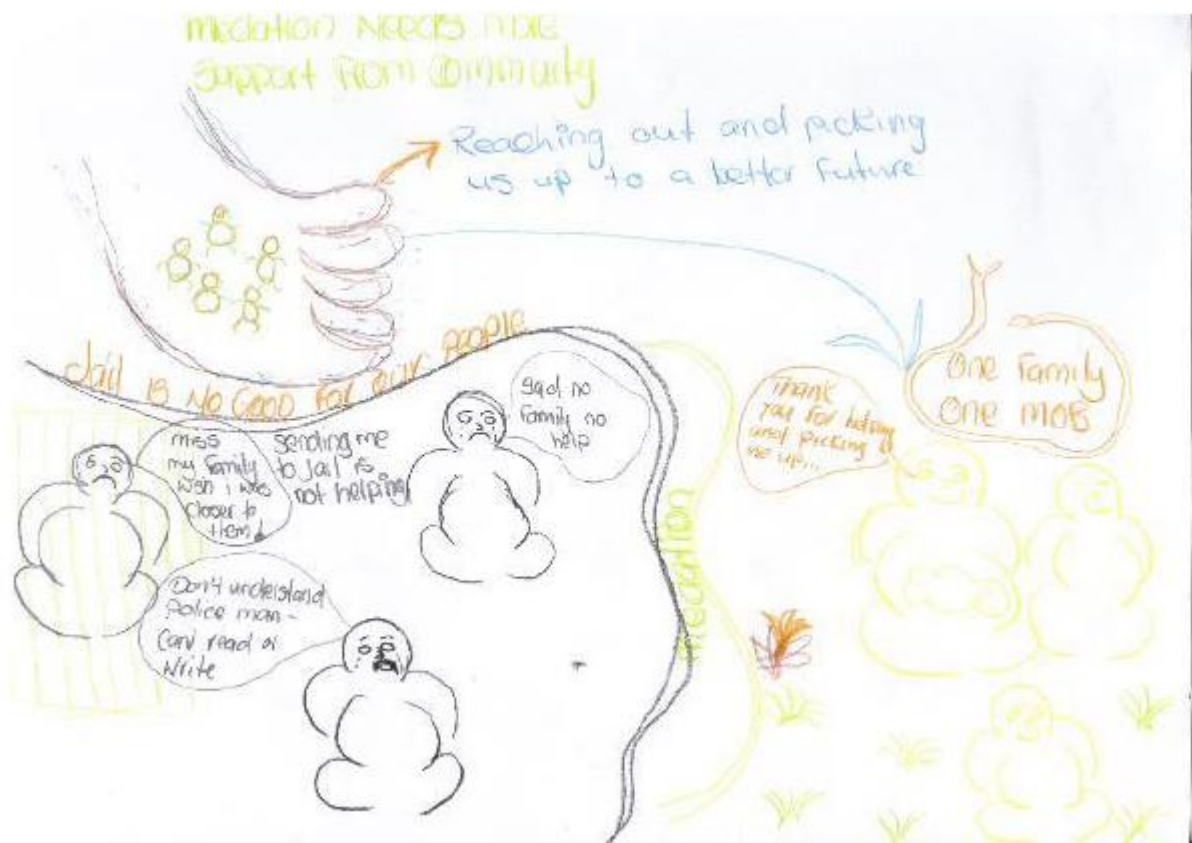
## **5.2 Participatory drawing exercise**

Some participants were given the option of expressing their feelings about if and how the Project was helping them, their family and the wider community via a participatory drawing exercise. Some of these are presented below.

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<sup>64</sup> Crawford, W. and Thwaites, R. (2013), Two Way Learning & Culturally Appropriate Mediation Training in Remote Communities in indigenous Law Bulletin January / February 2013, ILB Volume 8, Issue 4.

**Figure 39: Picture 1: Mediation is reaching out and picking us up to a better future**



**Source: Lardil woman, 35-44, Service Provider.**

To the far bottom left, the picture depicts community members who are caught up in the web that is the formal criminal justice system, isolated from family, lost and alone in an alien system they do not understand. 'Jail is no good for our people.' A Kafkaesque impersonal and inaccessible system presiding over some great sadness. Once entangled in the web that is the formal criminal justice system, Mornington Islanders feel trapped and alone and find it very hard to ever escape.

Then the helping hand of mediation can be seen offering hope, (top left) reaching out to the lost and picking them up and enabling them to move towards a better future which is all about restoring family, recognising relatedness 'one family one mob', unified by culture and tradition like the dreaming stories of the rainbow serpent.

The picture also makes a plea to the community (top middle-right) to support mediation more by getting involved and taking full advantage of the service and learning mediation skills.

**Figure 40: Picture 2: Mediation as empowerment – Community issues in our hands**



Source: Lardil woman, 35-44, Party to a dispute.

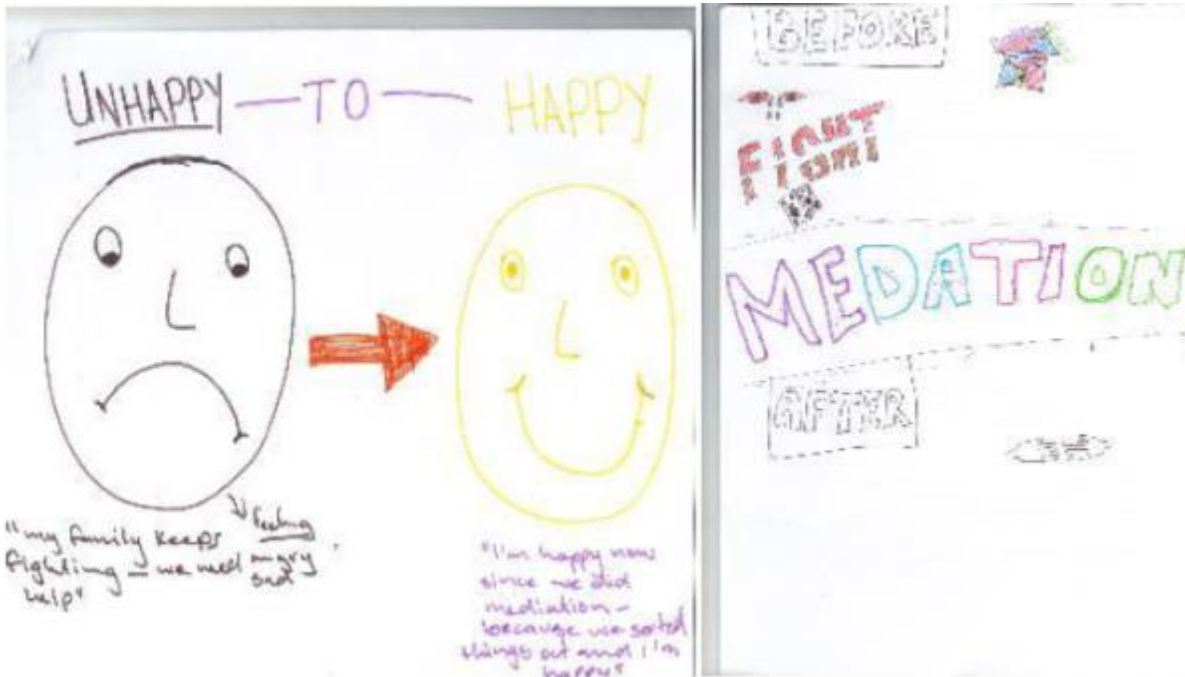
To the far bottom left, the hand represents the challenges that community members are dealing with everyday such as money problems, grog, gambling, grief, sadness, anger, overcrowding, lies, rumours, stealing, family problems, social media bullying, children and a lack of discipline. Note the reader’s eye is drawn to the crying eye in the centre of the left hand. Moving across to the right, the hand is offering the hope (symbolised by the peace dove) and empowerment of families through mediation where community issues are put back ‘in our hands’. The message is clear. ‘Let’s talk about it, be part of the solution, do the right thing and seek help.’ ‘Mediate not procrastinate when we have problems.’

The message of hope involves:

- Cultural respect with Elders leading the community;
- Trained mediators who know the family’s history, links and connections;
- Youth mediating with Elders support;
- Camping on country;
- Encouraging non-violent settlement of trouble, acknowledging what people are going through and the efforts they are making and always guiding people towards a better future through respect;
- Developing emotional intelligence; and

- Referral to appropriate support services to help families deal with the issues that are getting them into trouble.

**Figure 41: Pictures 3 and 4: Mediation heals the hurt and leads to happiness**



Source: Kaiadilt men, 25-34 years, Parties to a dispute.

Both pictures draw on before and after themes. Before mediation we have broken homes where families are unhappy, angry, sad and in need of help. After the mediation intervention issues are sorted out, families are friends again and people are happy.

### 5.3 Projection exercise

**Figure 42: Current mediation service**



To introduce a little fun with selected participants, people were asked to describe what type of animal the current mediation service was closest too and what characteristics the service shared with those animals. Imagery connected the current mediation service to a Fox, Snake or Crocodile sharing the characteristics of intelligence, dedication, commitment, hardworking, serious, helpful, powerful, intimidating, overbearing, loud, abrasive, correct, fair, thorough, perfectionist, making a difference, effective, protecting, managerial, really nice, competitive, building an empire, feathering the nest, cunning, clever, sly, respected, trustworthy, knowledgeable, good advice, expert, technical - hard to understand, talks down, impatient, spread too thin, in a rush, uncooperative, obstructive and evasive.



### 5.3.1 Ideal mediation service

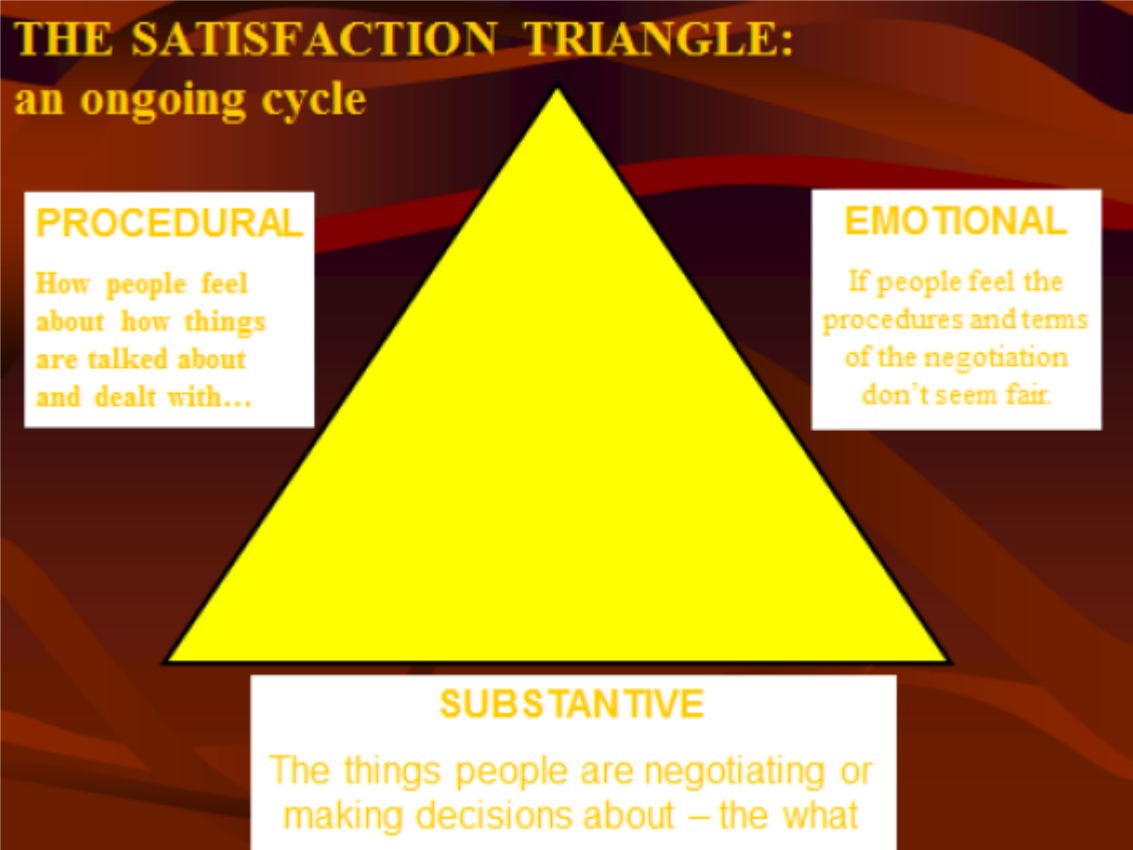
Figure 43: Ideal mediation service



Participants were then asked to describe their ideal mediation service in terms of an animal and what characteristics it would have. People would like the mediation service to retain the positive elements (like intelligence, dedication, commitment, hardworking, knowledgeable, correct, fair, thorough, trustworthy powerful, protecting and expert) but transform to become more like the Koala in terms of being more open, friendlier, cuddlier, softer, welcoming and empathetic; or more like the Elephant in continuing to be strong and powerful, able to carry a heavy burden while also being maternal, patient, respectful, slowing down, understanding, agreeable, collaborative, cooperative and acknowledging the work others are doing.

Becoming more like this will complete the triangle below. The Project is strong in procedural and substantive spheres. Becoming more like the Kola and Elephant will fulfil the emotional needs of participants.

Figure 44 Satisfaction Triangle



Source: Evaluating the Business of Process, Toni Bauman.



## 6. Future sustainability

This section details sustainability and what is required for the transition to full community management of the Project.

### In summary

The Project is currently very vulnerable due to its reliance on the Mediation Coordinator and a handful of mediators who currently do most of the formal mediation work on Mornington Island. CBSR believes that at the present time, if the Mediation Coordinator left, the Project would struggle to be as effective and could conceivably collapse altogether.

The future financial viability of the Project will rely on its ability to demonstrate sustainable outcomes for its participants. Some key stakeholders mentioned the possibility of Justice Reinvestment in the Project justified by a Cost Benefit Analysis that would ideally show the financial benefits flowing from the Project in terms of reduced adverse contact with the formal criminal justice system. The challenges that make this approach difficult are as follows:

- The incidence of crime shows no general downward pattern since the inception of the Project although there has been a reduction in the incidence of crime against the person. **See Appendix F for more details.**
- It is extremely difficult to establish causality in terms of assessing what contribution the Project has made to that trend in isolation from other programs and projects being run simultaneously.
- While data has been captured in relation to the Project's outputs and outcomes, restorative justice outcomes, referrals and costs, it lacks information needed to establish the value of the of the Project as a preventative measure in terms of reducing the escalation of violence and the positive impact of this on people's lives.

### Recommendations

A quasi- experimental design approach could be considered. This would involve longitudinal tracking of people who do (intervention group) and don't take part (comparison group) in the MIRJ Project to identify whether participation is actually making a difference to their lives in terms of skills and knowledge (i.e. ability to use communication skills rather than their fighting prowess or the criminal justice system to resolve disputes) attitudes (i.e. belief that communication is more relevant, desirable and appropriate than violence) behaviour (i.e. less involvement in violence) and life circumstances (i.e. less contact with the formal criminal justice system, more ability to find employment or re-engage with education and training, being a better role model for younger family members etc). Ideally individuals in communities with similar issues would also be tracked over the same time period enabling a comparison of the impact of participation in the MIRJ Project vs non participation and participation with other interventions. This approach would provide a much clearer indication of whether there has been a change and whether or not that is the result of the MIRJ Project or would have occurred anyway.

A potential way forward to capture this data is discussed in **Section 9.3. Framework for future monitoring, evaluation and reporting**. Its practical application in terms of potential data capture forms is presented in Appendix H.

While not all of the measures can practically be implemented, the Project Manager, Mediation Coordinator, local Elders, Justice Group and all relevant Service Providers need to meet and discuss which 3-4 measures would be the most important and practical to capture. CBSR recommends that this take place in the form of a workshop and that this happens during the final evaluation visit to Mornington Island planned for the last week of June. The NT Special Adviser will also be present and available at this time to share his views and offer insight and advice based on his experience with mediation in the Northern Territory.

## 6.1 Staffing and management

The Project is currently very vulnerable due to its reliance on the Mediation Coordinator and a handful of mediators who currently do most of the formal mediation work on Mornington Island. CBSR believes that at the present time, if the Mediation Coordinator left, the Project would struggle to be as effective and could conceivably collapse altogether.

The Banbaji Student Services Program illustrates how vulnerable a well-established and effective program can be to changes of personnel and funding. Some participants in the qualitative research also suggested that other projects like the Market garden and Rangers programs similarly collapsed soon after key staff moved on.

It has been recommended elsewhere that succession planning and capacity building efforts need to be intensified immediately to give the Project the best chance of effectively and sustainably operating once the current Mediation Coordinator leaves the position.

## 6.2 Financial sustainability

The future financial viability of the Project will rely on its ability to demonstrate sustainable outcomes for its participants. Some key stakeholders mentioned the possibility of Justice Reinvestment in the Project justified by a Cost Benefit Analysis that would ideally show the financial benefits flowing from the Project in terms of reduced adverse contact with the formal criminal justice system. The challenges that make this approach difficult are as follows:

1. The incidence of crime shows no general downward pattern since the inception of the Project although there has been a reduction in the incidence of crime against the person. **See Appendix F for more details.**
2. It is extremely difficult to establish causality in terms of assessing what contribution the Project has made to that trend in isolation from other programs and projects being run simultaneously.
3. While data has been captured in relation to the Project's outputs and outcomes, restorative justice outcomes, referrals and costs, it lacks information needed to establish the value of the of the Project as a preventative measure in terms of reducing the escalation of violence and the positive impact of this on people's lives.

Of course if we ask what things would be like in the absence of the Project it seems reasonable to contend that the situation could be considerably worse in terms of more people with more criminal convictions, more unpaid fines, more people in jail, occasional riots, occasional assaults on police, lower school attendance, higher staff absenteeism across a range of services, lower engagement and participation in service provider programs, ongoing fighting and the escalation of fights. While the Impact survey based on community perceptions strongly suggests that all these things would be happening in the absence of the Project, from a financial point of view these benefits are very hard to

quantify. The best that has been done to date is to contact services and ask them for estimated costs and how much the Project is saving them around those costs. It is questionable how robust and valid a Cost Benefit Analysis flowing from this type of approach would be. **For more details see Section 15.6 Cost Benefit Analysis.**

A quasi- experimental design approach could be considered. This would involve longitudinal tracking of people who do (intervention group) and people who don't take part (comparison group) in the MIRJ Project to identify whether participation is actually making a difference to their lives in terms of skills and knowledge (i.e. ability to use communication skills rather than their fighting prowess or the criminal justice system to resolve disputes) attitudes (i.e. belief that communication is more relevant, desirable and appropriate than violence) behaviour (i.e. less involvement in violence) and life circumstances (i.e. less contact with the formal criminal justice system, more ability to find employment or re-engage with education and training, being a better role model for younger family members etc). Ideally individuals in communities with similar issues would also be tracked over the same time period enabling a comparison of the impact of participation in the MIRJ Project vs non participation and participation with other interventions. This approach would provide a much clearer indication of whether there has been a change and whether or not that is the result of the MIRJ Project or would have occurred anyway.

Presently we have no way of knowing:

1. How often the same people are cycling through mediation;
2. If it has any impact of their short, medium or long term offending behaviour;
3. If some people are using mediation just to avoid or minimise criminal charges;
4. If mediation is actually inspiring sustainable and long term behavioural change;

Further, given there are no recorded complaints we have no way of quantifying if elements of the Project are causing disengagement such as the a lack of representation by young people, women and a broader representation of families or if in-take and assessment procedures are putting people off.

### **6.3 Framework for future monitoring, evaluation and reporting**

This section outlines a possible future monitoring, evaluation and reporting framework for the Project. Key issues for any evaluation are often covered by the following questions:

1. How much did we do?
2. How well did we do it?
3. Is anyone better off in terms of the number or % of people who experienced improved skills/knowledge, attitude/opinion, behaviour or life circumstance.

These questions are plotted in the matrix below. The program logic presented earlier naturally flows into this analysis.

CBSR believes that the Project is already doing a reasonable job in relation to 1 and 2 above. However, 3 is where the Project needs to improve to ensure it can demonstrate real and sustainable outcomes and value to the individuals and families involved, to Service Providers and to the wider community and government.

**Table 10: Possible performance measures – How much is done?**

<b>HOW MUCH IS DONE?</b>	<b>HOW WELL IS IT PROVIDED?</b>
<ul style="list-style-type: none"> <li>• Numbers of clients serviced</li> <li>• Number of services provided</li> </ul>	% of clients satisfied with MIRJ service

**Table 10: Possible performance measures – Is anyone better off?**

<b>IS ANYONE BETTER OFF?</b>	<b>% OF PEOPLE WHO ARE BETTER OFF</b>
Number of people who are better off	% of people who are better off
<b>Skills and knowledge</b>	—
Numbers of clients/families who report attaining more skills and knowledge.	% of clients/families who report attaining more skills and knowledge.
<b>Attitudes</b>	—
Numbers of clients/families who report positive changes in attitude or opinion.	% of clients/families who report positive changes in attitude or opinion.
<b>Behaviour</b>	—
Numbers of clients/families who report positive changes in behaviour.	% of clients/families who report positive changes in behaviour.
Reduction in recidivism	% of clients who reoffend
<b>Life circumstances</b>	—
Numbers of clients/families who report positive changes in their life circumstances.	% of clients/families who report positive changes in their life circumstances.

Using the matrix above, the type of evaluation framework that could be developed for the MIRJ Project is presented below. The measures outlined in the two top quadrants of the table below are fairly standard performance measures. The bottom right and left quadrants are the types of things that might signify progress for participants. The type of issues covered in this framework logically flow from the program logic analysis presented earlier.

**Table 11: Mornington Island Restorative Justice project monitoring and tracking framework – How much is done**

<b>How much is done</b>	<b>How well is it provided</b>
Number and type of services provided: <ul style="list-style-type: none"> <li>• Banbaji Student Service Interventions</li> <li>• RJ Parole applications</li> <li>• RJ Pre-sentence</li> <li>• RJ Case Management</li> <li>• RJ Court diversion</li> <li>• RJ Pre-court diversions</li> <li>• RJ Bail applications</li> <li>• CivM - Other</li> </ul>	<ul style="list-style-type: none"> <li>• Proportion of mediation cases that are either resolved at intake, settlement or reconciliation</li> <li>• Proportion of people who felt respected and listened to and that they had a chance to say what they needed to say 'Did we treat you well?'</li> <li>• Proportion of people who felt they had some measure of control over who attended the mediation and/or who was there to support them – i.e. balanced representation and participation by</li> </ul>

How much is done	How well is it provided
<ul style="list-style-type: none"> <li>• CivM - Neighbour</li> <li>• CivM - Workplace</li> <li>• CivM – Family</li> <li>• Police complaint</li> <li>• Conflict Management</li> <li>• Hours of mentoring youth within the school or at youth program</li> <li>• Number of information sessions provided at the school or youth program</li> <li>• Number of referrals to and from Wellbeing services like the Wellbeing Centre, Women’s Shelter, Child Protection, Health Clinic, RJCP (an indication of partnership building)</li> <li>• Number of requests from Service Providers to help them engage with their client groups (an indication of partnership building)</li> <li>• Number of young people arrested or cautioned by the Police</li> <li>• Number of mentoring sessions conducted with Mediators</li> <li>• Number of hours of training delivered to mediators</li> </ul>	<p>extended families</p> <ul style="list-style-type: none"> <li>• Proportion of mediator hours by different clan groups</li> <li>• Proportion of the mediation cases where the offender’s mother’s older brother was present</li> <li>• Proportion of people who felt mediation was voluntary, impartial and confidential</li> <li>• Proportion of people who felt the service helped them with their dispute ‘Did we help you with your problems?’</li> <li>• Proportion of people who felt safer due to mediation</li> <li>• Proportion of people who stuck to their agreement after 3, 6 and 12 months</li> <li>• Proportion of mediators who complete formal and on the job training</li> <li>• Continuing requests from other Service Providers to engage with mediation and refer</li> <li>• Incidence of complaints</li> <li>• Compliance with Elders’ rules</li> <li>• Levels of person on person crime</li> <li>• Breaches of DVOs</li> <li>• Levels of public nuisance and property offences</li> <li>• Admissions to hospital for assault related events</li> <li>• Reduced court appearances for person on person crime and public nuisance offences - levels of repeat offending</li> <li>• Reduced demand on the Magistrates Court</li> <li>• Reduced demand on QPS</li> <li>• Reduced demand on correctional services</li> <li>• Reduced demand on health services</li> </ul>

**Table 11: Mornington Island Restorative Justice project monitoring and tracking framework – Is anyone better off**

Is anyone better off (numbers)	% of people who are better off
<b>Skills and knowledge</b>	—
Numbers of clients/families who report attaining more skills and knowledge:	% of clients/families who report attaining more skills and knowledge.

<b>Is anyone better off (numbers)</b>	<b>% of people who are better off</b>
<ul style="list-style-type: none"> <li>• Learning by observation and action doing - negotiation skills without resorting to violence or intimidation</li> <li>• Ability to manage people who are angry</li> <li>• Learn that conflicts are often over misunderstandings</li> </ul>	
<b>Attitudes</b>	—
<p>Numbers of clients/families who report positive changes in attitude or opinion:</p> <ul style="list-style-type: none"> <li>• Feeling that there is a viable alternative that can benefit them versus violence / intimidation and the Police and courts when sorting out trouble</li> <li>• Feeling that violence is not always the best alternative</li> <li>• Feeling more related and closer to others – families are healed, kinship ties stronger</li> <li>• People are not so quick to harshly judge others – and are more willing to listen to the other side</li> <li>• Feeling that a safer community is everyone’s business i.e. everyone has a responsibility to keep people safe</li> <li>• Improvements in self-confidence, self- esteem and confidence levels due to positive engagement with mediation, mediators and police</li> <li>• Gaining optimism, hope and vision for a better future because of engagement with mediation and wellbeing services</li> <li>• Willingness to go to school every day or, seek employment or training</li> <li>• Willingness to engage with wellbeing services</li> <li>• Feeling more self-reliant – more confidence to say difficult things without fear and favour</li> </ul>	% of clients/families who report positive changes in attitude or opinion.
<b>Behaviour</b>	—
<p>Numbers of clients/families who report positive changes in behaviour:</p> <ul style="list-style-type: none"> <li>• More use of both formal and informal mediation rather than violence / intimidation or resorting to police and courts</li> <li>• Encouraging others to use mediation rather than violence / intimidation or</li> </ul>	% of clients/families who report positive changes in behaviour.

<b>Is anyone better off (numbers)</b>	<b>% of people who are better off</b>
resorting to police and courts <ul style="list-style-type: none"> <li>• Parties to a dispute stick to their mediation agreement</li> <li>• Less likely to participate in riots/mob behaviour</li> <li>• Elders/mediators advise police when appropriate</li> <li>• Attendance at school, employment or training</li> <li>• Attendance at wellbeing services like the Wellbeing Centre and Health Clinic</li> <li>• Staying out of trouble with the Police</li> <li>• Reducing use of alcohol, drugs, paint sniffing, smoking and violence</li> <li>• Participation in diversion activities</li> <li>• Engagement in volunteer services like emergency services</li> <li>• Police identify issues of concern and refer to Elders/mediators</li> <li>• Other Service Providers get mediator/elders involved</li> </ul>	
<b>Life circumstances</b>	—
Numbers of clients/families who report positive changes in their life circumstances: <ul style="list-style-type: none"> <li>• Less convictions, jail time, more time with family and improved employment prospects</li> <li>• Less likely to be involved in an assault as victim or offender - less fear of crime</li> <li>• Elders feel their power is restored via their status as mediators and influence over the young</li> <li>• Found employment e.g. Volunteer Emergency Services</li> <li>• Stayed at school, achieved qualifications</li> <li>• Stopped / reduced using alcohol, drugs, sniffing paint, smoking and violence</li> </ul>	% of clients/families who report positive changes in their life circumstances.

While not all of these measures can practically be implemented, the Project Manager, Mediation Coordinator, local Elders and the Justice Group and all relevant Service Providers need to meet and discuss which 3-4 measures that would be the most important and practical to capture. CBSR recommends that this take place in the form of a community workshop, and that this happens during the final evaluation visit to Mornington Island planned for the last week of June. The NT Special Adviser will also be

present and available at this time to share his views and offer insight and advice based on his experience with mediation in the Northern Territory.

There may well be a trade-off between the importance of each measure and how easy it is to capture the relevant data. This issue must also carefully considered at the community workshop in late June.



## **7. Analysis of secondary data**

This section analyses secondary data including community level data including police and school attendance data and MIRJ Project specific data.

### **Summary**

#### **Community level data**

Police data relating to Mornington Island was analysed to identify any trends in crime rates in relation to the introduction of the MIRJ Project (MIRJ). Overall, crime is on the increase on Mornington Island (as indicated by reported offenses). To a large extent, this increase is being driven by alcohol related offenses and disturbances to good order which may also be related to alcohol. Of particular note is a very large spike in reported offenses in 2009, presumably resulting from the introduction of alcohol restrictions at this time in combination with a zero tolerance approach by the Police.

MIRJ was introduced in full in 2008/2009, coinciding with this spike in reported offenses. The peak seen in this year quickly dissipated in 2009/10 and reported offenses fell. This decrease in reported crimes including crimes against the person was not evident for other communities where restorative justice is not in place, suggesting some level of impact for MIRJ. However, it should be noted that total crimes then started to increase again starting in 2010/11, suggesting that any impact that MIRJ had on reported offenses was short lived.

Reported offenses for Mornington Island were contrasted with two comparator communities, Aurukun and Doomadgee. Overall, Mornington Island's reported offense rate was mostly lower than Aurukun with the exception of recent spikes and consistently higher than Doomadgee. However, it was observed that reported rates for crimes relating to alcohol and good public order were higher in recent years for Mornington Island compared with these two comparator communities.

School attendance and enrolments data was also considered in relation to the introduction of MIRJ to ascertain whether the program had any impact on this measure. Both attendance and enrolments showed an overall upwards trend (indicated by dotted lines). Enrolments rose from 185 in 2008 to 306 in 2014 and average attendance rising from 56% to 75 % during the same period. It should also be noted that enrolments have been relatively stable since 2012 suggesting that a certain level of saturation has been reached. A good part of this increase took place during the implementation of the MIRJ Project and it seems likely that some of this was due to its efforts. In particular, the Banbaji Student Service was very well received and is acknowledged by the school as one of the drivers behind this trend.

It should be noted that hospital admission data for assault is not collected by the Mornington Island hospital but has been collected in relation to call outs by the Ambulance/Paramedic service for the last two years. This data showed no general pattern and has been omitted from this analysis.

#### **MIRJ specific data**

Data provided by Junkuri Laka Wellesley Islands Aboriginal Law relating to the characteristics of MIRJ cases was analysed. General characteristics of MIRJ revealed by these data were:

- The total number of MIRJ cases has been increasing rapidly over time;

- The most common offence type addressed in MIRJ cases relate to fighting, alcohol and tenancy disputes;
- The most common sources of referral into MIRJ are police, parties and courts. Referrals rarely come from schools or the Community Justice Group (CJG);
- Most engagements under MIRJ are planned. Far fewer are in response to a crisis and very few led to no engagement at all;
- By far the most common type of process used under MIRJ is conflict management with CivM- Family and RJ-court diversions a distant second and third;
- Most MIRJ cases are based on the needs of an individual. Fewer case relate to the needs of a group or an organisation;
- The three most common offense types addressed by MIRJ generally relate to violence and public disorder, specifically: assaults, bodily harm and public nuisance;
- Encouragingly, the majority of MIRJ cases result in either settlement or reconciliation;
- Shuttle diplomacy, kinship consultation and circle conferencing are the most commonly used techniques under MIRJ;
- The Junkuri Laka office, the courthouse or private homes are the most common venues used for MIRJ. The PCYC, school and the festival grounds are rarely used.
- The mean cost of a MIRJ case is \$2,265 (SD: \$3,198). A large range of costs were observed from a low of \$115 all the way to a high of \$26,900;
- The mean cost of an MIRJ case has fell dramatically since the program's introduction, current costs are in the hundreds of dollars, rather than the many thousands of dollars that cases cost in the early days of the program.

Some approaches to MIRJ cases appear to lead to better outcomes such as settlement than others. Specifically:

- Circle conferencing, interest based approaches and kinship consultation appeared to have achieved a slightly higher rate of positive outcomes compared with conflict coaching and shuttle diplomacy.
- Cases held at the courthouse and the JL Office appeared to have a greater likelihood of leading to a successful outcome compared with cases held at PCYC and private houses.

Further, some approaches to MIRJ cases seemed to be associated with a lower mean cost than others. Specifically:

- Circle conferencing and conflict coaching both demonstrated a lower cost compared with interest based approaches, shuttle diplomacy and kinship consultation.
- Cases held at PCYC and private homes were less expensive than cases held at the JL office.

The following technical terms are used to describe MIRJ Project data.

- **Conflict management:** An intervention frequently held to respond to the likelihood of escalating conflict and high likelihood of violence if the conflict goes unchecked. Criminal boundaries may have already been crossed or are likely to be crossed if the conflict goes unchecked. Charges have NOT been laid.
- **Police complaint:** A relatively new category is one where the dispute involves complaints about police practice or behaviour. Whilst such cases had occurred previously, the increasing use by the QPS of 'community policing' efforts requires a mechanism for dialogue between police and public where people have grievances about police activity. To some extent this dispute resolution activity may be seen as a simplified version of the formal process through the Crime and Misconduct Commission. The new category was introduced in June 2013 just prior to the 2013 evaluation and relevant cases in the case history will be brought within this category from 1 July 2012 onward, and before the evaluation dataset is extracted.
- **Civil mediation:** Disputes about civil issues are resolved in a civil manner using any of the available processes that are specified elsewhere. There are a number of sub-categories based on the main issues in the conflict. The following sub-categories will be used:
  - **Family (CivM-Family):** Intra- or inter-family conflict.
  - **Workplace (CivM Workplace):** Dispute arising from workplace issues including employment contracts.
  - **Neighbour (CivM Neighbour):** Dispute arising from proximity of parties, who have no direct family relationship
  - **Resources:** A specific category of conflict arising from resource issues.
  - **Other:** This can be anything from torts to general liability, contracts etc.
- **Restorative Justice Mediation:** These are mediations between aggrieved complainant and defendant about an offence and its circumstances. The defendant typically accepts responsibility for their actions before a restorative process can be engaged in. The objective is to restore relationships between the parties or to address the victim's grievances and may sometimes be a diversion from the criminal justice system. To some extent a justification of mediation activities may be found in the capacity to divert, which is considered beneficial in social terms and in respect of community cohesion, whilst there are also clear economic benefits. For the sake of completeness, it is noted that some civil mediations in the
- **RJ – Pre-court diversion:** Here the matters remain typically within the jurisdiction of the police (depending on internal police guidelines, which apparently differ from area to area). Successful mediation may result in the police not pursuing charges, or the complainant withdrawing their complaint, which typically has the same effect.
- **RJ – Court diversion:** The matter has been mentioned and is therefore under case management of the court. No plea has been entered. This means that formally police prosecutions has control on the police side of things, whilst a solicitor will have been engaged for the defendant. Therefore more parties become involved in possible referral and the effect of any mediation outcome.
- **RJ – Case management:** In the case of a not guilty plea, prosecution is held to proof. Nevertheless, mediation may impact on case management.

- **RJ – Pre-sentence:** After a guilty plea the outcome of any mediation effort can have an effect on the sentencing process or substance.
- **RJ – Parole application related restorative justice:** Parole applications can occur in the course of the criminal process, or at any other unrelated time, even when the applicant is incarcerated. There may be a range of issues between the offender and victim, or the matter can be between offender and non-victim for instance in conferencing or negotiation about parole addresses or other parole conditions.

## 7.1 Community level data

### 7.1.1 Total reported offenses over time (total)

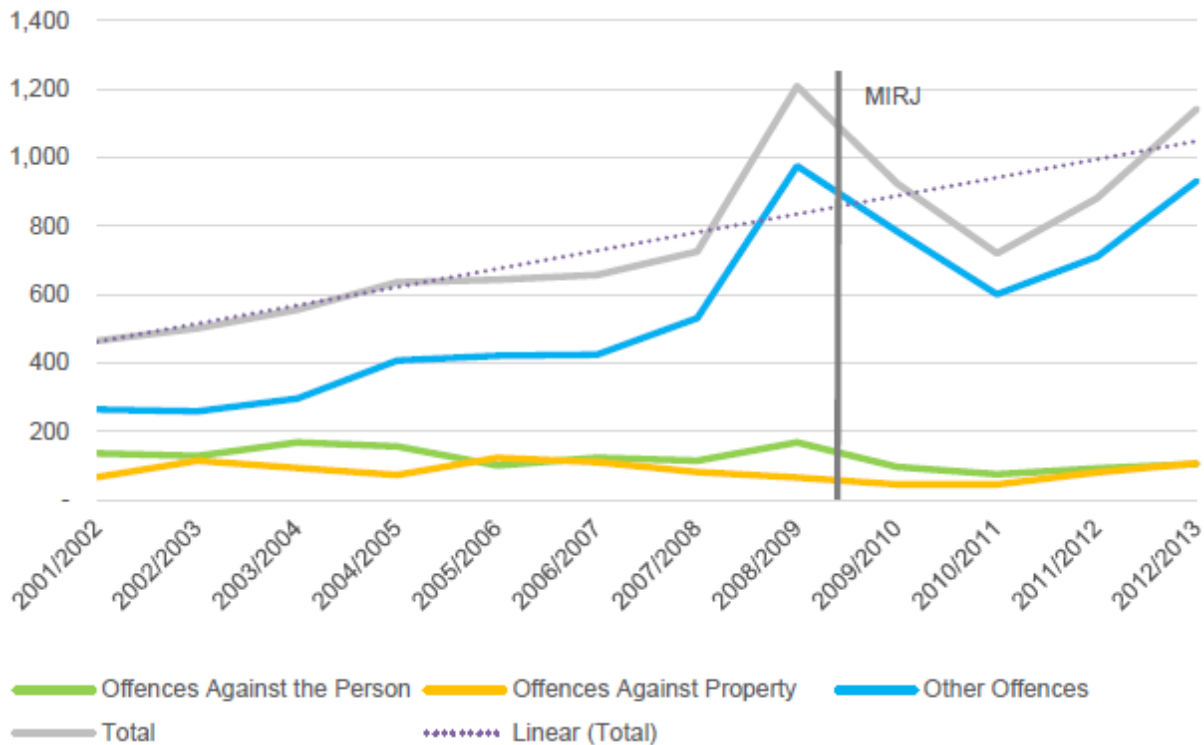
Queensland police data was analysed to provide a time series account of the total number of reported offenses on Mornington Island for the period spanning 2001 to 2013.

Overall, reported offenses on the Island increased over the period - the orange dotted line in the figure below is the trend line for total offenses and as is apparent shows an upwards trend. The most notable driver behind this upward trend was a very sharp spike in reported offenses in total crime in 2008/2009. This peak was almost certainly a direct result of alcohol bans that took place at that time in combination with a zero tolerance approach by the Police.

By far the greatest type of reported offense that drove this spike and overall upward trend was 'other' types of crime (discussed in more detail on the following page). This type of reported offense far outnumbers other types of crime, namely crimes against the person or property. Crimes against person demonstrated a slight downward trend. Crimes against property showed minor fluctuations with no apparent trend.

The MIRJ Project (MIRJ) was introduced in full in 2008/2009, coinciding with the spike in reported offenses described above. The peak seen in this year quickly dissipated in 2009/10 and reported offenses fell to levels comparable to those reported for the 2007/08 period. This rapid reduction could, at least in part, be due to the implementation of the MIRJ Project. However, it should be noted that total crimes then started to increase again starting in 2010/11, suggesting that any impact that the MIRJ Project had on reported offenses was short lived.

**Figure 45: Total reported offenses over time (total)**



Figures reflect total number of reported offenses  
 Source: Queensland Police Service (QPS) data

**7.1.2 Major categories of reported crime and change**

As described on the previous page, the biggest category of reported offenses was labelled 'other'. As can be seen in the chart below, 'other' reported offenses account for three quarters of reported offenses overall.

The data was further interrogated to determine the nature of this category in terms of the types of offense comprise 'other'. The two major sub-categories under 'other' were offenses relating to:

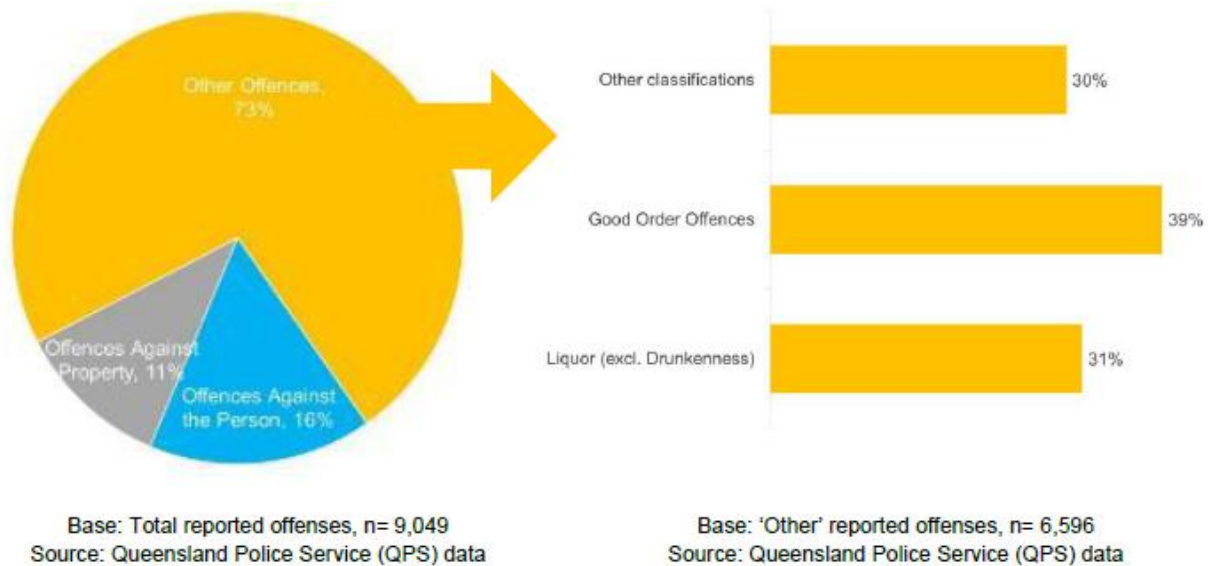
- Disturbances to good order (39%);
- Liquor (excluding public drunkenness) (31%).

Refer to the bar chart on the right below which is a subset of total categories.

Together, these categories make up seven in ten reported offenses within the 'other' category.

It could be argued that it is likely that the 'good order' category of offenses could often relate to drunkenness, however, this is not made explicit in the database. The 'liquor' category is obviously related to alcohol. Therefore, it could be concluded that the upwards trend in reported offenses, including the 2008/09 spike has been primarily driven by alcohol-related offenses.

**Figure 46: Major categories of reported crime and change**

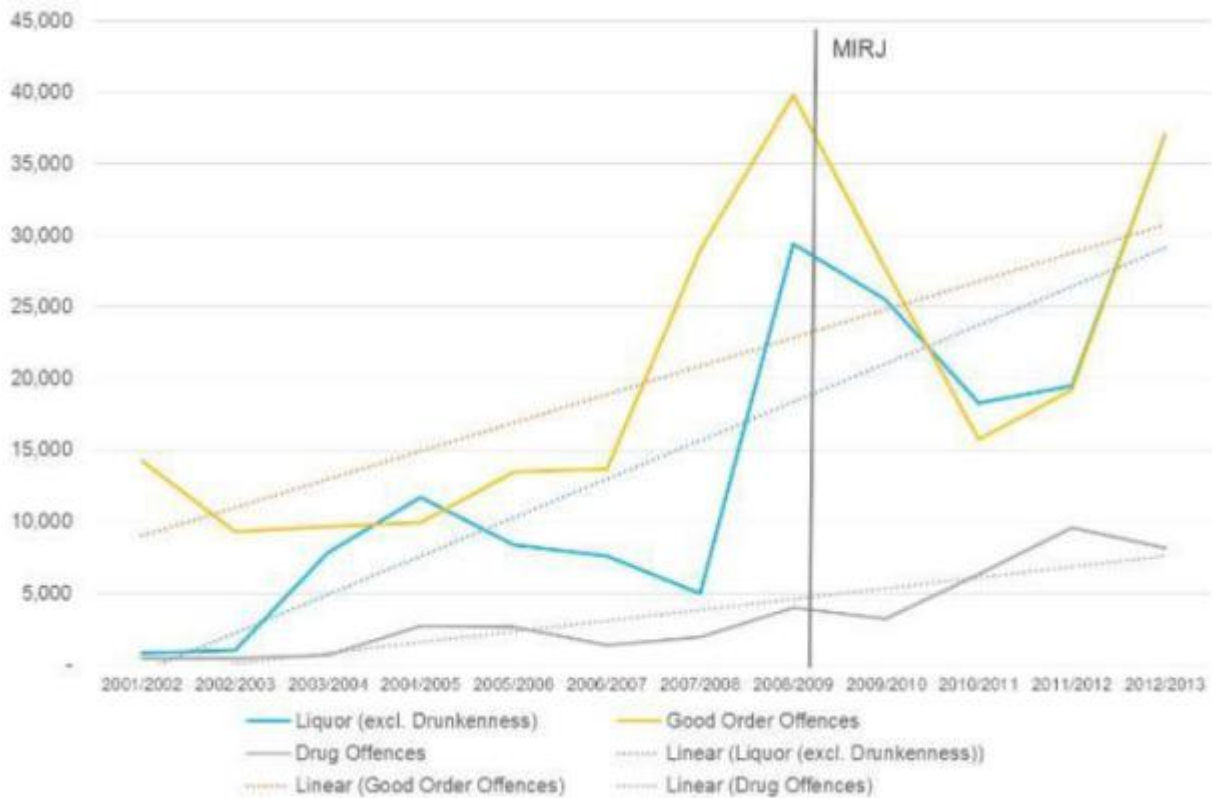


### 7.1.3 Other specific crime types relevant to MIRJ

In addition to a reduction of violence on the Island (discussed in the previous section) three of MIRJ's specific aims are to reduce the incidence of antisocial behaviour; and alcohol and drug use. These behaviours map on to data items contained in the QPS data and were thus looked at specifically to determine the impact that MIRJ may have had on these undesirable outcomes. The chart below shows the total number of reported crimes of this nature. In turn:

- Liquor and good order crimes showed the now familiar trend of spiking in about 2008 followed by a marked decline followed by a reverse to an upward trend, as has already been stated, 'this rapid reduction could, at least in part, be due to the implementation of the MIRJ Project ... it should be noted that total crimes (in this case good order and alcohol) then started to increase again'; and
- Drug-related offenses were less common, though showed an overall upward trend suggesting no impact of MIRJ on this type of crime.

**Figure 47: Good order; alcohol and drug use**



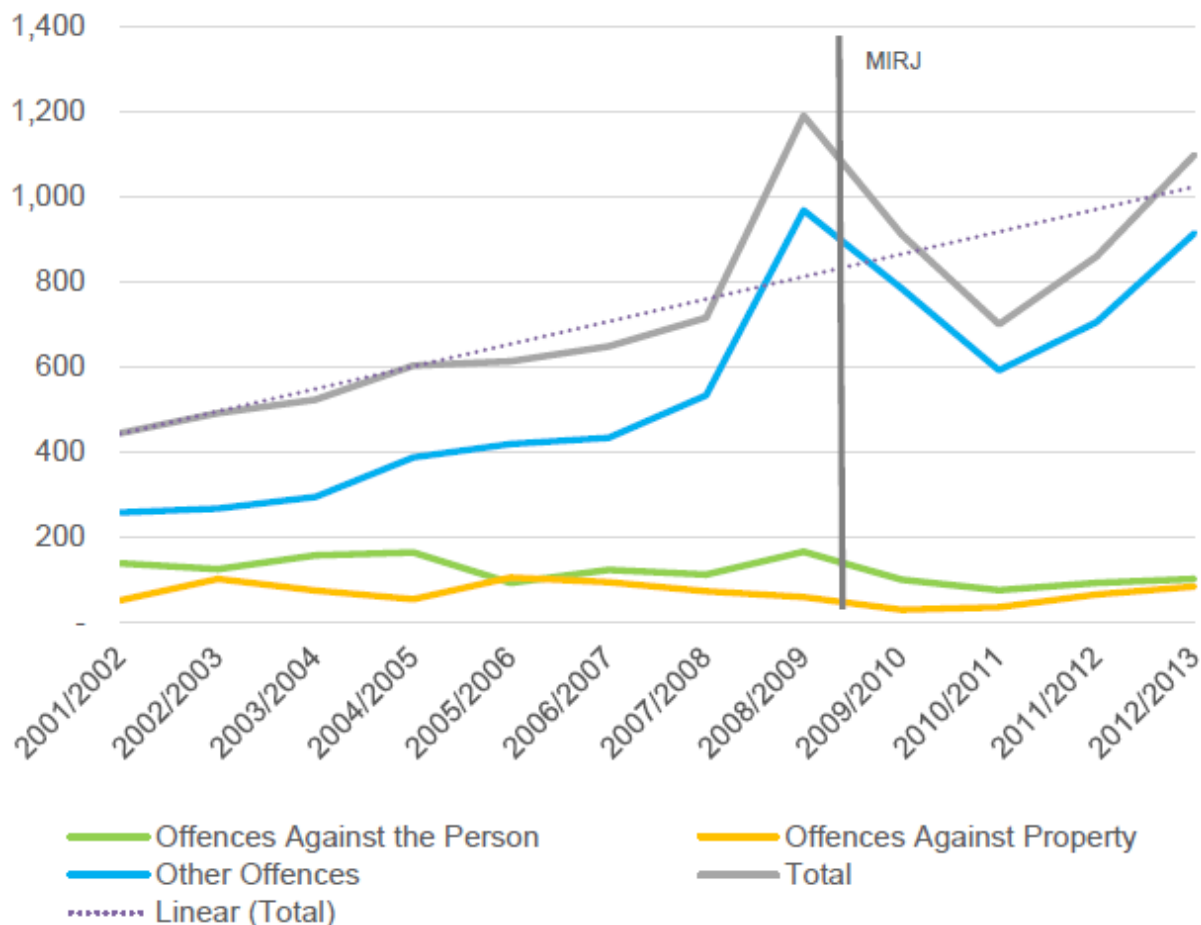
Source: Queensland Police Service (QPS) data

#### **7.1.4 Cleared offenses (total)**

Offenses that have been cleared by Queensland police demonstrate an almost identical pattern to reported offenses. Namely:

- An overall upward trend (dotted line); and
- A sharp spike in 2008/09 (coinciding with the full implementation of the MIRJ Project) followed by a sharp decline but then tracking back up again to the end of the reporting period in 2012/2013 to levels similar to that seen for the 2008/09 spike.

**Figure 48: Cleared offenses (total)**



Figures reflect total number of cleared offenses  
 Source: Queensland Police Service (QPS) data

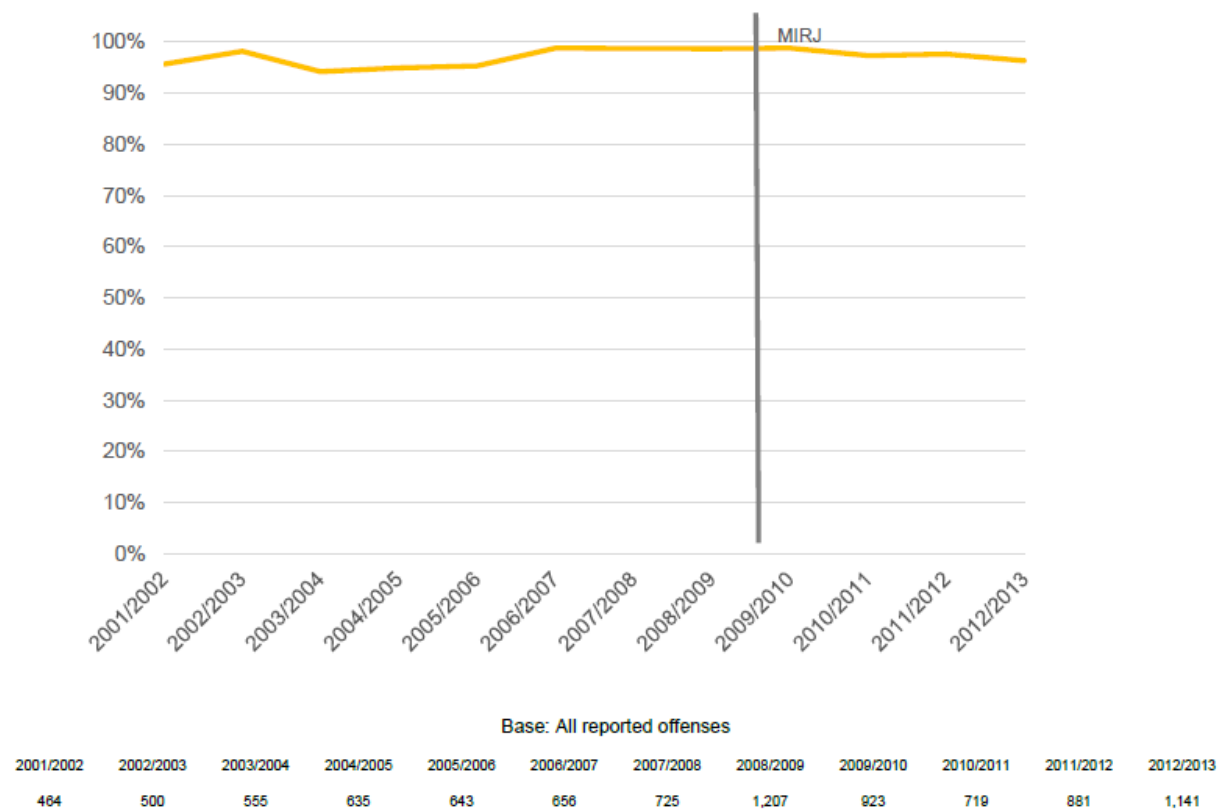
**7.1.5 Cleared offenses (percent)**

The proportion of offenses that had been cleared by Queensland Police was contrasted with the total number of offenses. The figure below shows offenses reported as cleared as a proportion of total reported offenses (hereafter, 'clearance' rate).

Mornington Island demonstrated a relatively high clearance, tracking at a fairly consistent rate of 95% or above. No clear trend up or down was seen for the clearance rate. More specifically, the clearance rate showed little to no substantial movement following the full introduction of the MIRJ Project in 2009/10.



**Figure 49: Cleared offenses (percent)**



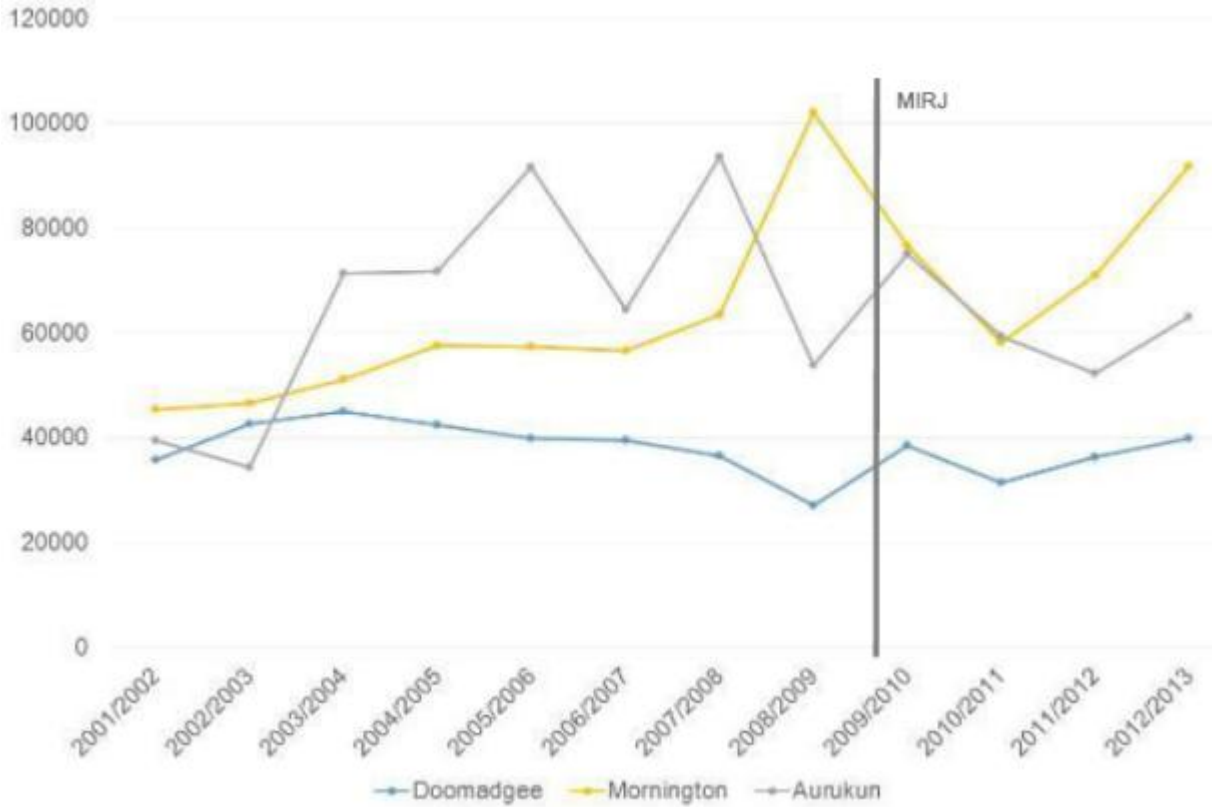
Source: Queensland Police Service (QPS) data

**7.1.6 Comparison of reported offenses (rate)**

Reported offenses for Mornington Island were contrasted with two comparator communities. For the purposes of this comparison, 45 rates per 100,000 persons were used. Whereas the previous sections reported on the total number of reported offenses, this section uses a simple rate that divides total offenses by the population (per 100,000) for each community. This conversion was made so that the communities could be meaningfully compared given differing population sizes.

For **total** offenses, Mornington Island’s reported offense rate was most of the time lower than Aurukun with the exception of recent spikes and consistently higher than Doomadgee.

**Figure 50: Total reported offenses (rate)**

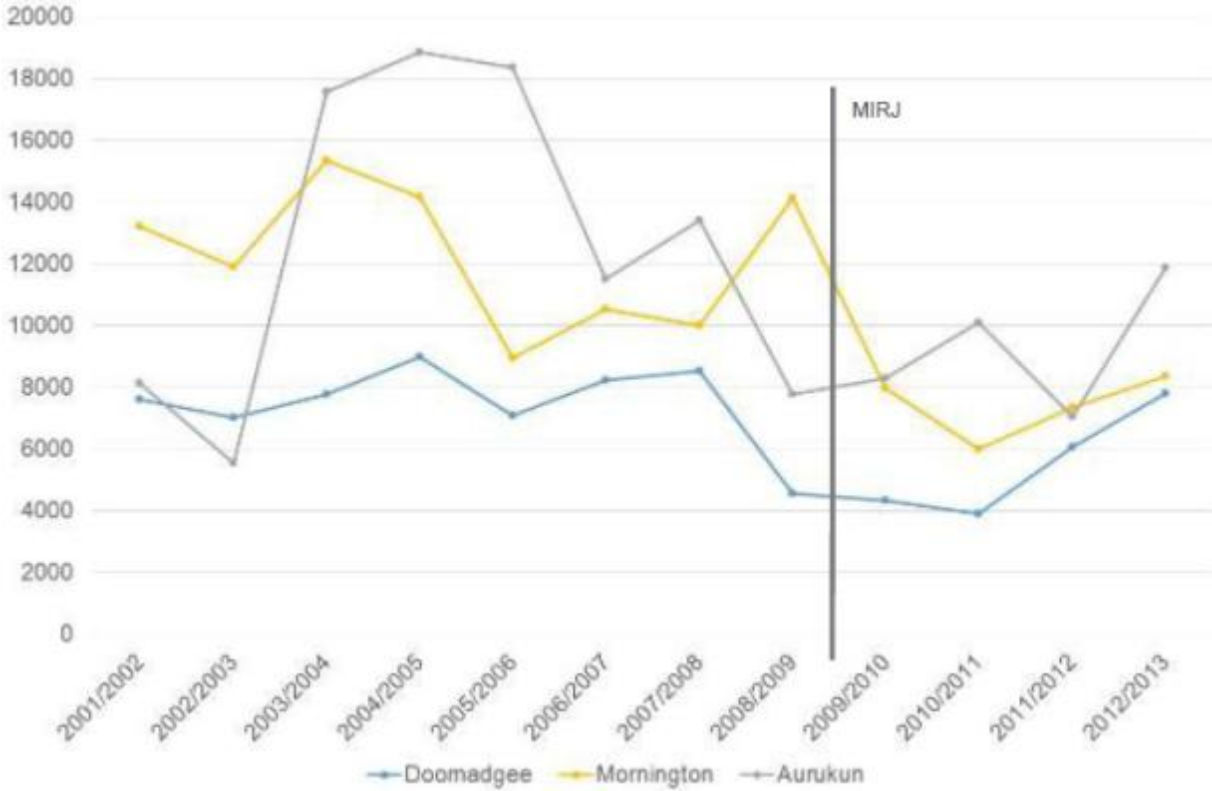


Figures reflect rate per 100,000 persons  
 Source: Queensland Police Service (QPS) data

**7.1.7 Crimes against the person (rate)**

For offenses against the person: Mornington Island’s reported offense rate have reduced since MIRJ Project was implemented. In comparison the rate of crimes against the person in the comparison communities have increased over the same time period. The rate in Mornington Island now sits between the other two communities again, most often lower than Aurukun and higher than Doomadgee.

**Figure 51: Crimes against the person (rate)**

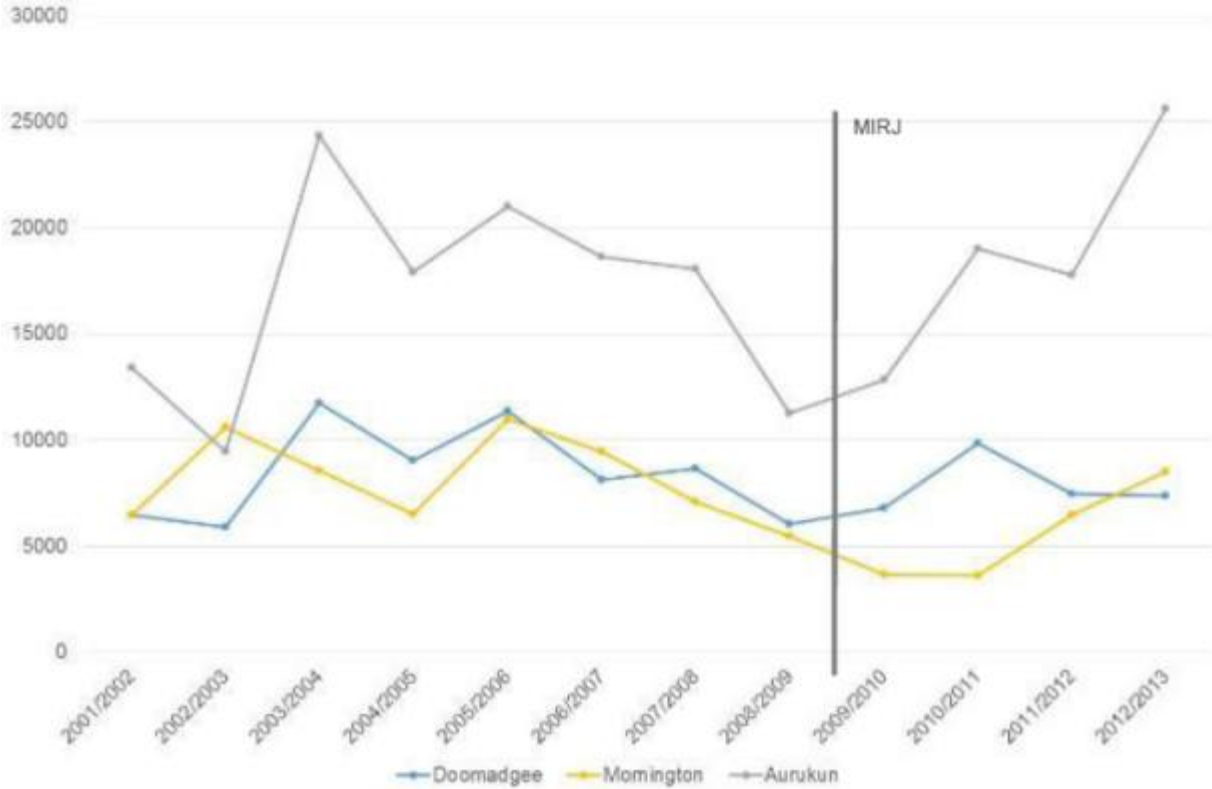


Figures reflect rate per 100,000 persons  
 Source: Queensland Police Service (QPS) data

**7.1.8 Crimes against property (rate)**

For offenses against property, Mornington Island’s reported offense rate was similar to Doomadgee (almost indistinguishable up until 2008/09); though was consistently lower than Aurukun.

**Figure 52: Crimes against property (rate)**

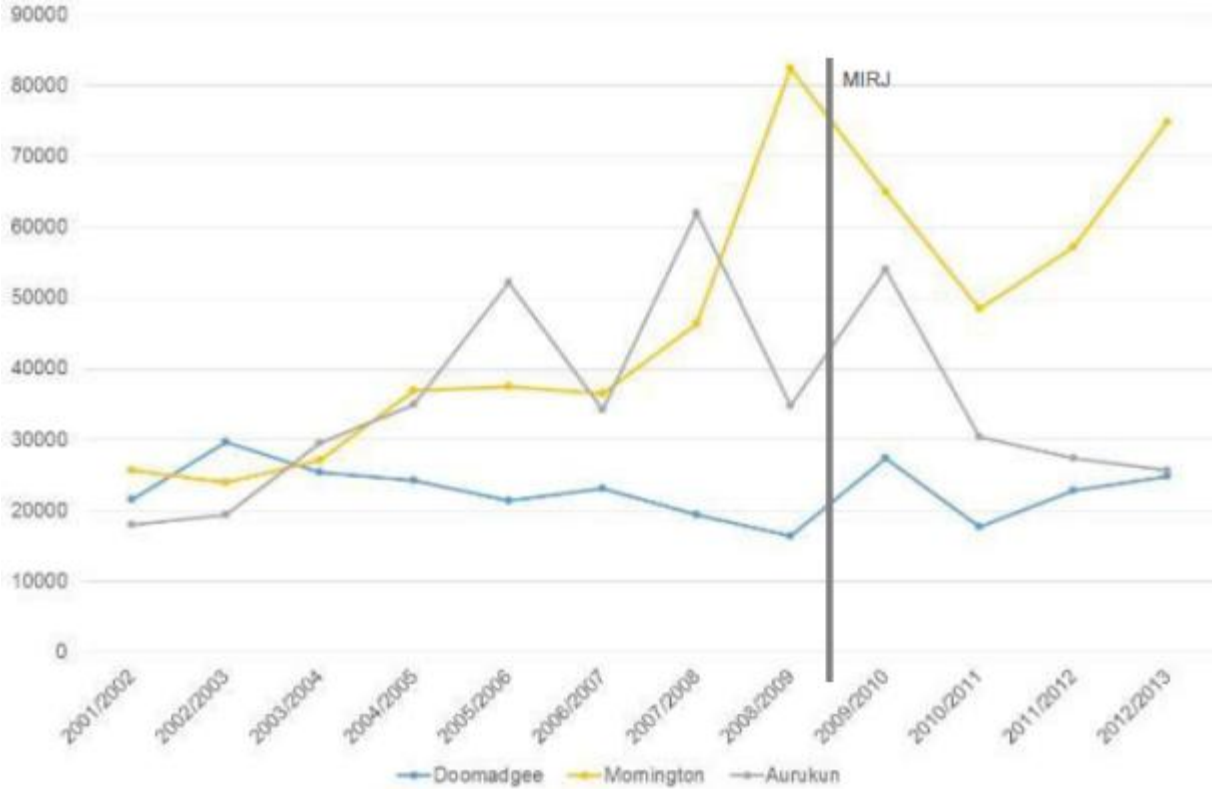


Figures reflect rate per 100,000 persons  
 Source: Queensland Police Service (QPS) data

**7.1.9 Other reported crimes (rate)**

For other offenses: Mornington Island’s reported offense rate was similar to the other two communities up until a spikes that started in 2008 into 2010. This spike elevated Mornington Island’s rate such that ‘other’ offenses have been consistently higher for the Island compared with the other communities since 2008.

**Figure 53: Other reported crimes (rate)**

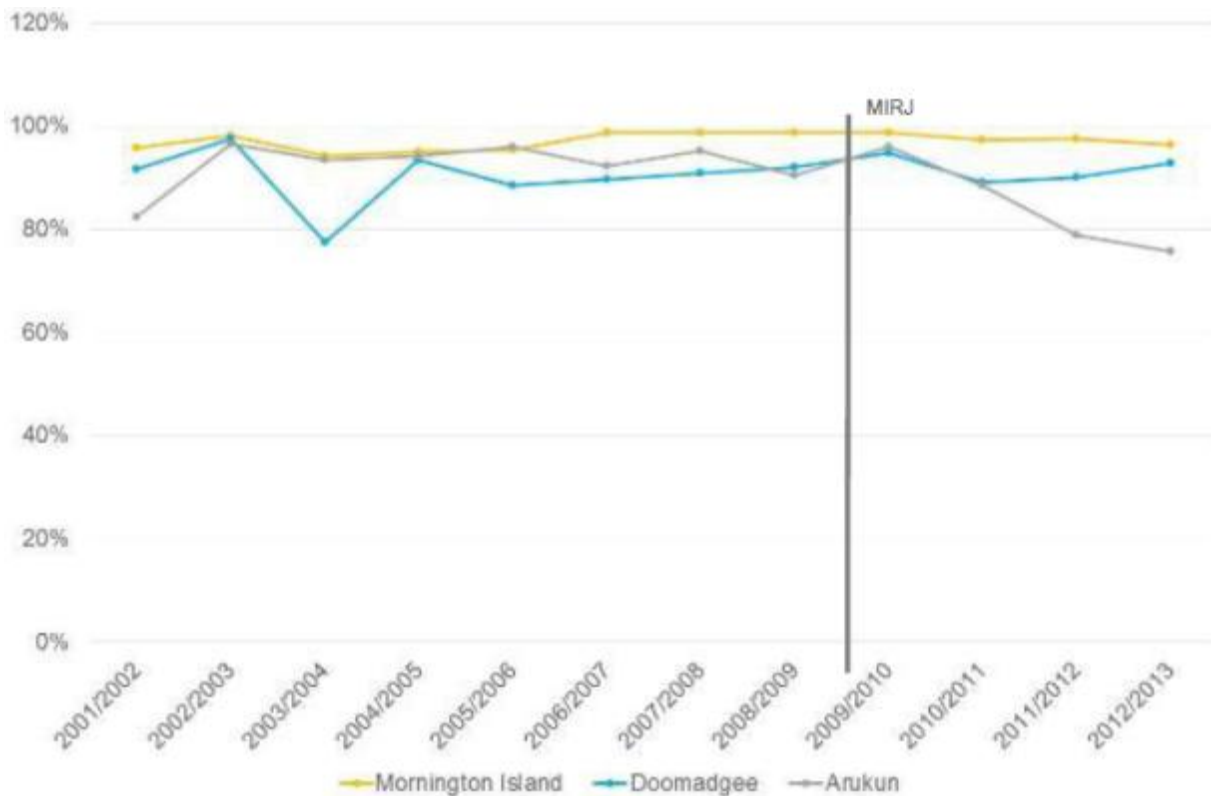


Figures reflect rate per 100,000 persons  
 Source: Queensland Police Service (QPS) data

**7.1.10 Comparison of clearance rates**

It has been previously noted that Mornington Island’s clearance rate (cleared offenses divided by total reported offenses) maintained a fairly high rate above 95%. Since 2005/06, Mornington Island’s clearance rate has been consistently higher than both Doomadgee and Aurukun. However, this trend appears to be due to declines in clearance rates in the other two communities (as opposed to an increase in the rate for Mornington Island). Further, this elevated clearance rate appears to be unrelated to the introduction of the MIRJ Project.

**Figure 54: Comparison of clearance rates**



Figures reflect rate per 100,000 persons  
 Source: Queensland Police Service (QPS) data

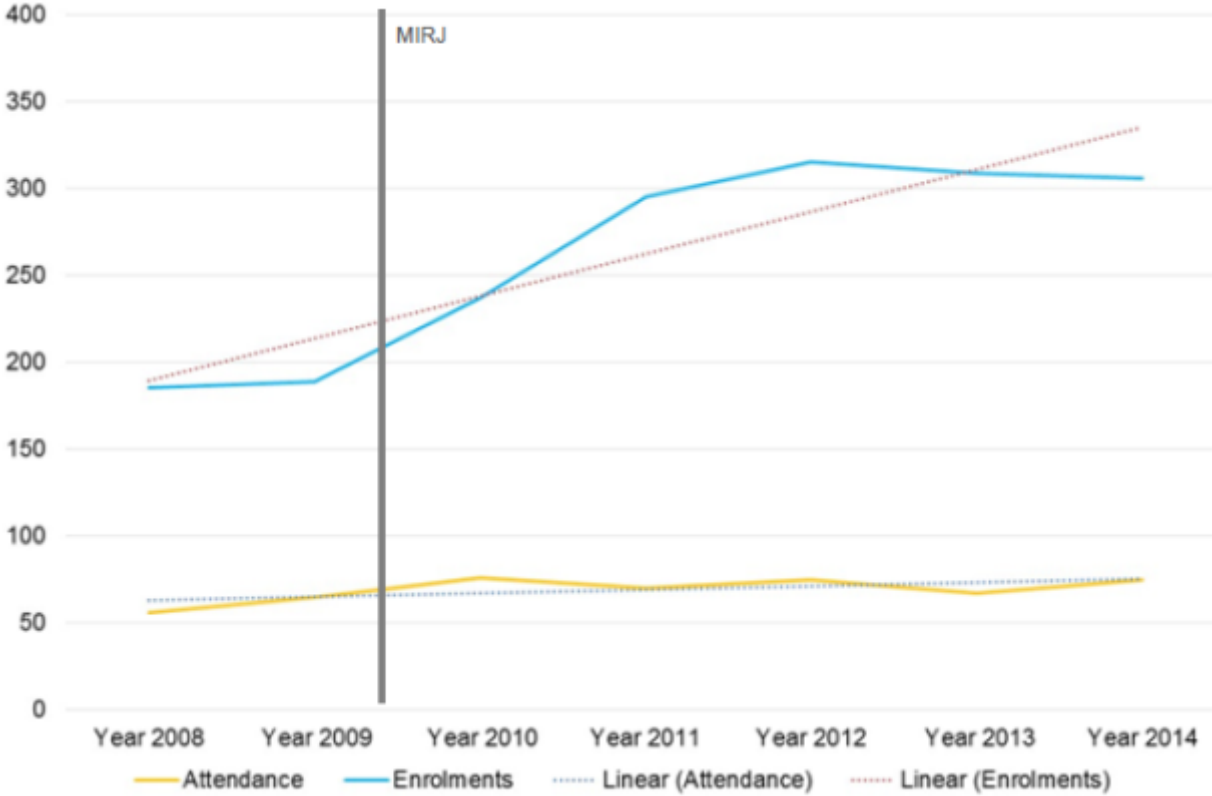
## 7.2 School attendance

Data provided by Mornington Island State School relating to school enrolments and attendance was analysed to track change in these measures over time (2008 to 2014).

Both attendance and enrolments showed an overall upwards trend (indicated by dotted lines). Enrolments rose from 185 in 2008 to 306 in 2014 and average attendance rising from 56% to 75% during the same period. It should also be noted that enrolments have been relatively stable since 2012 suggesting that a certain level of saturation has been reached.

A good part of this increase took place during the implementation of MIRJ Project and it seems likely that some of this was due to the Project. In particular the Banbaji Student Services was very well received and is acknowledged by the school as one of the drivers behind this trend.

**Figure 55: School attendance**

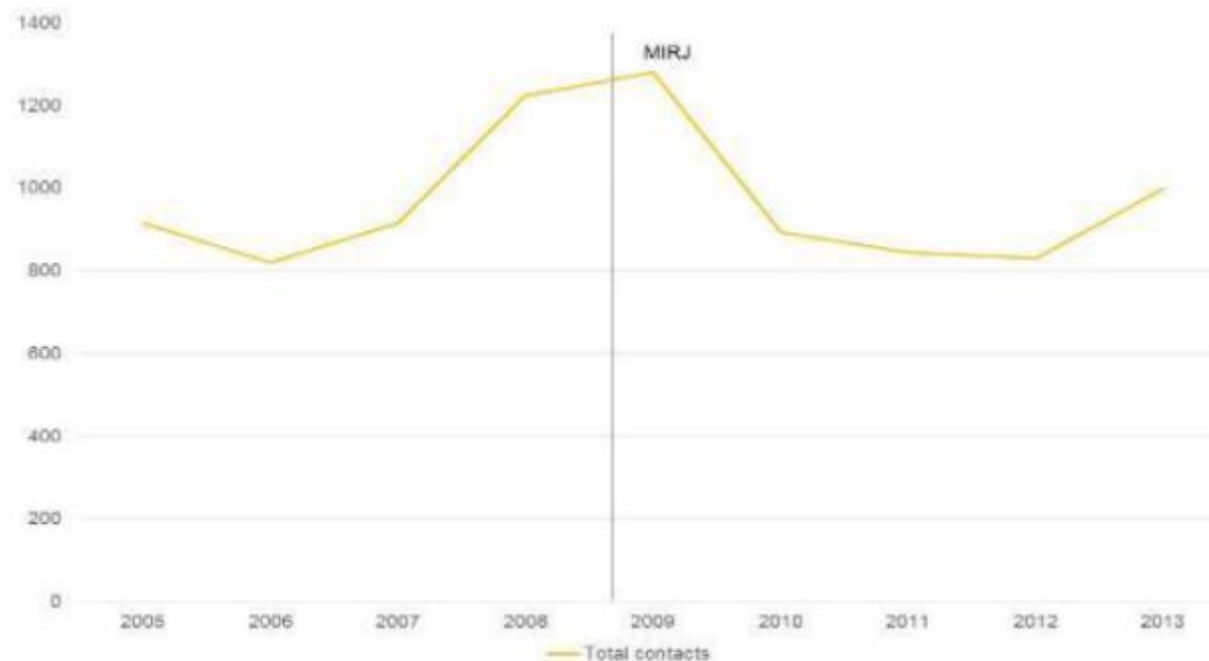


Figures reflect total attendance and enrolments  
 Source: Mornington Island State School

**7.2.1 Contact with the criminal justice system**

The total number of cases heard by magistrates who had travelled to Mornington Island between 2004 and 2013 is displayed in the chart below (2005 and 2014 have been excluded as complete years of data were not available). The trend over time closely mirrors that of total crimes on the Island, which is to be expected. Again, cases heard increased dramatically to a peak in 2008/09, the approximate time of the full operation of MIRJ. Cases heard then went into decline for approximately three years, then started trending upwards again. It could be concluded (again) that MIRJ had some impact on the contact with the criminal justice system, but that this impact has not been sustained in recent years.

**Figure 56: Contact with the criminal justice system**



Source: Magistrates Services via DPC

### **7.3 MIRJ Project-specific data**

Data provided by Junkuri Laka Wellesley Islands Aboriginal Law relating to the characteristics of the MIRJ Project cases was analysed:

- At a total level to ascertain the nature of the MIRJ Project in a general sense;
- Over time to track any changes in the nature of the MIRJ Project cases as the program was implemented; and
- By specific comparisons to gain a measure of differences in costs and outcomes for different types of the MIRJ Project cases.

#### **7.3.1 Overall characteristics of the MIRJ Project services**

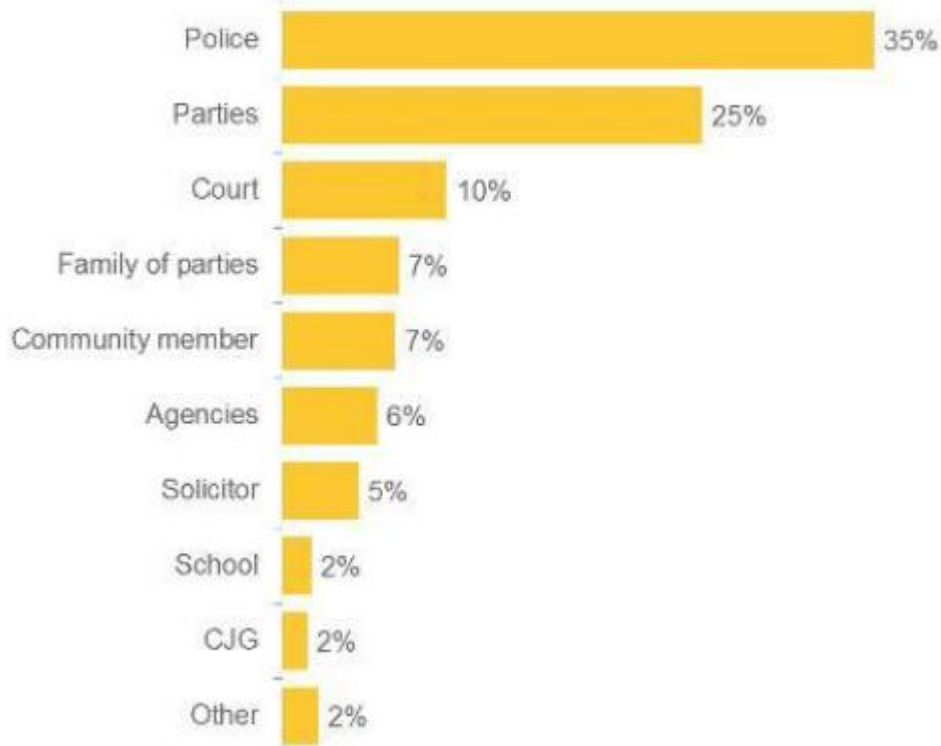
The findings presented in this section briefly describe the characteristics of the MIRJ Project cases for measures such as referral source, intervention type and offense type. The findings presented here relate to the period spanning 2008-2014.

The most common sources of referral into MIRJ are police, parties and courts. Referrals rarely come from schools or the CJG. The chart below shows the proportion of total cases from each referral source for the period 2008-2014.

#### **Total, referral source**



**Figure 57: Total referral source**



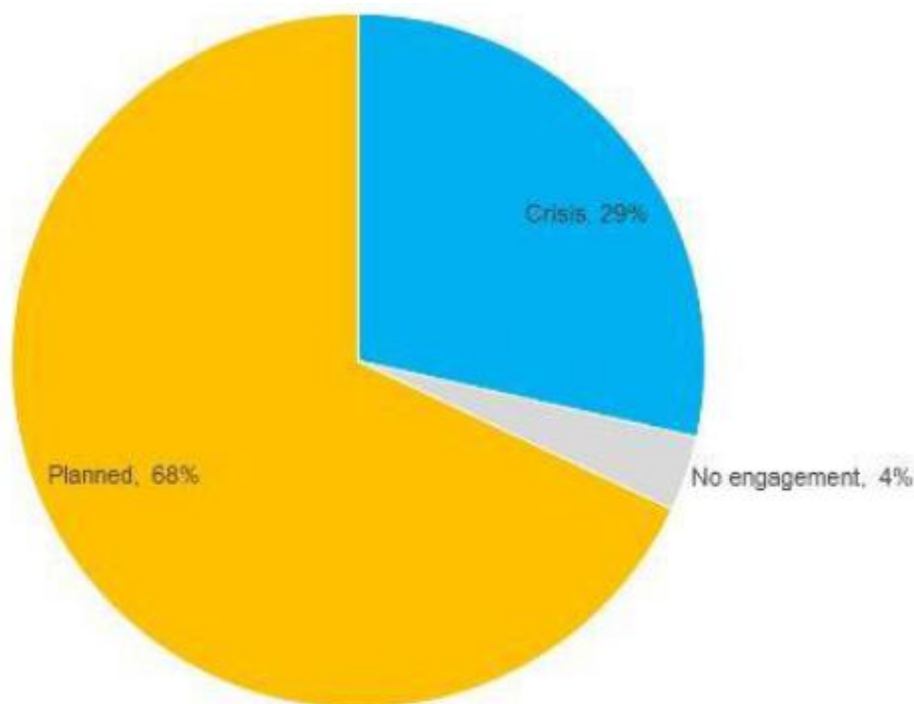
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total engagement type**

Most engagements under the MIRJ Project are planned. Far fewer are in response to a crisis and very few led to no engagement at all.

**Figure 58: Total engagement type**



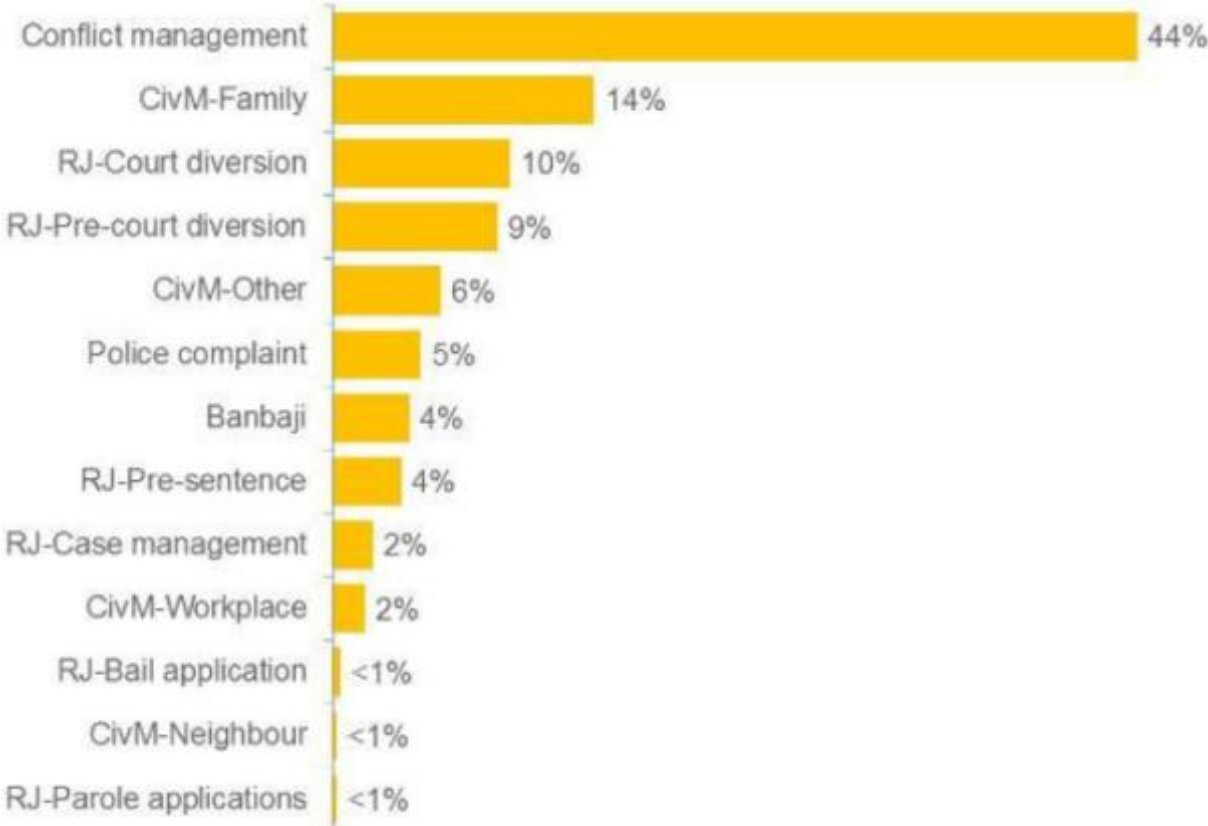
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total process type**

By far the most common type of process used under MIRJ is conflict management with CivM-Family and RJ-court diversions a distant second and third. CivM Neighbour, bail applications and parole applications are very rarely a part of the MIRJ Project.

**Figure 59: Total process type**



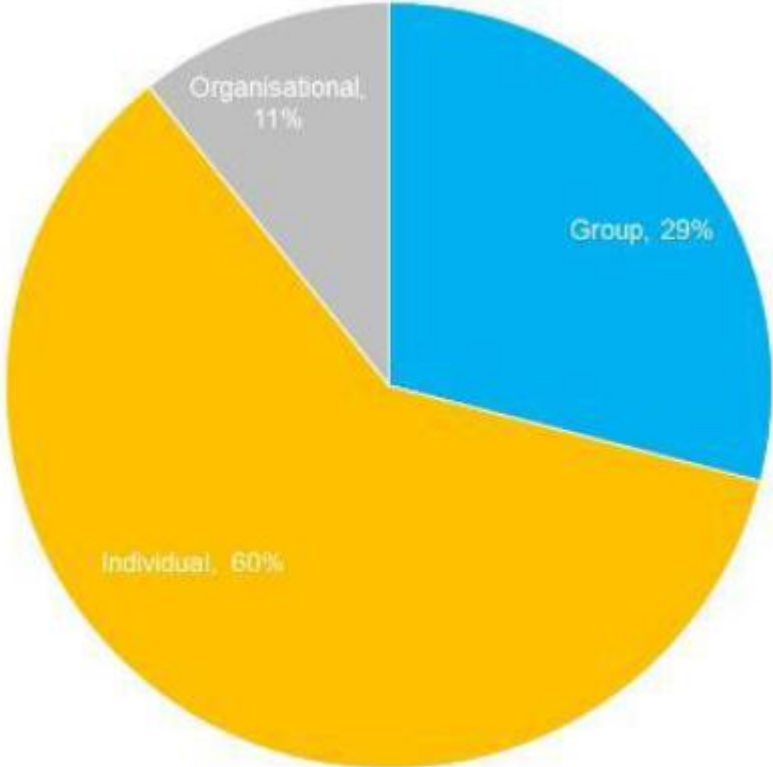
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total relationship type**

Most of the MIRJ Project cases are based on the needs of an individual. Fewer case relate to the needs of a group or an organisation.

**Figure 60: Total relationship type**

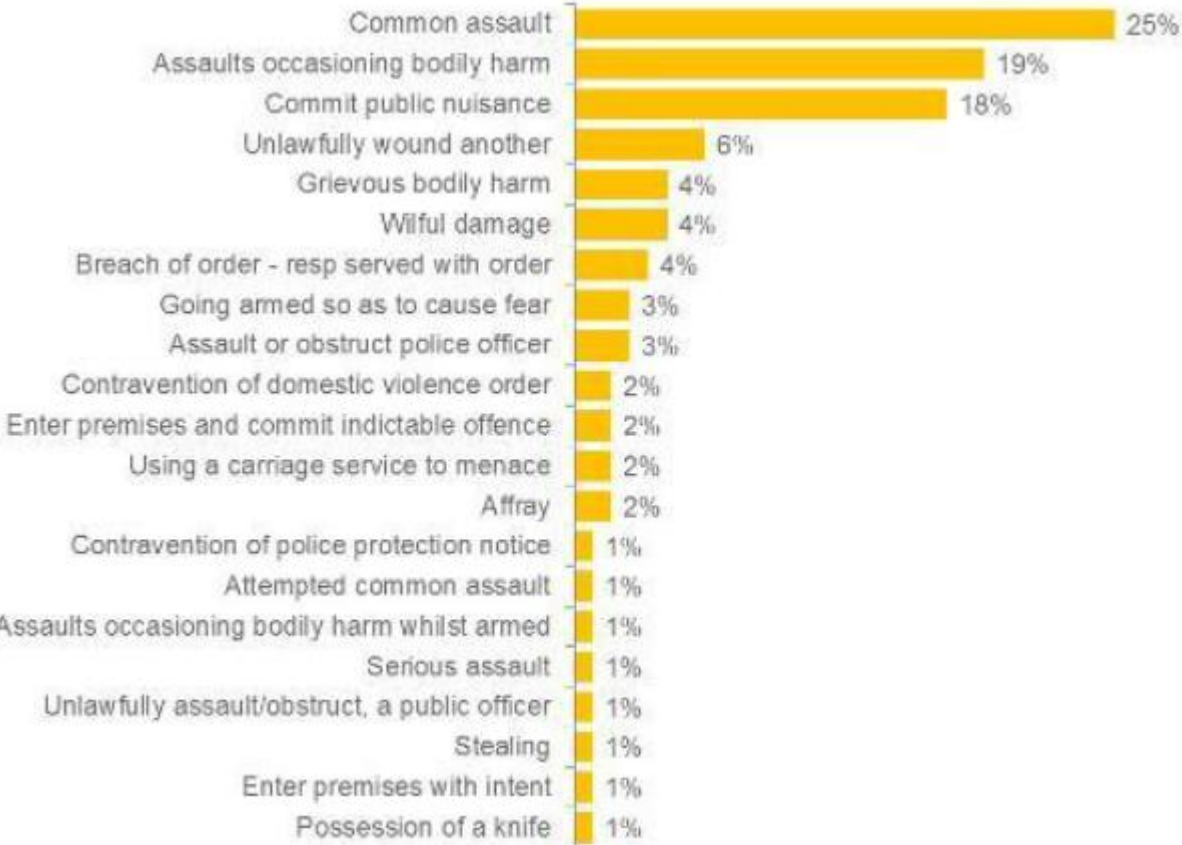


Base: All MIRJ cases, n=457  
Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total offense type**

The three most common offense types addressed by the MIRJ Project generally relate to violence and public disorder, specifically: assaults, bodily harm and public nuisance. Stealing, illegal entry of premises and knife possession cases are rarely seen under MIRJ.

**Figure 61: Total offense type**



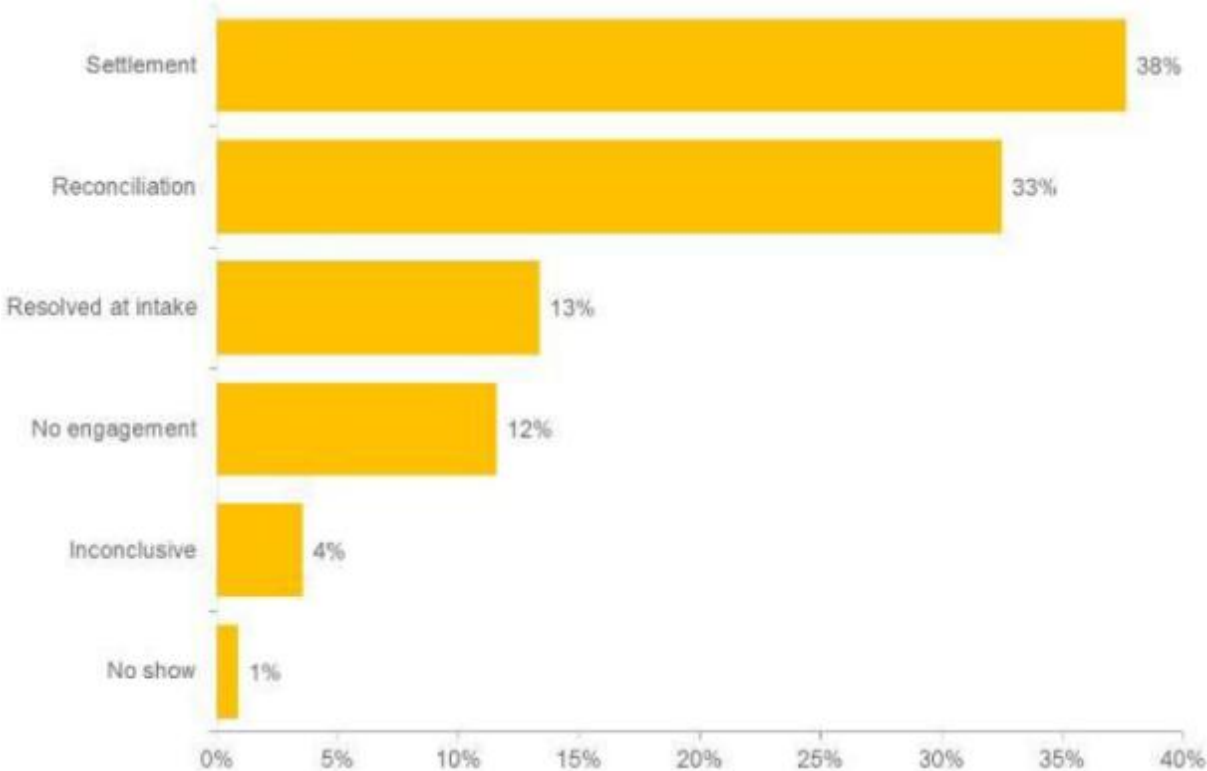
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total outcome type**

Encouragingly, the majority of the MIRJ Project cases result in either settlement or reconciliation. Very few result in an inconclusive outcome or the client not showing up.

**Figure 62: Total outcome type**



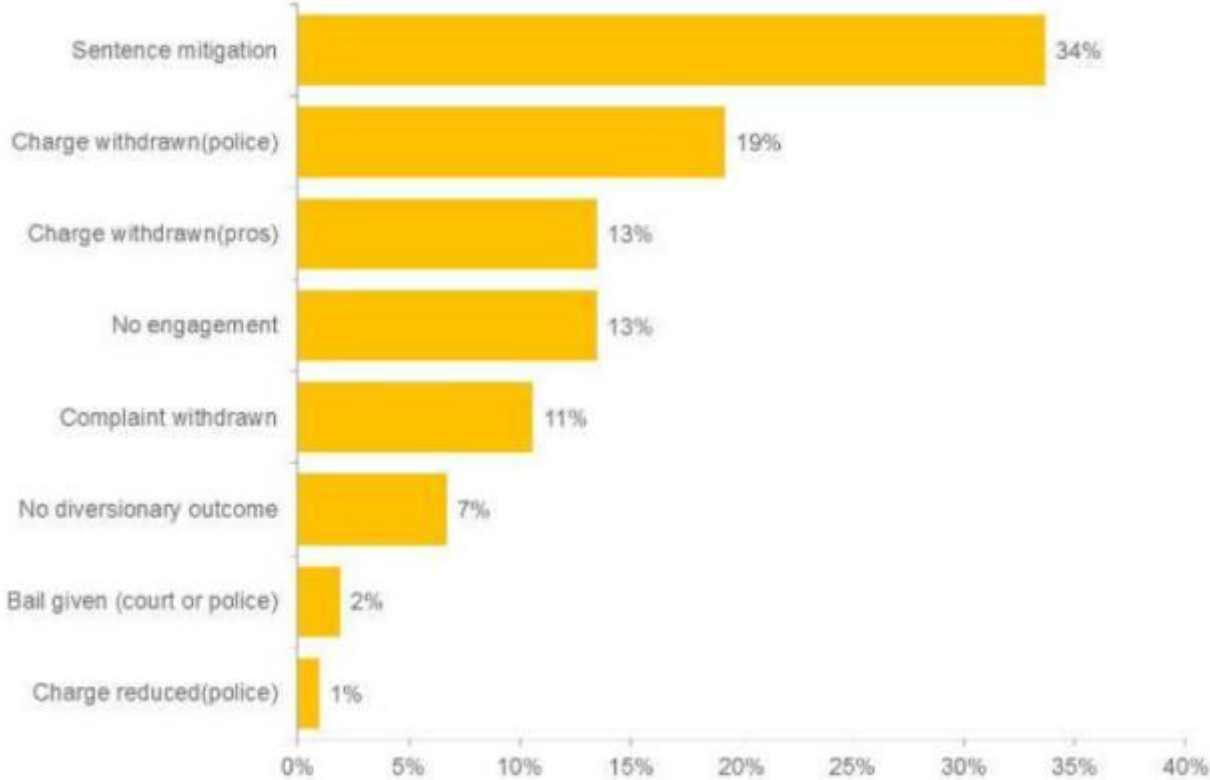
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total diversionary outcome type**

Diversions outcomes are similarly positive with most cases resulting in the mitigation of a sentence or the charge being withdrawn. However, one in ten cases did result in no engagement between parties.

**Figure 63: Total diversionary outcome type**



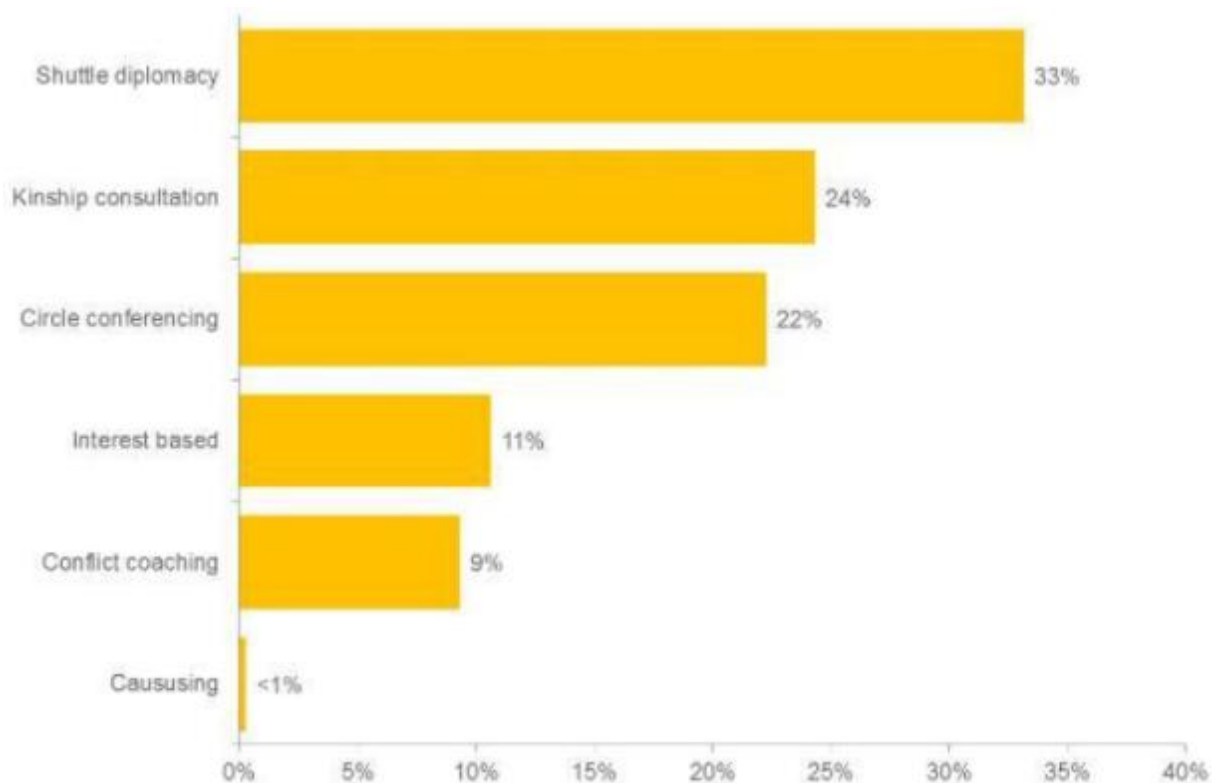
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total by technique type**

Shuttle diplomacy, kinship consultation and circle conferencing are the most commonly used techniques of the MIRJ Project. Conflict coaching and caucusing are rarely used.

**Figure 64: Total by technique type**



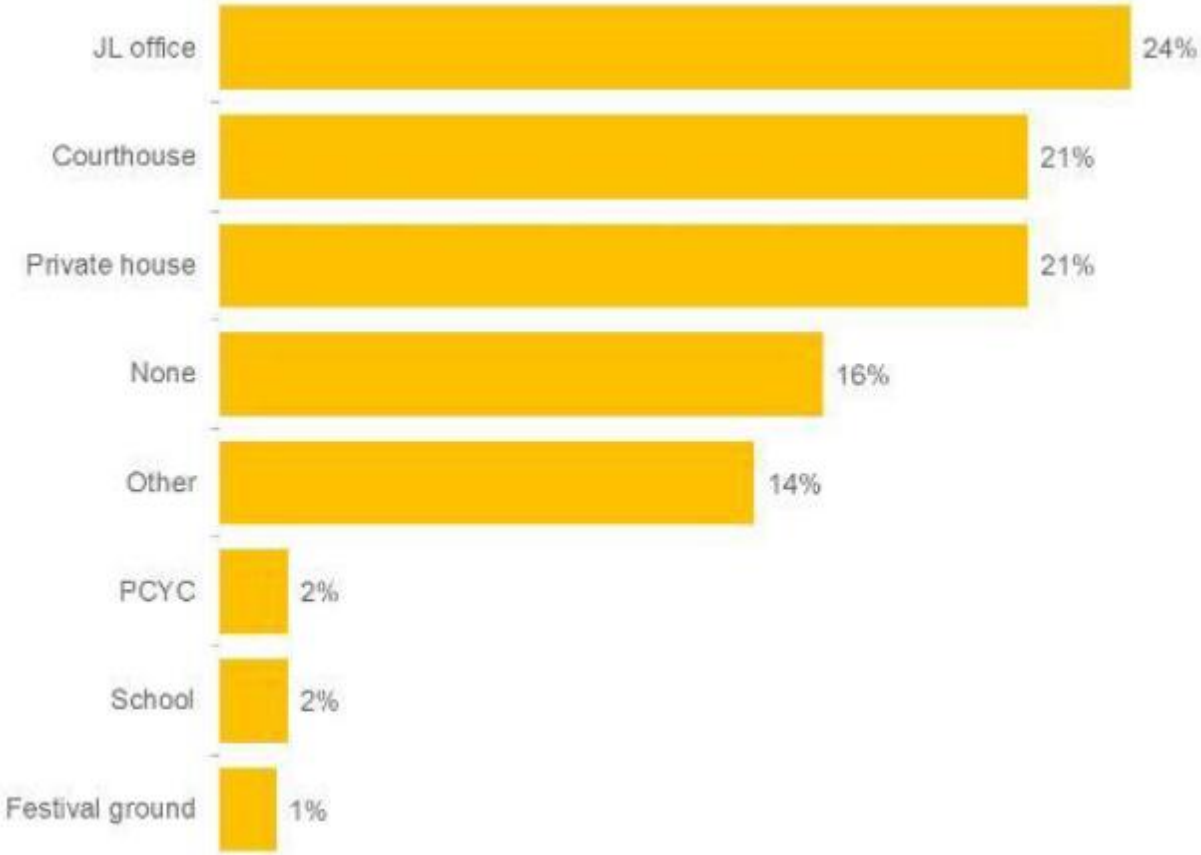
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

### **Total venue type**

The Junkuri Laka office, the courthouse or private homes are the most common venues used for the MIRJ Project. The PCYC, school and the festival grounds are rarely used.

**Figure 65: Total venue type**



Base: All MIRJ cases, n=457  
 Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Cost of the MIRJ Project**

The mean cost of an MIRJ case is \$2,265 (SD: \$3,198). A large range of costs were observed from a low of \$115 all the way to a high of \$26,900.

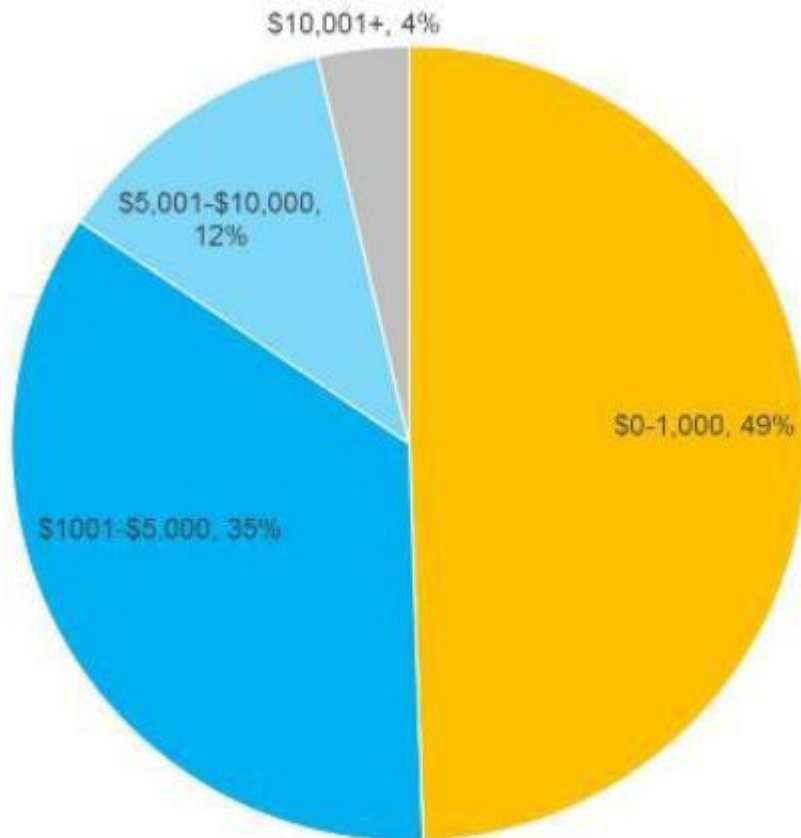
**Table 12: Summary of the MIRJ Project costs**

Project costs	Minimum	Maximum	Mean	Std. Deviation
Case cost	\$115	\$26,900	\$2,265	\$3,198

Half of the MIRJ Project cases cost less than \$1,000. One third cost between \$1,001 and \$5,000. One tenth cost between \$5,001 and \$10,000 with the small remainder costing more than \$10,000.



**Figure 66: Total costs**



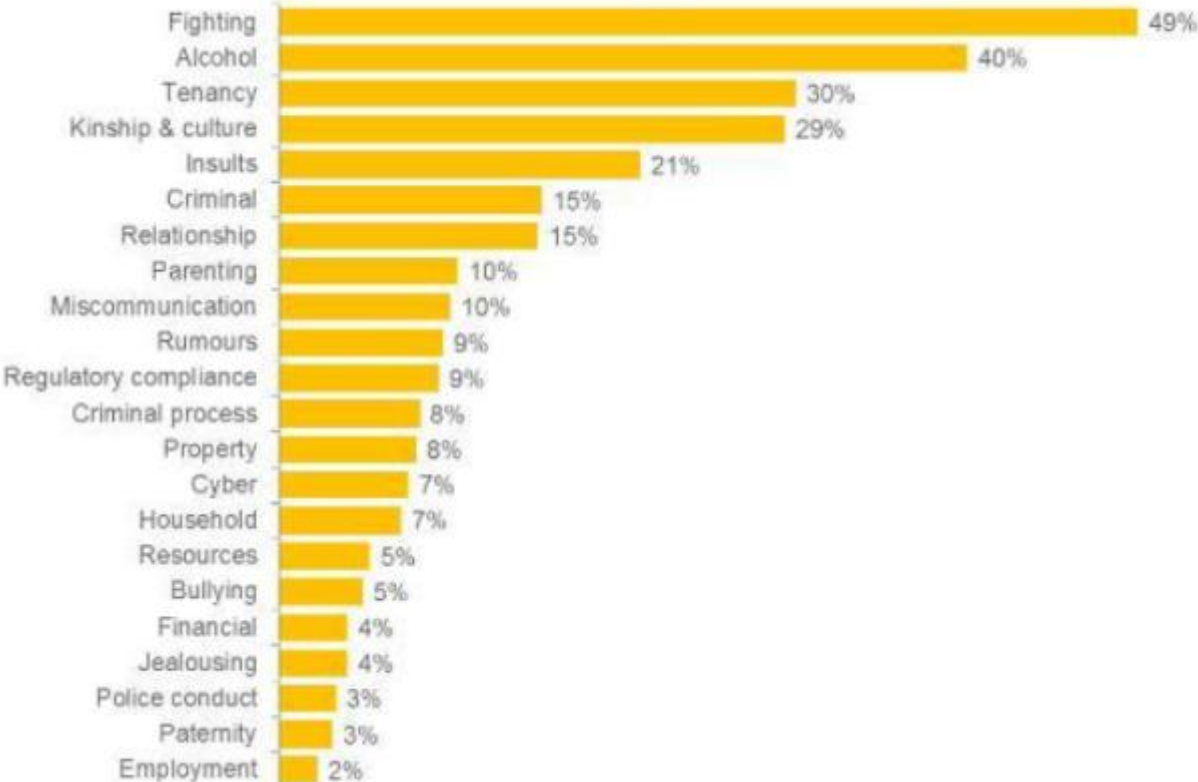
Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Total offense type**

The most common offence type addressed in MIRJ cases relate to fighting, alcohol and tenancy disputes. Matter relating to paternity and employment are rarely addressed.

**Figure 67: Total offense type**



Base: All MIRJ cases, n=457

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

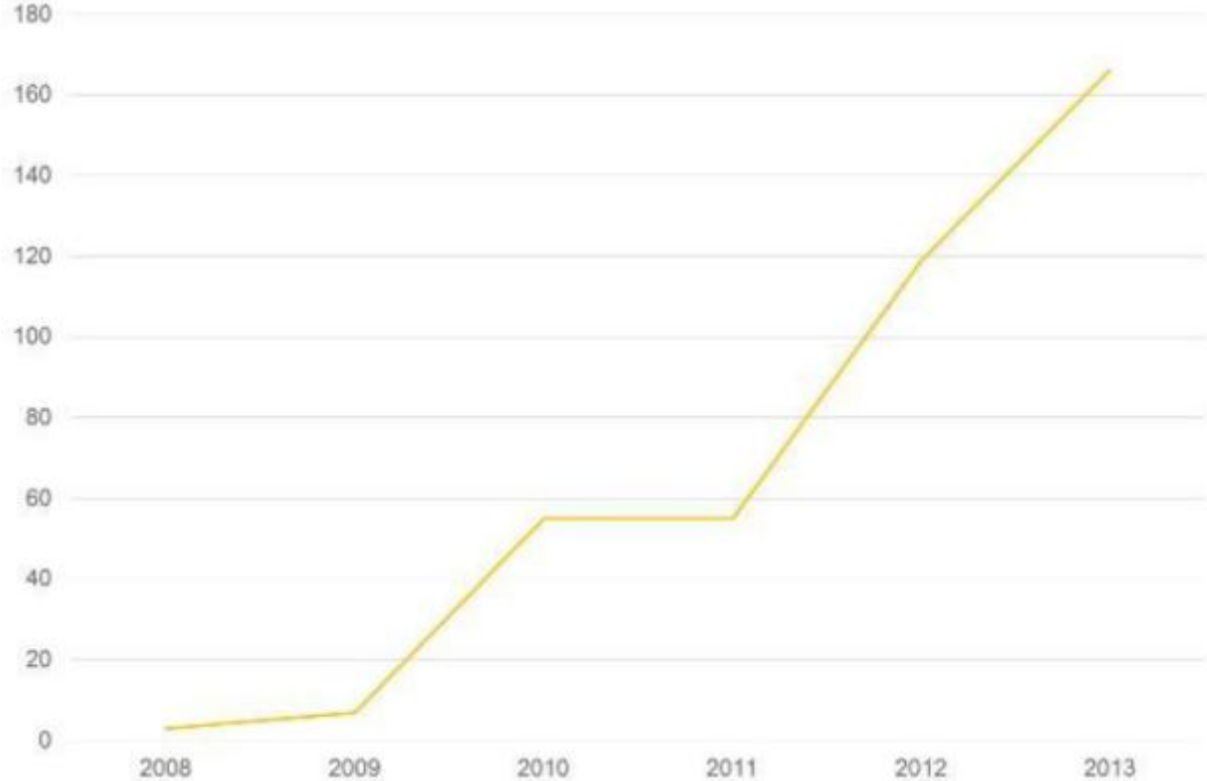
**7.3.2 Change in MIRJ case characteristics over time**

The measures described in the previous section were also analysed over time, specifically, from 2008-2014.

**Total cases over time**

The total number of the MIRJ Project cases has risen exponentially over time from only three in 2008 to 166 in 2013 (2014 is not included here as the year is not complete at the time of writing). The chart below shows the total number of the MIRJ Project cases year on year.

**Figure 68: Total cases over time**



Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

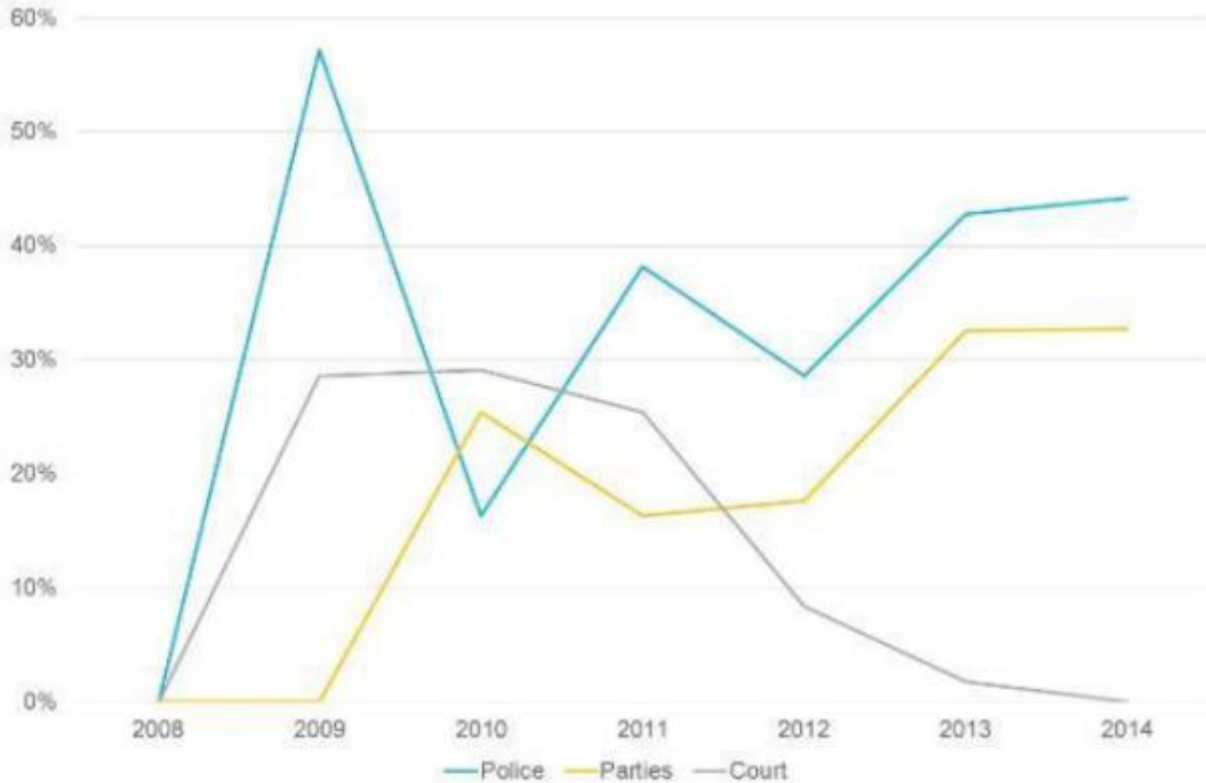
**Referral source over time**

The most commonly reported measures for MIRJ Project cases (referral source, intervention type etc) were isolated and tracked over time (2008-2014) to identify changes in the characteristics of MIRJ Project cases.

Referral sources into the MIRJ Project have changed over time. Noting some minor peaks and troughs, in general, the proportion of referrals from courts has been on the decline since 2010. Conversely, referrals from police and parties have been on the rise since around 2009.

The chart below shows the proportion of referrals from each source for the period 2008-2014. In this instance, 2014 has been included in the chart despite not having a complete year's worth of data. As this analysis uses proportions as the basis of measurement (as opposed to raw numbers) a complete year's worth of data is not required.

**Figure 69: Referral source over time**



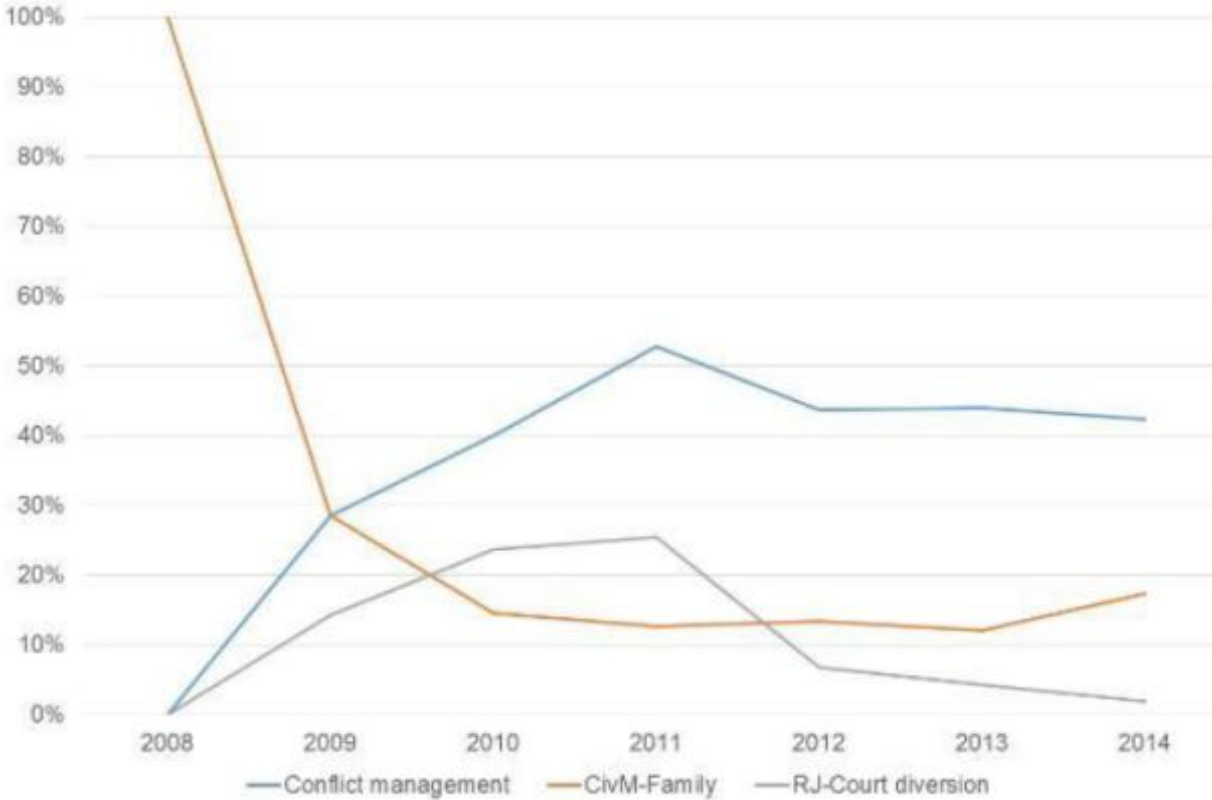
Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Procedure type over time**

The types of procedures used by the MIRJ Project have also changed over time. In general conflict management has become more common whereas CivM Family declined sharply between 2008 and 2010 at which point it stabilised at a relatively low rate. RJ Court Diversion showed some up and downward movement, though no consistent change up or down was observed for the period.

**Figure 70: Procedure type over time**



Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

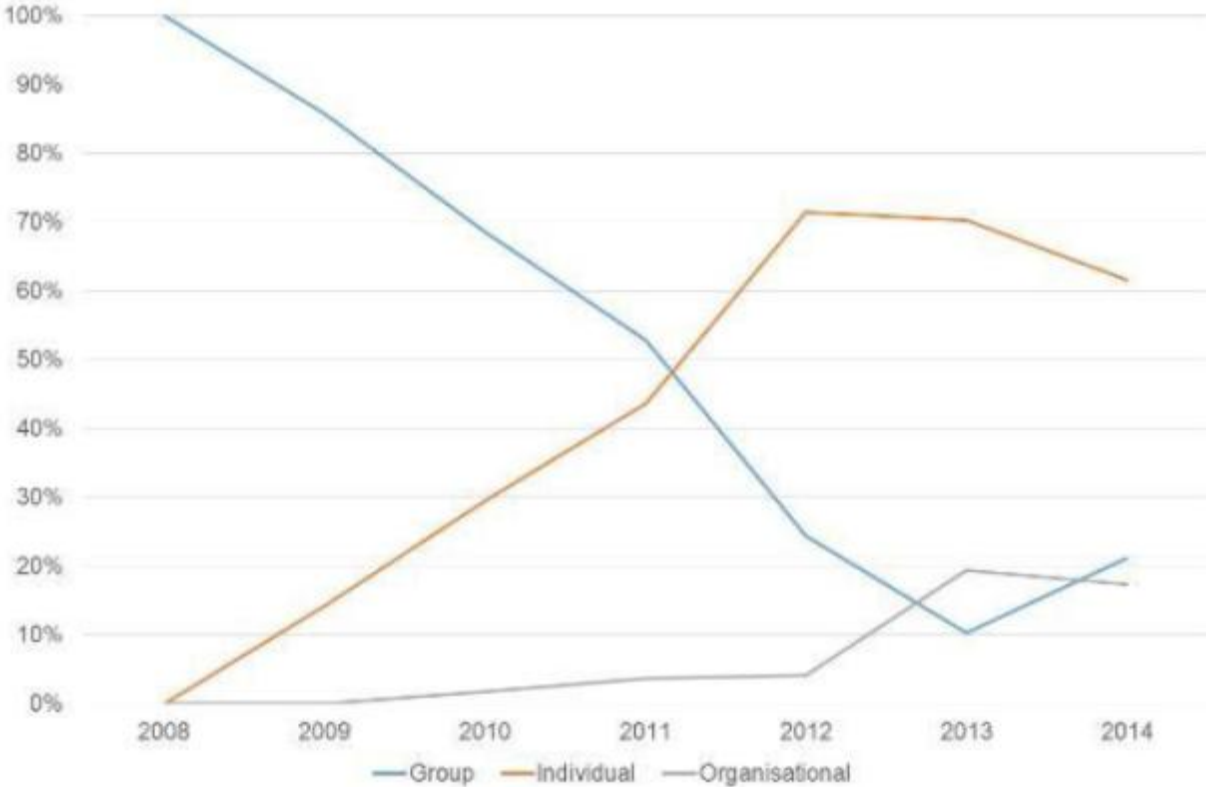
Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Relationship type over time**

In terms of relationship type:

- Group cases have declined consistently over the 2008-2014 period;
- Conversely, individual-based cases have shown a fairly consistent increase; and
- Organisational-based cases also showed a slight upward trend, though not as pronounced as individual-based cases.

**Figure 71: Relationship type over time**



Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

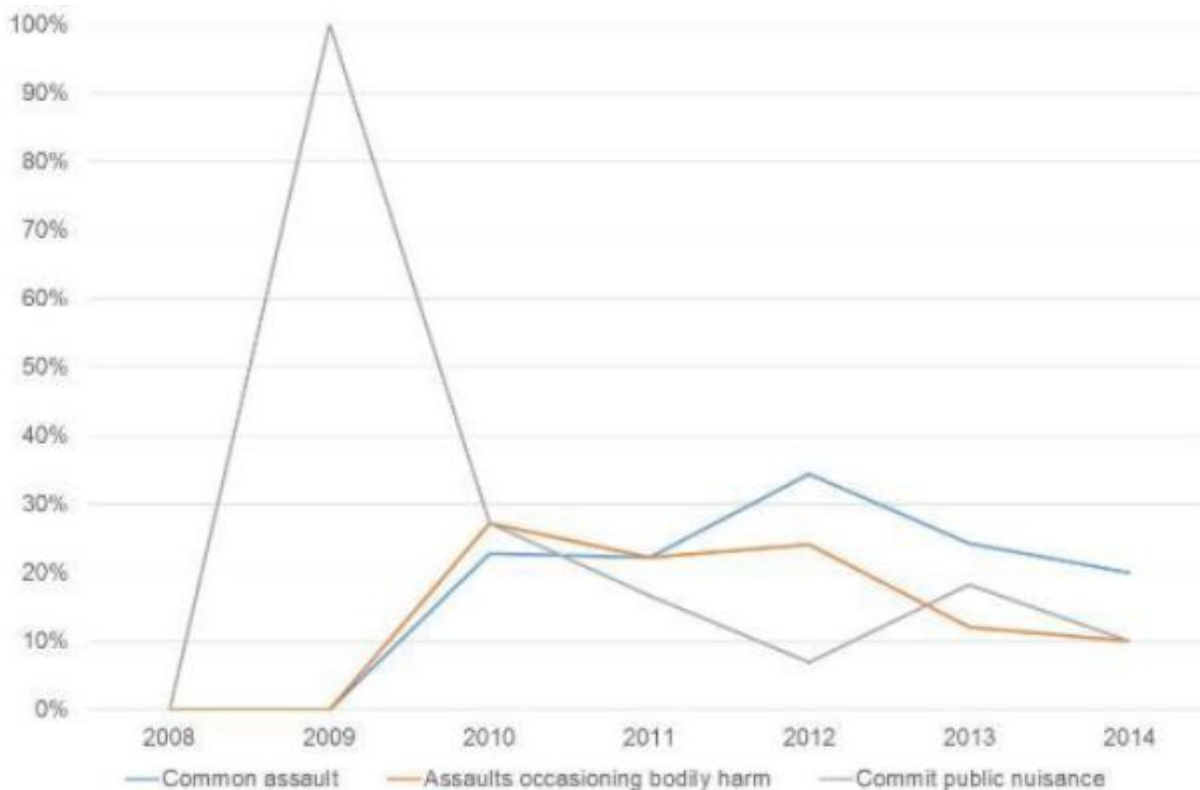
Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Offence type over time**

Offence type showed some variation over time, though no clear upward trend was observed for the most common offence types: common assault, assaults occasioning bodily harm and committing public nuisance.

The one very noticeable feature of this analysis was the very sharp spike in public nuisance cases which were presumably due to the introduction of alcohol restrictions on the Island.

**Figure 72: Offense type over time**



Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

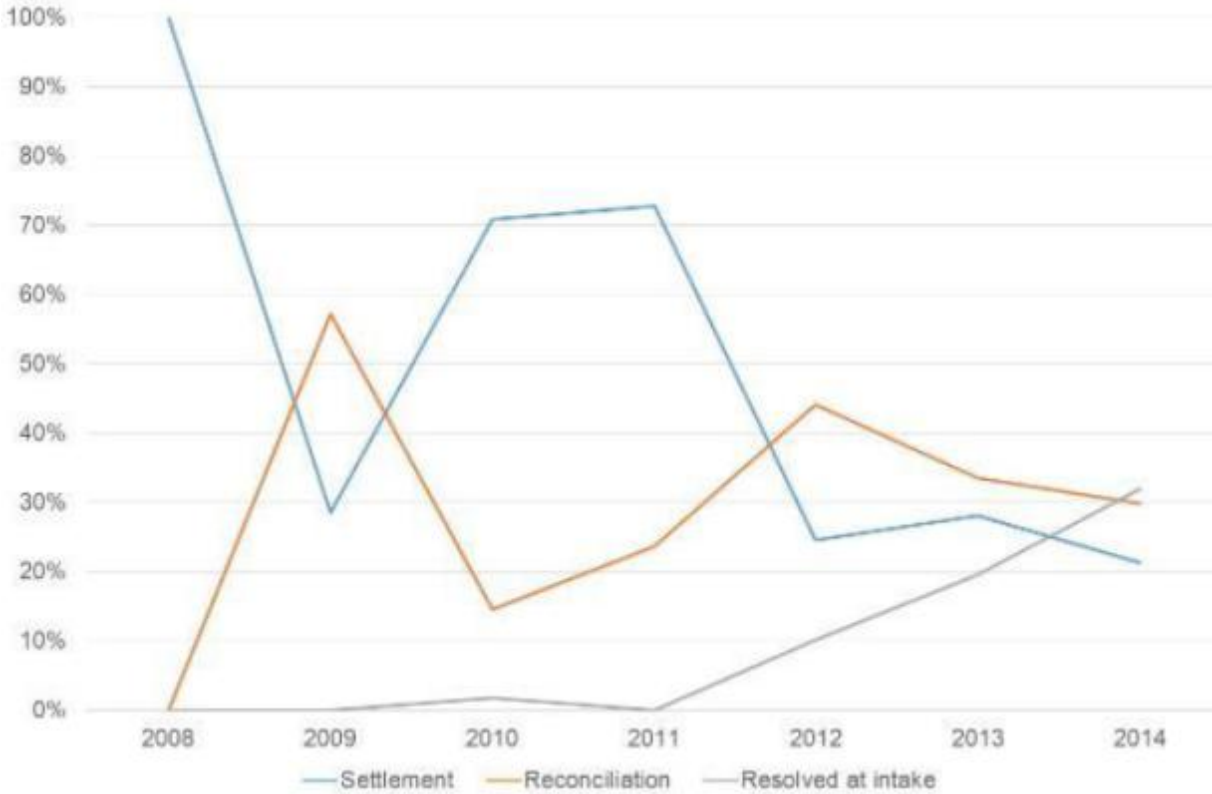
Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Outcome type over time**

Outcome types also showed some patterns over time, particularly since 2010/2011. After this year, settlement outcomes went into a fairly steady decline, whereas resolution at intake started to rise steadily.

Reconciliation outcomes showed some up-and-down movement, though no consistent trend in either direction was observed for the period.

**Figure 73: Outcome type over time**



Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

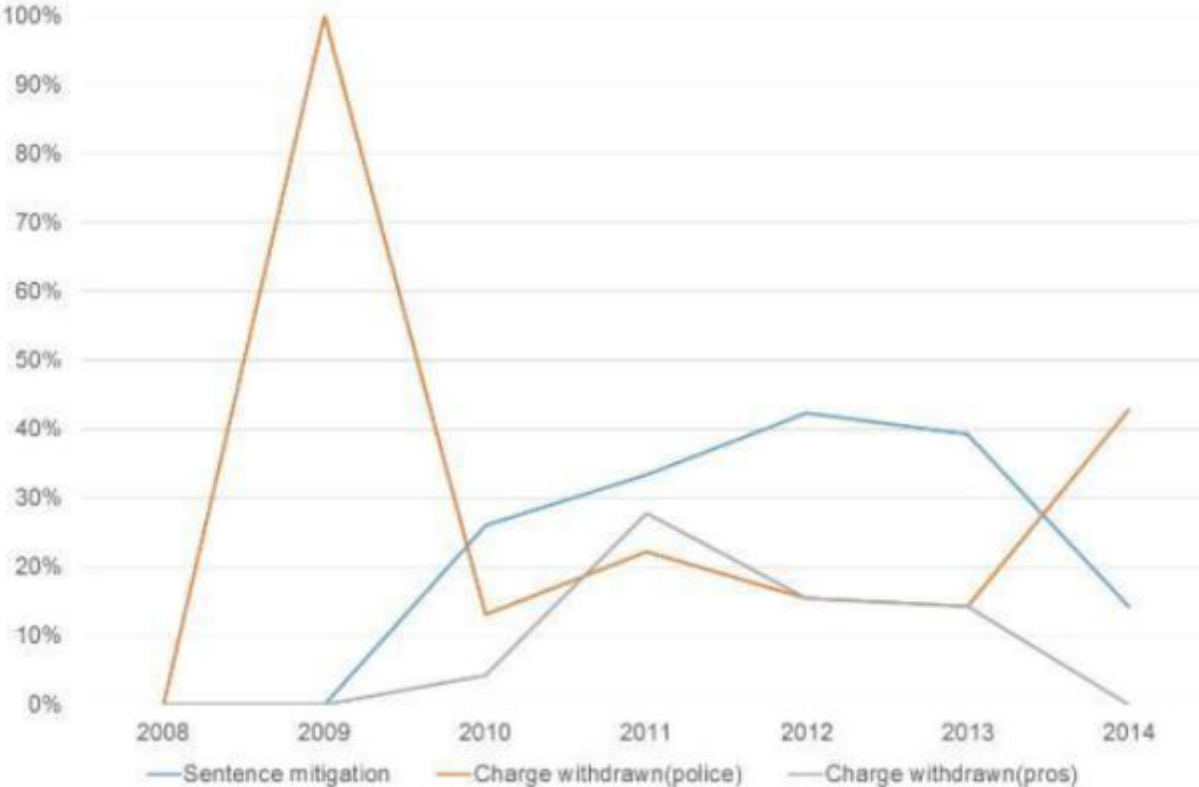
**Diversionsary outcome type over time**

The three most commonly reported diversionsary outcomes (sentence mitigation, charge withdrawn (police) and charge withdrawn (pros) all showed change over time. However, this change was irregular in nature with no clear trend up or down observed for the period.

A spike was observed in 2009 for charge withdrawn type outcomes. This spike mirrors that observed for public nuisance offenses and are presumably both linked to alcohol restrictions in combination with a zero tolerance approach to policing by the Police.



**Figure 74: Diversionary outcome type over time**



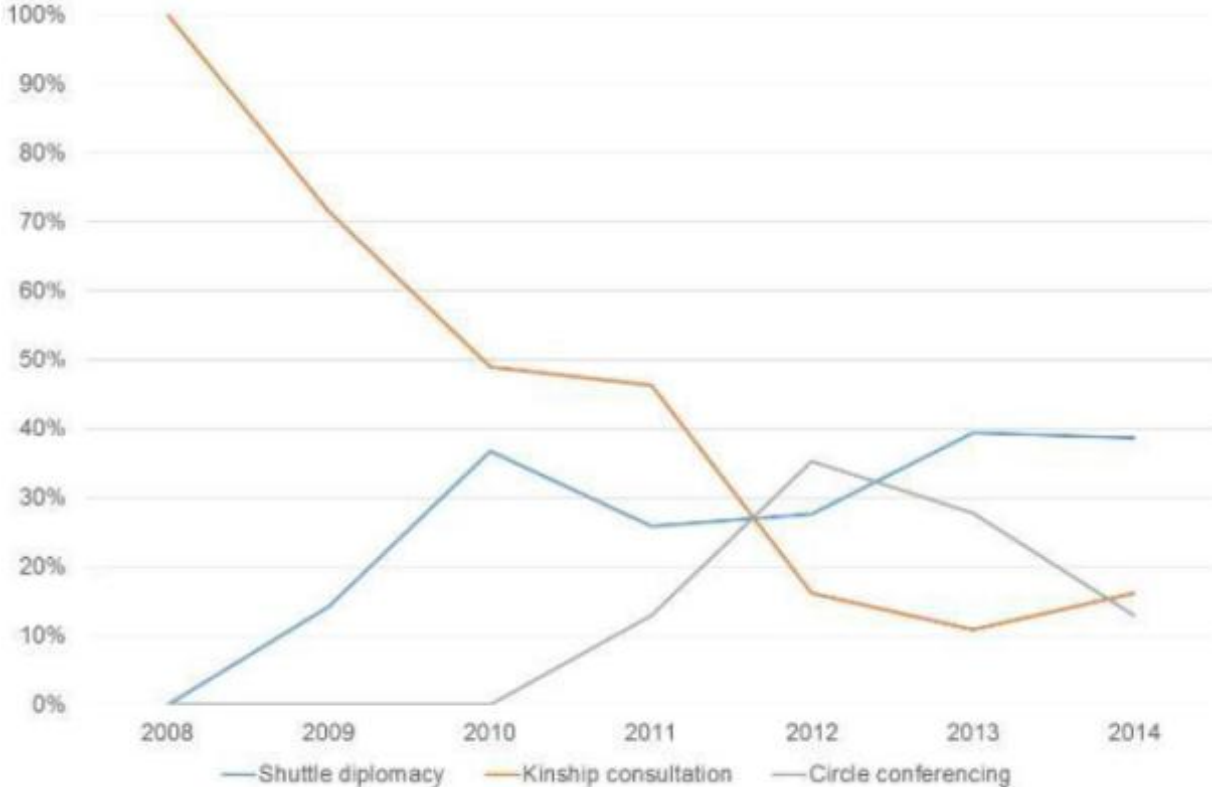
Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Technique type over time**

The types of technique used for the MIRJ Project also shifted over time. Kinship consultation showed a steep decline year on year. This sharp decline was offset by a fairly steady increase in shuttle diplomacy and a less pronounced increase in circle conferencing.

**Figure 75: Technique type over time**



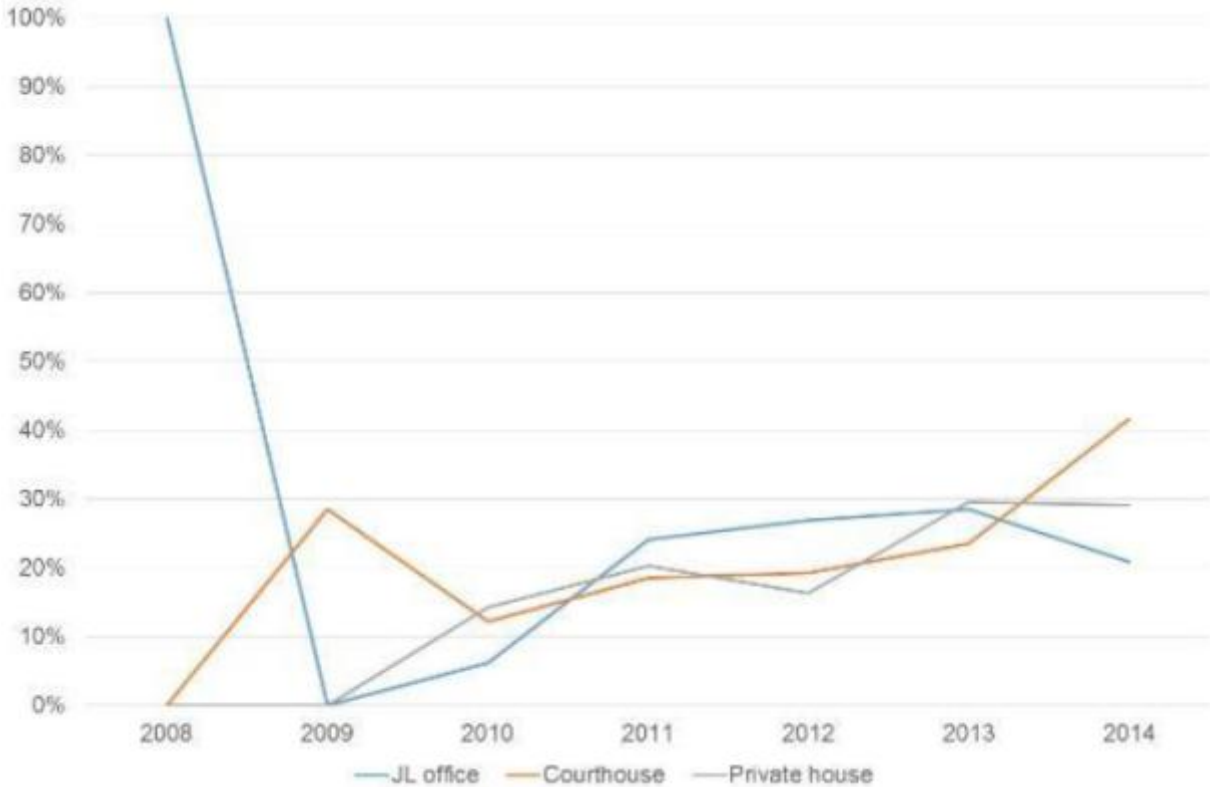
Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Venue type over time**

In the very early days of the MIRJ Project, all cases took place at the Junkuri Laka office. This exclusive use of one venue changed slowly over time as other venues such as the courthouse and private homes started to be more frequently used.

**Figure 76: Venue type over time**



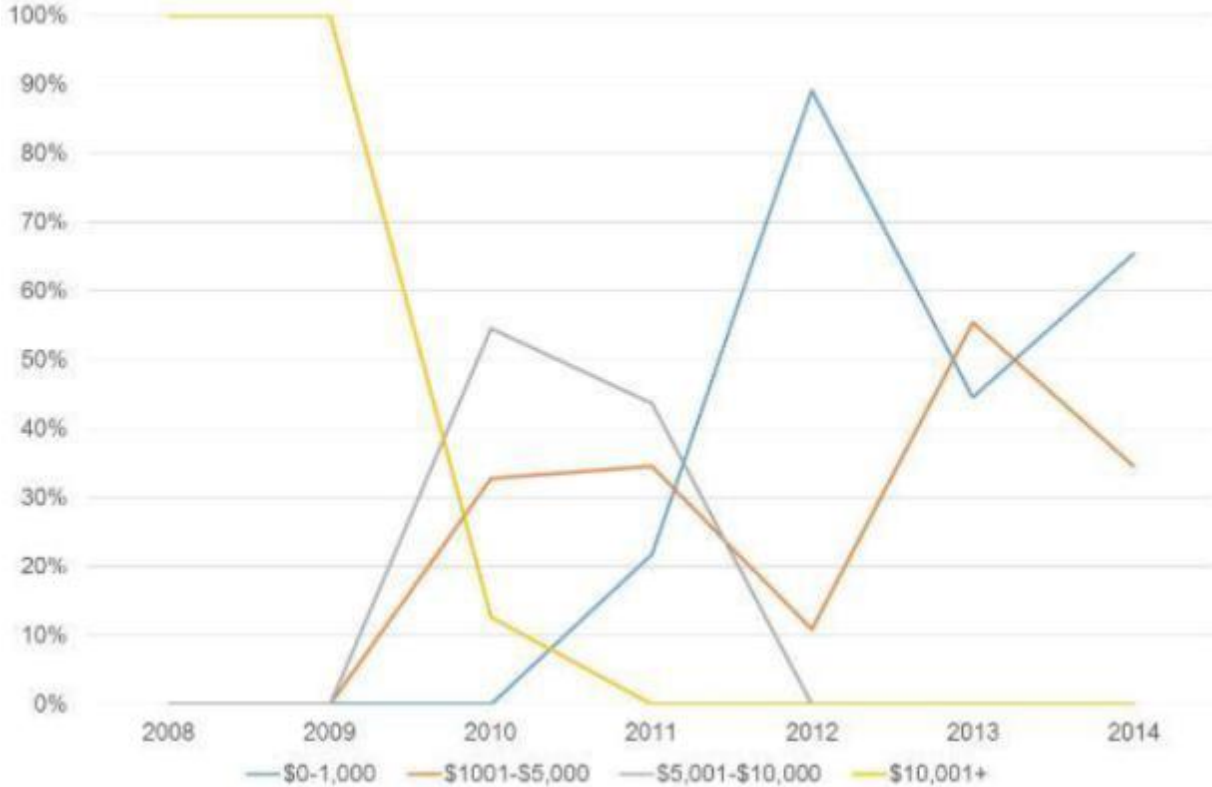
Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Case cost over time**

In the early years of the MIRJ Project, cases tended to be very costly, usually over \$10,000. However, this consistently high cost started to change from 2009. Although most price brackets fluctuated up and down with little consistency year on year; an overall increasing trend for lower price bracket cases (\$0-1,000) was observed. This overall trend was coupled with an absolute absence of mid cost cases (\$5,001-\$10,000) since 2012 and an absence of high cost cases (\$10,001+) since 2011. This lead to a net reduction in case cost over the period, described in further detail on the next page.

**Figure 77: Case cost over time 1**



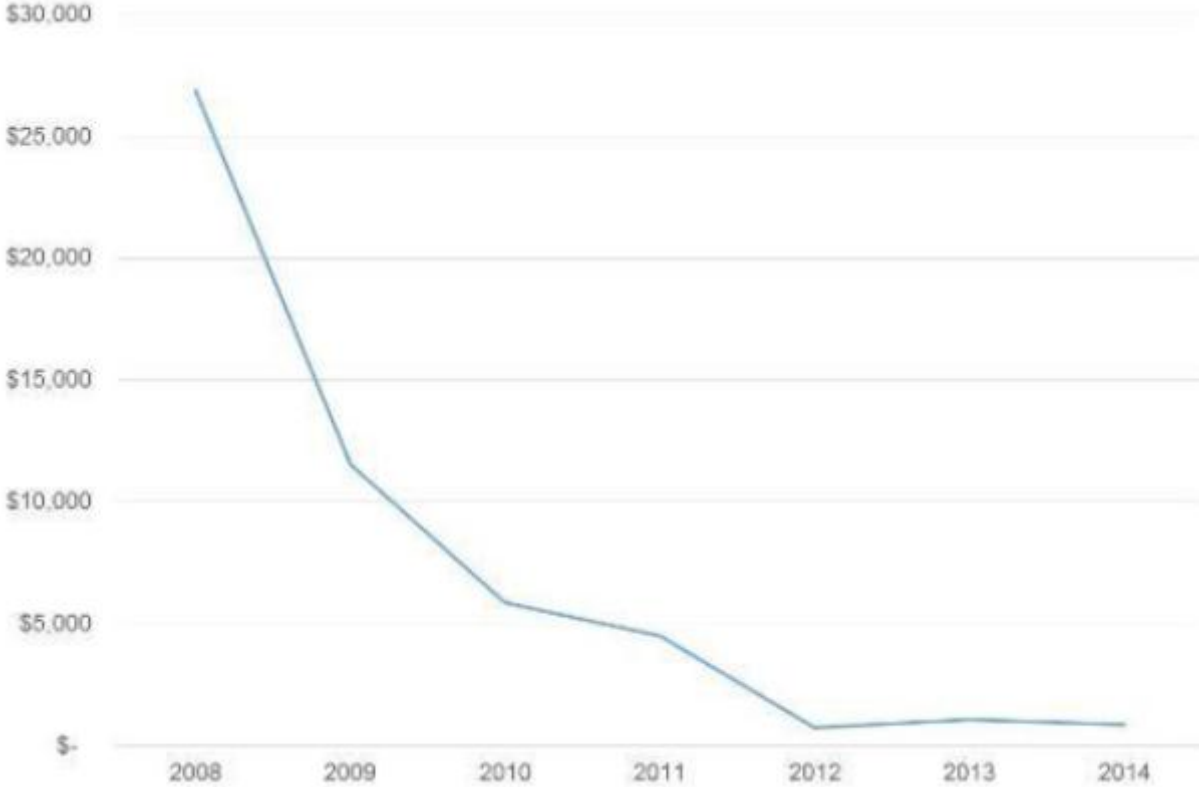
Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**Case cost over time**

As noted above, total case cost reduced over time despite some large fluctuations in case cost categories. This overall downward trend is more apparent when mean case cost is considered. As can be seen in the chart below, the mean case cost for the MIRJ Project in 2008 was well above \$25,000. This relatively high value decreased first rapidly, then decreased more slowly up until 2014 where the mean case cost is in the hundreds of dollars rather than the thousands.

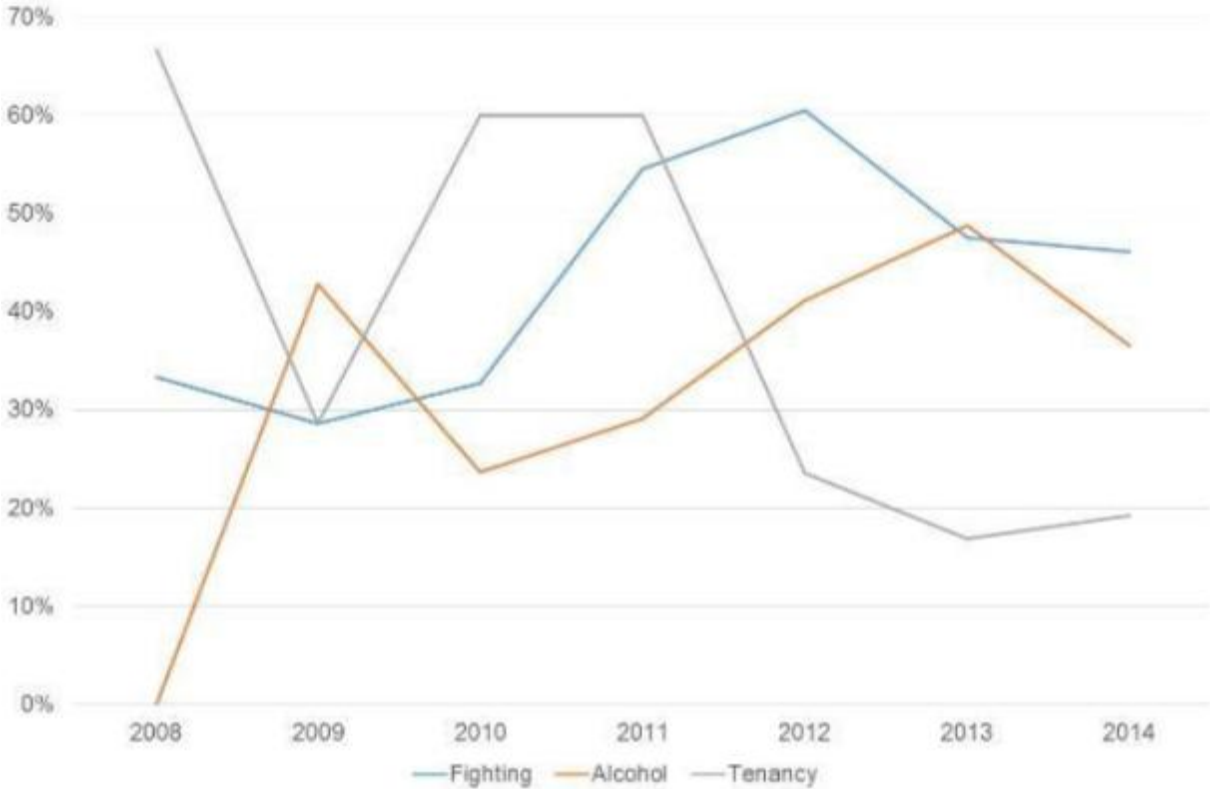
**Figure 78: Case cost over time 2**



**Conflict type over time**

None of the three most common conflict types (fighting, alcohol, tenancy) showed any clear pattern of increasing or decreasing over the period. Each of these conflict types appeared to increase or decrease arbitrarily year on year.

**Figure 79: Conflict type over time**



Year	2008	2009	2010	2011	2012	2013	2014
Base	3	7	55	55	119	166	52

Source: MIRJ data provided by Junkuri Laka Wellesley Islands Aboriginal Law

**7.3.3 Other select comparisons from MIRJ Project data**

Selected measures were compared from the Junkuri Laka Wellesley Islands Aboriginal Law data. Superficially, comparative measures were made for positive and negative outcomes for the MIRJ Project. Positive outcomes included settlement, reconciliation and resolution at commencement. Negative outcomes included walk-outs and inconclusive outcomes. Comparative measures were made for techniques, venue and party relationships as potential drivers or influencers of positive outcomes. Analysis was also made for these process measures by average cost.

**Techniques by outcome**

Small, though perhaps important differences in outcome were observed for cases where different techniques were used. Circle conferencing, interest based approaches and kinship consultation appeared to have achieved a slightly higher rate of positive outcome (greater than 90%) compared with conflict coaching and shuttle diplomacy.

**Table 13: Differences in outcome by technique**

Outcome	Circle conferencing (n=86) %	Conflict coaching (n=36) %	Interest based (n=41) %	Kinship consultation (n=94) %	Shuttle diplomacy (n=128) %
Negative	2%	17%	7%	2%	13%

<b>Outcome</b>	<b>Circle conferencing (n=86) %</b>	<b>Conflict coaching (n=36) %</b>	<b>Interest based (n=41) %</b>	<b>Kinship consultation (n=94) %</b>	<b>Shuttle diplomacy (n=128) %</b>
Positive	98%	83%	93%	98%	87%

Techniques that were very infrequently used (<n=5) have been excluded from this table

### Venue by outcome

The venue also appeared to bear some relationship to the likelihood of a successful outcome. Cases held at the courthouse and the Junkuri Laka office appeared to have a greater likelihood of leading to a successful outcome compared with cases held at PCYC and private house.

**Table 14: Differences in outcome by venue**

<b>Outcome</b>	<b>Courthouse (n=71) %</b>	<b>JL office (n=80) %</b>	<b>PCYC (n=6) %</b>	<b>Private house (n=71) %</b>
Negative	4%	5%	17%	1%
Positive	96%	95%	83%	99%

Venues that were very infrequently used (<n=5) have been excluded from this table

### Relationship type by outcome

Case type (group, individual and organisational) were also examined by outcome, not so much as a determinant of positive outcomes, but rather as an indication of the types of relationship settings that are best served by the MIRJ Project.

Based on this analysis, it would appear that group cases more commonly lead to positive outcomes (greater than 95%) than individual or organisational cases.

**Table 15: Differences in outcome by relationship type**

<b>Outcome</b>	<b>Group (n=131) %</b>	<b>Individual (n=269) %</b>	<b>Organisational (n=47) %</b>
Negative	8%	21%	13%
Positive	92%	79%	87%

### Average cost by technique

Different techniques appeared to incur different costs across cases. Circle conferencing and conflict coaching both demonstrated a lower cost (less than \$2,000) compared with interest based approaches, shuttle diplomacy and kinship consultation.

**Table 16: Differences in cost by technique**

<b>Average cost</b>	<b>Circle conferencing (n=86)</b> $\bar{x}$	<b>Conflict coaching (n=36)</b> $\bar{x}$	<b>Interest based (n=41)</b> $\bar{x}$	<b>Kinship consultation (n=94)</b> $\bar{x}$	<b>Shuttle diplomacy (n=128)</b> $\bar{x}$
Mean Cost	\$1,005	\$1,543	\$2,311	\$4,687	\$2,043

Techniques that were very infrequently used (<n=5) have been excluded from this table

**Average cost by venue**

The only venue type that stood out as being more expensive than the others was the JL office. Other venues such as the courthouse, PCYC and private homes were over half the cost of the office on average.

**Table 17: Differences in cost by venue**

<b>Average cost</b>	<b>Courthouse (n=71)</b> $\bar{x}$	<b>JL office (n=80)</b> $\bar{x}$	<b>PCYC (n=6)</b> $\bar{x}$	<b>Private house (n=71)</b> $\bar{x}$
Mean Cost	\$2,261	\$5,839	\$2,580	\$2,261

Venues that were very infrequently used (<n=5) have been excluded from this table

**Average cost by relationship type**

Group cases were observed to be substantially more expensive on average compared with individual and organisational cases, which were roughly equivalent in cost.

**Table 18: Differences in outcome by relationship type**

<b>Average cost</b>	<b>Group (n=131)</b> $\bar{x}$	<b>Individual (n=269)</b> $\bar{x}$	<b>Organisational (n=47)</b> $\bar{x}$
Mean Cost	\$4,354	\$1,444	\$1,187



## 8. Cost Benefit Analysis and Contact with Criminal Justice

Colmar Brunton analysed data supplied by DPC from Magistrates Services that related to the total number of magisterial sittings on Mornington Island for the period 2004 – 2014. The data included variables relating to offense type, sitting dates, Indigenous status and judicial outcome. The data was analysed to address two of the evaluation’s objectives:

- The extent to which MIRJ had reduced the Island’s residents from contact with the criminal justice system; and
- A cost-benefit analysis that compares the cost of justice between western-style magisterial trials and MIRJ.

### 8.1 Cost benefit

In an ideal world, MIRJ would reduce costs on the criminal justice system on the Island. Costs associated with MIRJ and conventional justice were contrasted to ascertain whether or not this was the case. Based on the data available, no firm conclusions could be reached. At face-value, MIRJ appears to cost *more* than conventional justice (\$689 per case for conventional justice vs. \$1,099 per case for MIRJ). However, given the impact that MIRJ Project appears to have had on reducing crimes against the person on Mornington Island and correspondingly the number of people who would otherwise have come into contact with the criminal justice system Colmar Brunton suggests that there are significant benefits and cost-savings that should be taken into account that are currently unable to be measured in dollar terms. Colmar Brunton were only in possession of a limited set of data and were not able to build a model that incorporated non-financial costs. These findings as they stand are discussed below.

#### 8.1.1 Costs for a magisterial visit to Mornington Island – conventional justice

Magistrates Services provided cost data for a single visit to Mornington Island for a magistrate and related staff including travel and accommodation cost. In total, a visit to Mornington Island for magisterial; hearings is \$11,440. These costs are broken down in the table below.

**Figure 80: Cost estimates for a single trip to Mornington Island**

Description	Cost
Magistrates Salary (\$1600/day)	\$3,200
Depositions Clerk Salary (\$704/day)	\$1,408
Travelling Allowances (2 days)	\$452
Accommodation (1 night)	\$300
Return Commercial Flight (Townsville/Mt Isa)	\$1,680
Charter Flight (2 days)	\$4,400
<b>Total Circuit Estimate</b>	<b>\$11,440</b>

A unit cost was calculated based on this total cost for a case of assault. Assault was chosen as a case study because:

- It was the most comparable offence type listed in both the Magistrates Services data and the MIRJ database; and
- Reduction in violence is a core objective of MIRJ.

Using the number of assault cases and the number of hearings required for each assault case it was determined that:

A magistrate could hear an average of 38 cases per day;

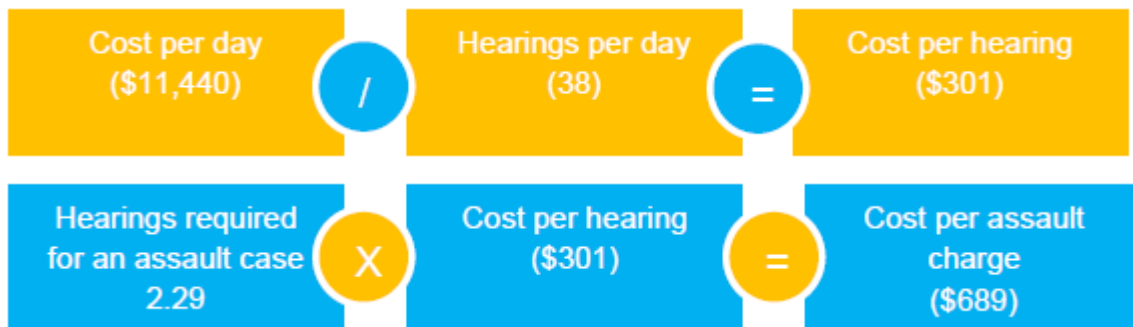
- The cost per case (based on a total of \$11,440) is therefore \$301;
- The average number hearings required for an assault case is 2.29;
- Therefore the **cost for conventional justice to hear an assault case is \$689**.

These numbers are listed in the table below. The calculation process is summarised in the diagram thereafter.

**Figure 81: Unit cost for a single assault case, western justice**

Description	Cost
Total Circuit Estimate	\$11,440
Cases seen per day	38
Cost per case	\$301
Cases required	2.29
<b>Cost</b>	<b>\$689</b>

**Figure 82: Estimated unit cost of an assault case, western justice**



### 8.1.2 Average cost for an MIRJ session

Colmar Brunton was provided with costs for each MIRJ session for the period 2008-2014. For the purposes of this analysis were selected by:

- Whether the case involved assault (or fighting as it was described in the database); and
- Whether the case was conducted in 2013 – the most recent complete year of data and most up-to-date costs (noting the very high costs in the early days of MIRJ which reduced dramatically over time).

Based on this selection of sessions, it was determined that the average cost per case for an MIRJ assault case was \$1,099 (N=79; Range, \$636, \$2,043; SD \$283). This figure is obviously higher than the \$689 calculated for conventional justice. However, Colmar Brunton does not conclude that this means that MIRJ is unnecessarily costly in contrast to conventional justice. Please refer to the next sections of this document as to our reasoning why.

**Figure 83: Average cost of an MIRJ assault case**

Average cost	N	Minimum	Maximum	Mean	Std. Deviation
Costs	79	\$636	\$2043	\$1,099	\$283

**8.1.3 Caveats**

In Colmar Brunton’s opinion, this cost benefit analysis forms the basis of a more sophisticated determination that could be made in the future if more data were available. The analysis is limited by a number of factors, not least the following:

- The absolute costs likely to have been incurred without the MIRJ Project are not factored in when making comparisons on a cost per case basis. For example the total cost for crimes against the person, which have reduced since MIRJ Project was implemented, must have also reduced but this cannot be identified.
- The analysis only takes into account the costs associated with the legal system; it does not take into account the quality of proceedings at either MIRJ or conventional justice, for example:
  - It is known that many participants were satisfied with their experience of MIRJ, the same may not be able to be claimed for conventional justice;
  - Magisterial visits to the Island are known to have a strong focus on clearing as many cases as possible, often with very rapid-fire determinations and hearings, thus, the relatively high number of hearings at any one visit and correspondingly low cost per hearing;
  - MIRJ, on the other hand, emphasis taking the time to hear differing points of view and thus has relatively low throughput and correspondingly high costs;
- These analysis do not take into account reductions in policing costs which were anecdotally described during the fieldwork (policing costs were requested though could not be provided for this evaluation); and
- The analysis did not take a range of outcomes into account as they were not calculable from the data, for example, measures of recidivism.
- Where there was a cost of cases in the early stages of the project this should be considered in the context of the projects stages and intent. Essentially the high cost is reflected in the funds spent not providing mediation but carrying out community development work to develop a model, educate the community and ourselves on Indigenous mediation and enlist broad community support. The intent was to develop a model capable of transfer to other communities and recent work commencing in Doomadgee and in Aurukun is benefiting from the early developmental work on Mornington Island. For example shorter lead times occurred in Aurukun because we had a model to discuss in our consultations.

## 9. Best practice mediation service

This section investigates the Mornington Island Restorative Justice Project (MIRJ) in terms of whether it incorporates good practice mediation principles in Indigenous remote communities and whether they appear to work in this situation. Following the review of the documents described above, CBSR made an assessment of whether the MIRJ Project's design, as articulated in the documents supplied, is aligned with recognised best practice in the field of Indigenous Mediation Services.

### In summary

In summary, it is our determination that MIRJ Project is overall very well aligned with best practice in terms of being both a community-led development and Indigenous dispute and conflict resolution process. This evaluation appreciates that the MIRJ Project occurs at a stage in the implementation that may not yet have the presence of local capacity for ongoing sustainability yet to be achieved, but has laid some essential ground work in a very fragile community. In most cases there is alignment in the intention of the MIRJ through documentation, processes and procedures. However, some mis-alignment of perceptions exists in the local community which has been identified in the community survey.

### Recommendations

CBSR recommends:

- More training, mentoring and support of local mediators;
- Increase local employment in, and management of, the service;
- Development of a workforce strategy that leverages with Local Implementation Plans, Community Development Funding or Remote Jobs Capacity Program for pre-employment training and capacity building;
- Increase the use mediators from a variety of families/clans and more female mediators are required;
- Reinforcement of the Elders rules perhaps through creation of the culturally symbolic significance of the MIRJ Project and thus Junkuri Laka presence in the community;
- Client satisfaction survey and community friendly complaints process implemented to increase feedback about how the MIRJ Project can be improved;
- More ongoing monitoring and review of agreements to see if they 'stick'; and
- Greater collaboration with service providers and multiple agencies working on Mornington Island.

The determination for examining a community-led program is made based on a tabulation of information provided in both Junkuri Laka organisational documentation and MIRJ Project documentation against the best practice standards described in 'What conditions will enable Indigenous-led development to thrive in Australia?' a report written for the

Australian Government by World Vision Australia<sup>65</sup>. This document lists a number of guiding principles that essentially answer the question posed in the report's title – i.e., the determining factors that need to be present to facilitate thriving, Indigenous-led communities. These factors typically centre on self-determination; the consideration of cultural and environmental factors; and the need for strong leadership and governance.

This determination for examining Indigenous dispute resolution and conflict management is made based on a tabulation of information provided in MIRJ documentation and our evaluation report against critical factors for effective practice described in 'Solid work you mob are doing'. The latter was a report to the National Alternative Dispute Resolution Advisory Council by the Federal Court of Australia's Indigenous Dispute Resolution and Conflict Management Case Study Project<sup>66</sup>

The core factors identified in this report are listed in Table 86 and Table 87 following. Based on CBSR's review of MIRJ documentation and community research findings we have made a determination of MIRJ's alignment with these principles, and made commentary as to the nature of this alignment.

It should be noted that some organisational elements of best practice would be best assessed in an implementation review or process evaluation of Junkuri Laka which was beyond the scope of this evaluation of the MIRJ Project conducted by CBSR. Evidence provided in this table is drawn from the detailed findings of this report, and often answers more than one critical factor. Therefore, any duplication is intentional.

**Table 84: Best Practice elements of Indigenous-led development and MIRJ**

<b>Best practice element</b>	<b>Alignment of MIRJ</b>	<b>Comment</b>
The principle of Indigenous community-driven development - Indigenous people want to control their futures.	Aligns	This very general principle stated by World Vision is deeply integrated into all materials produced for MIRJ. To a large extent, the design and configuration of services and supports under MIRJ is determined at a community level by community leaders and members. The Junkuri Laka Strategic Plan 2013-2014 clearly articulates this principle of community leadership and dreaming for the future.
Decision-making power, responsibility, resources and authority is established to achieve Indigenous community driven development.	Aligns	As per the above, decision making power is firmly rooted at a community level whereby the MIRJ's Project's design under the Junkuri Laka's 'rules of the association'. This is particularly strongly articulated in the Constitution for the Junkuri Laka Wellesley Island Aboriginal Law and Justice & Governance Association Incorporated.  The formal agreement with Dispute Resolution branch of the Department of Justice and Attorney general was signed in

<sup>65</sup> What conditions will enable Indigenous-led development to thrive in Australia? A consolidation of international and domestic evidence and views of stakeholders as a resource for the design stage of the Indigenous Development Effectiveness Initiative (IDEI) (2013). A work in progress. Unpublished.

<sup>66</sup> Solid work you mob are doing. Case Studies in Indigenous Dispute Resolution and Conflict Management in Australia. Federal Court of Australia's Dispute Resolution and Conflict Management Case Study Report. Commonwealth of Australia 2009.

Best practice element	Alignment of MIRJ	Comment
		February 2012 with autonomy and community self-management recognised in the agreement.
Ensuring that culture, law, language and land are at the centre of development	Aligns	Throughout MIRJ Project documentation, the notion of 'cultural appropriateness' is strongly emphasised and articulated. This applies to documentation at the core of the Project such as the Junkuri Laka Strategic Plan 2013-2016 states <i>"In the previous strategic plan we expressed the desire to make mediation and peacekeeping work one of the main activities for Junkuri Laka. We wrote this objective stems from the belief that in Aboriginal communities peacemaking processes are much better suited to resolve conflicts than the (criminal) justice system."</i> Central to the concept that within the culturally traditional idea of peacemaking and contemporary (non-Indigenous) thinking about more holistic ways of conflict resolution can be achieved through mediation services.
A higher level of educational achievement and entry into the mainstream workforce is also the aspiration of many Indigenous people	Aligns intentionally but needs development	Specific aspects of such development includes formal training as well as more informal support, training and mentoring for workers and trainees from the organisation and external providers. Mornington Island Local Implementation Plan (LIP) <i>"deliver community capacity building services that support the local workforce strategy, for example by encouraging and developing the skills and capabilities of local people to enter and remain in the workforce."</i> Utilisation of other supports such as workforce development and pre-employment training outlined in a workforce strategy is not present.  There were attempts to provide formal training and recognition through National Mediation Accreditation System, however this is yet to be achieved. Work with supporting systems to help the organisation overcoming the barriers to participation in training and employment.
There are environmental conditions that will need to be addressed in order to support community-driven development	Aligns with opportunity for this to be better developed	Based on CBSR's previous work in the Indigenous Community sector, we have found that environmental considerations often play a determining role as to what services can be delivered, how they are delivered and what the likely outcome of services might be. Such environmental factors often include structural and systemic issues such as a shortage of housing and or transportation options; adverse weather conditions; and isolation

Best practice element	Alignment of MIRJ	Comment
		<p>from services.</p> <p>This aspect of service delivery is articulated in general terms in MIRJ documentation in terms of phrases such as "local solutions' and 'local community ownership of services 'which presumably entails consideration of local environmental factors. Junkuri Larka as a justice organisation involved in such areas as the Alcohol Management Plan and the Criminal Justice System is acutely aware of the environmental considerations for the MIRJ.</p> <p>Until the wider issues of chronic alcohol abuse, culturally embedded norms around the social acceptability of violence (stemming from early childhood exposure to violence) and a lack of jobs or engaging productive activities (leading to boredom) are reviewed and addressed the Project is always going to struggle to achieve its long term outcome.</p> <p>We see a '<b>chicken and egg</b>' scenario at work where the environmental considerations are limiting the effectiveness of the MIRJ Project, and yet the MIRJ Project, through Junkuri Laka, is ultimately attempting to provide enough stability in the community to effectively deliver services desperately needed in the community to support development. Rather than attempt to put one service provider's outcomes in front of the other it may be to better determine how the MIRJ interlocks into the broader goals and common outcomes of the community. Generally a more collaborative approach across the community with multiple service providers and agencies from all jurisdictions working together so that each are aware of the intricate role each plays in the other's desired outcomes is needed. Whilst mostly positive there were some qualitative findings around a breakdown of relationships between Junkuri Laka and other service providers. In particular relationships have broken down with NGOs like Mission Australia which auspices the 2014 Breaking The Cycle Mornington Island initiative and runs key services (like the Safe House, Night Patrol, Women's Shelter, Safe Haven and Community Development Facilitator), Save the Children, and organisations like the Wellbeing Centre. In addition, relationships could be strengthened with the Hospital and the Ambulance/Paramedic service.</p>
Aboriginal community	Aligns with	The MIRJ Project comes under the Attorney-

Best practice element	Alignment of MIRJ	Comment
development need to be reinforced using an evidence base and effective monitoring and impact measurement	recommendations for improvement	<p>General's Department Indigenous Justice and Community Safety Branch and is part of the Indigenous Justice Program. Those projects that receive funding from this branch have particular requirements that must be adhered to, to ensure accountability and transparency. For this reason, the Indigenous Justice Program Guidelines 2012-13, 2013-14<sup>67</sup> state that funded projects are to provide self-audited performance reports on a half-yearly basis and also data to measure the extent to which the Project has contributed towards the reduction of adverse contact with criminal justice system. <b>Performance Indicators</b> outlined in the funding agreement and also <b>Service Delivery Standards</b> are stated in the performance reports.</p> <p><i>"Evaluation methods and performance indicators need to take into account the complex overlapping natures of may Indigenous disputes, and the fact that conventional methods may not provide a reliable or valid picture of effectiveness."</i><sup>68</sup></p> <p>It is CBSR's opinion that not all desired behaviours from the program logic are measured or captured in these performance indicators. We would recommend that the ongoing monitoring of the program includes measures of behaviour change against the program logic. The effectiveness of the program may not always appear in the quantifiable administrative data but more importantly appears in the change in the community behaviours due to mediation services being present and improved capacity for conflict resolution without the need for external intervention. A longitudinal study which tracks people who use violence and compares people who go through mediation with those who don't to determine if there are any differences in medium and long term outcomes is also recommended to capture the effectiveness of mediation.</p> <p>This evaluation report provides evidence to the effectiveness of the program from a rationalist, secondary and reflective perspective. There was no pre-measurement or benchmark survey undertaken when the service commenced which limits the empirical evidence required for scientific scrutiny.</p>

<sup>67</sup> Commonwealth of Australia (2012), "Indigenous Justice Program Guidelines 2012-13, 2013-14", Attorney General's Department: Indigenous Justice and Community Safety Branch.

<sup>68</sup> Indigenous Dispute Resolution and Conflict Management, NADRAC 2005



Best practice element	Alignment of MIRJ	Comment
<p>Low governance capacity in community development has impeded efforts; and the need for governance and leadership programs for Aboriginal and Torres Strait Islander people to support community-driven approaches</p>	<p>Aligns with attention to ongoing maintenance and sustainability</p>	<p>MIRJ demonstrates very good alignment with this guiding principle. Most notably, the MIRJ design includes a number of components that are specifically designed to enhance and support governance at the local level, most notably restoring local authority and respect for Elders.</p> <p>The Project was always intended to be community driven and owned. However, it has become reliant on an outside Mediation Coordinator and a handful of local mediators. Furthermore, only one local person does most of the work. Most mediations have been carried out by only one local mediator who has completed 192 meditations. The next most experienced mediators have only mediated on 36 and 27 occasions respectively.</p> <p>The presence of a highly skilled Mediation Coordinator with a background in mediation, law and computer systems also means it will be very hard to find an adequate replacement. The reliance and dependence on an outsider who has developed close links with the police had led some to perceive that the Project is now being run by the Mediation Coordinator and the police rather than by the local Elders of the Justice Group.</p> <p>This evaluation report includes recommendations about the need to widen the pool of available mediators and ensure local Elders are given maximum autonomy and control over running the MIRJ Project.</p>

In addition to these general community led development practice elements CBSR examined Indigenous dispute resolution and conflict management principles and guidelines from a range of publications. The critical factors for effective practice described in 'Solid work you mob are doing'<sup>69</sup> was the most extensive and appeared to address most of the principles discussed in other publications.

*"The report to the National Alternative Dispute Resolution Advisory Council by the Federal Court of Australia's Indigenous Dispute Resolution and Conflict Management Case Study Project does not purport to represent the vast range of processes and services which are used for Indigenous dispute management in contemporary Australia. Yet, as a collection of studies enquiring into effective dispute management practices, they raise policy and practice issues which have relevance across the range of contexts discussed. Among other things they demonstrate the effective dispute management practice is marked by an ability of practitioners to tailor and design processes, in collaboration with disputants, to*

<sup>69</sup> Solid work you mob are doing. Case Studies in Indigenous Dispute Resolution and Conflict Management in Australia. Federal Court of Australia's Dispute Resolution and Conflict Management Case Study Report. Commonwealth of Australia 2009.

*match the unique characteristics of each situation.*<sup>70</sup> For the purpose of this evaluation the "Solid work you mob are doing" provides insights from eight Indigenous dispute resolution and conflict programs, three full case studies and five snapshots to use for comparative discussion.

The National Alternative Dispute Resolution Advisory Council report on Indigenous Dispute Resolution and Conflict<sup>71</sup> describes key principles for dispute resolution practices regarding Indigenous matters which should take into account:

- Additional intake and preparation issues;
- The selection of practitioners;
- Differing concepts of time and place;
- Attendance and representation at ADR; and
- Changes to conventional processes and ground rules.

The NADRAC report further discussed 9 key principles for Indigenous conflict and dispute resolution services which have been reflected and expanded on in the 'Solid work you mob are doing' which was a later publication investigating the NADRAC principles using case studies.

The report<sup>72</sup> identifies best practice principles in Indigenous decision making, agreement-making and dispute management processes. The following compliment the 'Solid work you mob are doing' with a further focus on organisational requirements, capacity and processes.

- Resourcing processes adequately;
- Strategic planning, preparation and timeframes;
- Team cohesion;
- Consent to process;
- Meeting needs of those outside the process;
- Community Education;
- Mapping underlying issues and disputes;
- An integrated approach;
- Negotiating local decision-making and dispute management frameworks;
- Effective group representation roles and responsibilities;
- Conflict of interest;

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<sup>70</sup> Solid work you mob are doing. Case Studies in Indigenous Dispute Resolution and Conflict Management in Australia. Federal Court of Australia's Dispute Resolution and Conflict Management Case Study Report. Commonwealth of Australia 2009.

<sup>71</sup> Indigenous Dispute Resolution and Conflict Management, NADRAC 2005.

<sup>72</sup> Bauman, Toni. Final Report of the Indigenous Facilitation and Mediation Project, July 2003-2006, Report No. 6, AIATSIS.

- Implementation;
- Complaints process; and
- Employment of process experts and code of conduct.

NZ Lawyer published an article in September 2009 by Berry Zondag (current Medication Coordinator) which discusses the fundamental characteristics of alternative dispute resolution processes which must be of a voluntary character, the good faith nature of the parties' positive engagement in the process with ability to withdraw.<sup>73</sup> It was the recommendation from O'Donnell that where new alternative dispute resolution processes are put in place, older traditional conflict management processes must not be discredited or dismantled retaining or restoring authority or key Elders.<sup>74</sup> The 'Ponki' Victim Offender Mediation Program on the TIWI Islands report found

*"Through incorporating cultural values, priorities and governances structures – including kinship protocols, respect for Elders and Traditional Owners, use of ceremony, and approaches to gender makes the Ponki system (alternative dispute resolution program) relevant and effective and respected in the modern Tiwi Society."*<sup>75</sup> Kelly (2006) goes further to conclude that *"In any case, just because a service is Aboriginal-specific does not necessarily mean that it will achieve self-determination and meet the needs of local communities. A bottom up, or grass roots approach to service-delivery is the key. Upper management should support dedicated, community orientated Aboriginal people in designing, managing and delivering Alternative Dispute Resolution Services."*<sup>76</sup>

Our evaluation of best practice in Indigenous dispute resolution is based on a tabulation of information provided in MIRJ Project documentation and our evaluation report against critical factors for effective practice described in 'Solid work you mob are doing'<sup>77</sup> reflecting upon the consistency presented in other publications.

**Table 85: Critical Factors for effective practice and MIRJ**

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
The role of 'culture' in Indigenous dispute management.	Intended to be so, but some improvement to practice is recommended	<p><b>Culture is not a fixed bound entity: Indigenous peoples have distinct cultural identities, values and beliefs, emerging from their past and present conditions.</b></p> <p>Has this fundamental aspect of Indigenous life been carefully and respectfully addressed in the design and implementation of effective dispute management processes?</p> <p>Have the complex range of responsibilities and duties such as inter-personal obligations, rights and privileges</p>

<sup>73</sup> Zondag, Berry. NZLawyer, Issue 120, 4 September 2009.

<sup>74</sup> O'Donnell, Margaret. Mediation within Aboriginal Communities: Issues and Challenges, The Community Justice Program ADG QLD.

<sup>75</sup> Okazaki, Ippei. The Ponki Victim Offender Mediation Program on the TIWI Islands, Criminal Lawyers Association Bicentennial Conference 2011.

<sup>76</sup> Kelly, Lorretta. Community Mediation Services: Towards good practice mediation for Aboriginal people, ADR Bulletin July 2006 Volume 8 number 10.

<sup>77</sup> Solid work you mob are doing. Case Studies in Indigenous Dispute Resolution and Conflict Management in Australia. Federal Court of Australia's Dispute Resolution and Conflict Management Case Study Report. Commonwealth of Australia 2009.

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>defined by kinship relationships been prioritised in the dispute management process?</p> <ul style="list-style-type: none"> <li>• The kinship model, 11 Elders’ Rules and Eight steps were developed in close partnership with local Moyenda Elders over an extended period of time.</li> <li>• The 11 Elders’ rules have now been simplified to just 2 – confidentiality and respect. It is questionable if this honours the developmental work conducted to develop these rules with the Moyenda Elders.</li> </ul> <p>Has an understanding of the historical legacy and the underlying reasons for disputes and the ways in which disputes manifest in Indigenous communities been appreciated?</p> <ul style="list-style-type: none"> <li>• MIRJ sits within the Junkuri Laka an Aboriginal owned organisation. Therefore, it is well placed to have a great appreciation of the historical legacy and for Indigenous community disputes.</li> <li>• When the issues are symptoms of deep seated or historical antagonism between families or clans people did not stick to their agreements.</li> </ul> <p>Is local practice and local community authority reinforced to deal with conflict, and is dispute resolution undertaken in ways that reflect their local practice? Does the community feel that the processes developed are their own?</p> <ul style="list-style-type: none"> <li>• In the final analysis made by CBSR the MIRJ Project is working because people want it and feel it is leading to concrete actions that are helping the community deal with disputes in their own way. Mediation concerns family business which is an essential part of everyone’s lives on Mornington Island.</li> </ul> <p>Are rituals and ceremonies used appropriately to facilitate building mutual understanding and respect and to restore fractured relationships to mark the end point of a dispute or celebrate the outcome of a dispute in a culturally meaningful way?</p> <ul style="list-style-type: none"> <li>• The kinship model includes elements of the traditional form of dispute resolution ceremony called ‘square up’. For example, the emphasis of kin relationships and Elders’ participation in overseeing the mediation process. The Project has provided a more formal, structured, consistent and safe way of resolving disputes.</li> <li>• Establishing a ceremonial peace keeping monument to embed the Junkuri Laka may be needed to ensure that all clans/families feel ownership of it. It has been suggested that something enduring and symbolic like this could further help to bolster Junkuri Laka’s position in the</li> </ul>

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>community.</p> <p>Are Elders' authority respected in the decision making and dispute management and does the dispute resolution process allow for the various functions they can play in the context of the dispute?</p> <ul style="list-style-type: none"> <li>• The community survey found the majority of participants felt that mediation helps the Elders get respect from the people sometimes (34%) often (29%) and very often (24%) with very few saying hardly ever or never. For the most part Elders are being listened to and taken notice of by adults and less so by young people.</li> <li>• Most also felt that Elders get respect and authority back by being unbiased and helpful during mediation. Some feel that Elders are respected or not, based on their past behaviour in relation to alcohol, violence and their ability to work with different clan groups in an unbiased way. Most strongly feel that only respected Elders should be working as mediators.</li> </ul> <p>Does the dispute resolution process design appreciate when there is a need for the separation of men's and women's business and are gender issues negotiated with men and women, separately and together as appropriate?</p> <ul style="list-style-type: none"> <li>• The community survey participatory process identified a key part of widening the pool of mediators will involve increasing the number of women available to act as mediators (especially when the parties involved in a dispute include women or if the issues involve women's business).</li> </ul>
The importance of preparation.	Critical factors are present but some additional management of perceptions advisable	<p><b>The negotiations that occur during the preparation phase have major impact on the success of the dispute management process overall.</b></p> <p>Is sufficient time and the resources required to facilitate the design and preparation phases of the process?</p> <ul style="list-style-type: none"> <li>• Investigation into the specific practices of preparation were not in scope. No qualitative comments indicated that there were issues in preparation.</li> </ul> <p>Does the pre-mediation process build relationships of trust between the parties and practitioners?</p> <ul style="list-style-type: none"> <li>• The community survey found that the majority of participants trust that mediations are confidential sometimes (29%) often (25%) and very often (19%) with a few saying hardly ever (16%) or never (4%).</li> <li>• Most participants mentioned that it was difficult</li> </ul>

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>to keep matters confidential on a small island where everyone is more or less related.</p> <ul style="list-style-type: none"> <li>There is a perception that it tends to be the families in a dispute rather than the mediators who tend to break confidentiality agreements. However a few also mentioned that mediators have sometimes broken confidentiality as well.</li> </ul> <p>Are the people who conduct intake and pre-mediation trained in preparation techniques which are complementary to dispute management?</p> <ul style="list-style-type: none"> <li>Investigation into the training records were not in scope. It was recognised that in general more training of mediators is generally required.</li> </ul> <p>Are the 'right' parties identified who have authority to settle the dispute and who can make the agreed outcome 'stick'?</p> <ul style="list-style-type: none"> <li>The need to employ more family members to ensure impartiality maybe more about managing expectations and perceptions of procedural fairness, as much as improving any real shortcomings of the MIRJ Project.</li> <li>The need for more female mediators has been expressed by community members.</li> <li>Some people feel the right family or clan mediators were not present, for example in one case the mother's eldest brother should have been present. Often the right Elders are not present "<i>[The local lead mediator] does his best but does not represent all clan groups.</i>" (Woman, 35-44, Support person of someone in a dispute)</li> </ul> <p>Are dispute resolution processes entered into voluntarily by the parties?</p> <ul style="list-style-type: none"> <li>The community survey found that the majority of participants feel that people are never forced into mediation very often (45%) often (23%) and sometimes (19%). Very few felt that people were forced into mediation.</li> <li>The low level of no shows (4 out of 396 cases) and walk outs (2 out of 396 cases)<sup>78</sup> since the inception of the Project suggests that mediation is voluntary. In addition, out of a potential total 457 cases since 2009, the parties to a dispute have chosen not to engage on 52 occasions. Nearly half this number relates to conflict management when the parties involved are not interested in formal mediation.</li> <li>Some people may feel they have been unduly influenced by others to attend mediation and this</li> </ul>

<sup>78</sup> See Appendix D for more details.

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>may be the reason why they don't stick to their agreements.</p> <p>Are local people supported to take responsibility for fixing their own problems by initiating dispute management processes themselves?</p> <ul style="list-style-type: none"> <li>• The community survey found that most people say that mediation agreements are only kept sometimes, for the following reasons: <ul style="list-style-type: none"> <li>- Some people go to mediation with no intention of settling the matter and are going for other reasons such as to stay out of jail or use the process for point scoring or political reasons.</li> <li>- The mediation agreements are often broken when people get drunk or high or when people become stressed or they hear rumours and trash talking.</li> </ul> </li> <li>• Some people may feel they have been unduly influenced by others to attend mediation and this may be the reason why they don't stick to their agreements.</li> </ul>
Issues in designing dispute management processes	Intended design is good but more practical activities are required to reinforce the design.	<p><b>Effective dispute management practices are responsive to, and driven by, the needs of the people to whom the process is to apply.</b></p> <p>Do the practitioners have the right training, experience, any potential conflicts of interest, competence and availability?</p> <ul style="list-style-type: none"> <li>• Mediators have not had formal training and it is suggested that the 38 hour National Accreditation Scheme is required.</li> <li>• One of the success factors for the MIRJ Project is the outstanding quality of the coordinators that have been involved in the Project since its inception who are dedicated to ensuring there is local practice and local community authority. The first coordinator's community development 'slow and sure approach' was just what was required initially with a very fragile and volatile community with limited patience and support for government initiatives (experiments) that are 'flavour of the month' and then withdrawn when funding priorities change. The first coordinator's approach was perfect for gaining grass roots support during the developmental and implementation stages of the Project. The second coordinator's managerial, technical, mediation and legal skills have taken the Project to another level by almost doubling the amount of outputs and outcomes achieved since he took over. However, the downside of having such exceptional coordinators is that they make succession planning to full community management</li> </ul>

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>and control a difficult exercise. It could be argued that <i>"an irreplaceable former coordinator has been replaced by an irreplaceable current coordinator."</i> (Key Stakeholder)</p> <p>Is there co-mediation and/or team approaches that enable practitioners to provide support, debrief, identify signs that the mediator might miss and provide checks and balances managing parties' perceptions of bias.</p> <ul style="list-style-type: none"> <li>It is suggested that the Mornington Island mediators could tap into other groups such as Yuendumu, Aurukun and TIWI for support and discussion on managing perceptions of bias, as outside parties might provide this more objectively without the complexities of existing kinship relationships within the group of mediators.</li> </ul> <p>Are situations of conflict responded to promptly to ensure that early intervention ensures that conflicts do not fester, and grievances and fights do not compound?</p> <ul style="list-style-type: none"> <li>The community survey found there were mixed responses from the mediators surveyed, regarding whether the Elders' Rules are followed Very often or often (28%) sometimes (29%) hardly ever (14%) don't know (29%).</li> <li>Some felt that while there is no specific reference to them the basic principles like keeping things confidential, being impartial and showing respect to both sides were always applied. Others were puzzled by the term Elders' Rules and seemed to have no recollection that they ever existed.</li> <li>Given these rules were developed by local Elders and respected leaders after intensive consultation and many meetings it is somewhat surprising that the Elders' Rules are not remembered and referred to. Essentially the rules and the people who signed off on them are the architects of the peace making service on Mornington Island. They mark the genesis of an innovative and effective partnership between families, community and government dedicated to using communication rather than violence to resolve conflict.</li> </ul> <p>Does the program identify appropriate interventions that appreciate there are underlying situational or systemic causes and are there complementary strategies before and after the mediation.</p> <ul style="list-style-type: none"> <li>Investigation of individual mediations as case studies to determine if appropriate interventions were undertaken was not in scope of this project. There were some qualitative comments that there could be more scope for referrals to and from other</li> </ul>



Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>service providers in the community and more collaboration between service providers.</p> <p>When 'big' meetings are used as interventions is there sufficient preparation to ensure that there is an agreed purpose of the meeting and set ground rules to achieve sustainable results owned by community.</p> <ul style="list-style-type: none"> <li>Investigation of individual mediations as case studies to determine if sufficient preparation was undertaken was not in scope of this project. The number of big meetings has fallen in recent years. One of the reasons for this to enable the participation of only key parties to a dispute and to be able to focus more on the key issues. Also some of the Project's activities now fall outside the kinship model such as when dealing with employment related disputes or police complaints. In these cases the kinship model is not used. In addition, some younger people have shown a preference for smaller more private mediations such as in the family home or court house (for increased safety) enabling more focus on exploring grievances and how to address them. In contrast, older people tend to focus more on the need to reconcile disputes through kin connection obligation</li> </ul> <p>Is the venue mediation negotiated with all parties to ensure neutrality and no perceptions of bias interfering with the process and is it appropriate to facilitate 'putting to bed' the dispute?</p> <ul style="list-style-type: none"> <li>More mediations are now held at the Court House. Some participants in the community survey feel intimidated by this while others feel safer if the situation is volatile. Suggest more flexibility on venue which is negotiated with all parties may be required.</li> </ul> <p>Does the dispute management service offer 'safe' and non-violent places to air grievances and express strong feelings?</p> <ul style="list-style-type: none"> <li>The community survey found that MIRJ provides a timely, culturally safe space in which people feel comfortable participating in and are accepting of. Mediation is also felt to be culturally safe because both sides in a dispute save face in a private safe place. It provides an avenue to apologise without shame or losing respect in the eyes of the wider community. Therefore, people feel less need to resort to violence to save face and maintain respect and relatedness. The importance of this cannot be underestimated in helping to maintain peace in a small isolated community like Mornington Island where people have no choice but to find ways of getting along.</li> </ul> <p>Does the process recognise the role of the practitioner</p>

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>as supporting the parties to build their own relationships that are ongoing? Is there recognition for a degree of open-endedness and flexibility about timeframes?</p> <ul style="list-style-type: none"> <li>Investigation of individual mediations as case studies to determine if appropriate processes were undertaken was not in scope of this project.</li> </ul> <p>Do the practitioners broker an appropriate procedural agreement about whether the process should be confidential or 'witnessed'?</p> <ul style="list-style-type: none"> <li>Investigation of individual mediations as case studies to determine if appropriate procedural agreements were in place undertaken was not in scope of this project. There were qualitative statements in the Community Survey that suggested participants should be given the option of signing an agreement and if appropriate, offer for the agreement to be published in the Junkuri Laka newsletter or noticeboard. Behavioural change theory and Behavioural economics suggests that people are more likely to stick to commitments if they have to put their name to it and even more so if the agreement is publically promoted via publishing in a newsletter.</li> </ul>
Implementation and sustainability of agreements	Aligns but opportunity to have supporting mechanisms reinforce agreements	<p><b>The agreement reached in any dispute management process may appear, both to those involved and those 'outside' as the most important thing, but ownership of their problems and reaching a resolution can be empowering experience.</b></p> <p>Are the agreements reached and decisions made in mediation voluntary?</p> <ul style="list-style-type: none"> <li>Individual mediations were not investigated as case studies therefore a conclusion about how agreements were reached was beyond the scope of the evaluation. There was some qualitative feedback that where agreements were not kept, people didn't feel they attended voluntarily therefore, it could be assumed that the decision resulting from such a mediation would have more likelihood not to be perceived as voluntary by that party.</li> </ul> <p>Are agreements written or recorded?</p> <ul style="list-style-type: none"> <li>Give participants the option of signing an agreement and if appropriate, offer for the agreement to be published in the Junkuri Laka newsletter or noticeboard. Behavioural change theory and Behavioural economics suggests that people are more likely to stick to commitments if they have to put their name to it and even more so if the agreement is publically promoted via</li> </ul>

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>publishing in a newsletter.</p> <p>Are agreements monitored?</p> <ul style="list-style-type: none"> <li>• The community survey found that some community members felt that recalcitrant trouble makers should be sent off the Island to live in another community until they are ready to say sorry. Others talked about the need for a sobering up shelter or residential bush rehabilitation centre for chronic substance abusers, users of violence and habitual petty criminals where people can access counselling and support away from the distractions, and negative influence of peers or older siblings and stress of the township.</li> <li>• Investigation of individual agreements as case studies to determine if appropriate monitoring was undertaken was not in scope of this project. There was evidence from community members that agreements were only sometimes kept and that more focus needs to be placed on reality testing agreements and follow up to ensure that agreements are sustainable.</li> </ul> <p>Are agreements reviewed?</p> <ul style="list-style-type: none"> <li>• Investigation of individual agreements as case studies to determine if appropriate review was undertaken was not in scope of this project. There was anecdotal evidence from community members that agreements were not being adequately reviewed or revisited.</li> </ul>
Qualities and skills of an effective practitioner.	—	<p><b>Indigenous dispute management practitioners need to be competent, and ethical, and supported and resourced appropriately.</b></p> <p>Do the dispute management practitioners trust and respect Indigenous parties and have confidence in their ability to resolve matters themselves?</p> <ul style="list-style-type: none"> <li>• The former Mediation Coordinator did not arrive with an agenda, pre-conceived ideas or templates for what had to happen. The model was built from the grass roots up. The same principle applied to the establishment of the PCYC / Changing the Cycle / Banbaji Student Service via Dave Ives, Frank Watt and Alan Seckington. In both cases project staff had maximum flexibility to develop and deliver in line with community needs and aspirations. This demonstrates confidence and respect for the community to have the ability to develop a model that would enable the community to resolve matters for themselves.</li> </ul> <p>Do the dispute management practitioners have skills in engaging and building rapport and do they use strategies to identify and check with parties the range of factors that may affect how they are perceived?</p>

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<ul style="list-style-type: none"> <li>• The community survey asked mediators about their training and there were mixed responses regarding the training mediators received – some were very happy or happy (35%) neither happy or unhappy (36%) or unhappy (29%). Some felt their training had been excellent, others could not remember receiving any training, and a few said they had provided the training to others and to the Mediation Coordinator.</li> <li>• Overall most felt that some 'refresher' training on mediation would be helpful. The most often mentioned training needs for mediators were as follows: <ul style="list-style-type: none"> <li>- Some want to see and learn from how other communities operate mediations services. Some feel it would be great to have access to a help line or online community of mediators where people could share stories, what works and good practice.</li> <li>- Some want more training on how to run a mediation session and talk strongly, effectively and assertively.</li> <li>- Some want more training on various elements of mediation such as in-take procedures, preparation of the parties to a mediation and reality testing mediation agreements.</li> <li>- Some want more training/mentoring on how to manage confidentiality and impartiality in a small Island community setting.</li> </ul> </li> <li>• Formal training of mediators under the National Mediation Accreditation System has been planned and attempted but not completed.</li> </ul> <p>Do they have local knowledge?</p> <ul style="list-style-type: none"> <li>• Apart from the Mediation Coordinator, the mediators in MIRJ are all local community members.</li> <li>• The length of time the former Mediation Coordinator spent on the ground (4 years) building trust, relationships and developing a model in close partnership with the Moyenda (respected Elders). <i>"Working with them [the Moyenda] to develop something of their own that respected traditional knowledge"</i>.</li> </ul> <p>Do they have the skills to quickly understand a range of other contextual information (legislation, referral pathways, and often complex technical information)?</p> <ul style="list-style-type: none"> <li>• Apart from the Mediation Coordinator, all mediators in MIRJ are all local community members. Capacity for the complex and technical</li> </ul>

Critical Factor	Are critical factors present?	Comments on the effectiveness of MIRJ
		<p>information may be supported through the MIRJ Project Co-ordinator.</p> <p>Are the dispute management practitioners impartial and if not is their 'connectedness' made clear to all parties and checked with all parties?</p> <p>Are the dispute management practitioners committed to a fair, transparent and accountable process?</p> <ul style="list-style-type: none"> <li>• The community survey found that the majority of participants feel that mediations are fair and impartial very often (40%) often (25%) and sometimes (22%). Very few felt that mediations were hardly ever fair and impartial. This is an interesting result given many participants feel that there needs to be a wider representation of different family group amongst the mediators. The need to employ more family members to ensure impartiality maybe more about managing expectations and perceptions of procedural fairness, as much as improving any real shortcomings of the Project.</li> </ul> <p>Is there a complaint process?</p> <ul style="list-style-type: none"> <li>• Investigation of the complaints process was not in scope of this project. The community survey identified that there were some family/clan groups who had complaints with the MIRJ and were not using the MIRJ. There is no client satisfaction or ongoing monitoring of client perceptions to assist MIRJ with improving the service.</li> </ul> <p>Is there a code of conduct?</p> <ul style="list-style-type: none"> <li>• The mediator training has been raised previously as an area for improvement. The knowledge of and dissemination of essentially a code of conduct in line with the Elders rules would help reinforce to clients levels of service provision/conduct they can expect from MIRJ.</li> </ul>

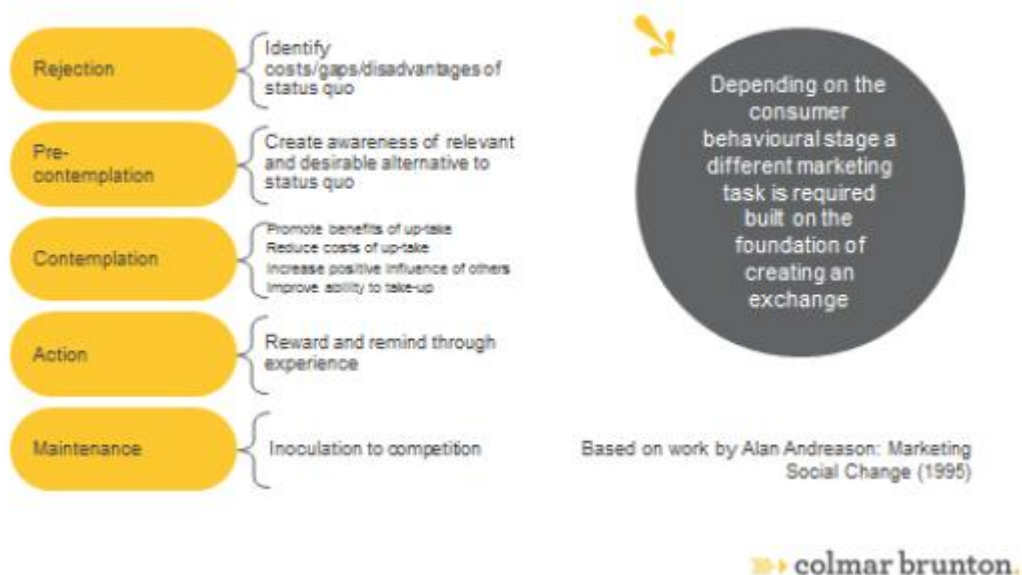
## 10. Behaviour change

This section provides commentary on the behaviours that the Program is trying to encourage and details the benefits, barriers, self-efficacy issues, significant others and rewards/reminders that need to be addressed to generate sustainable behaviour change. The target behaviours the Project aims to encourage are:

1. Where appropriate, using mediation rather than violence or the Police and courts and then keeping to the mediation agreement;
2. Community members, police and other Service Providers referring or encouraging others to use mediation rather than violence or police and courts and to keep to their mediation agreement; and
3. Becoming a mediator.

The trans-theoretical model of behaviour<sup>79</sup> suggests that people are likely to move towards the desired behaviour in stages rather than in one step.

### Behaviour Change Theory



People may not be doing the desired behaviour because they have 'rejected it' (Rejection) are not aware of it as an option (pre-contemplation) or because whilst they would like to do it they **consider** that the barriers outweigh the benefits, others do not support the behaviour or it just seems too hard. Once they have actually done the behaviour for the first time they may not do it again or continue to do it if the **actual** experience of doing it does not result in the benefit they expected to get, or if the actual costs outweigh those benefits, if others do not continue to support the behaviour or if it is just too difficult to continue. Often people who experience the new behaviour in this way will then move into the Rejection stage.

<sup>79</sup> See See Prochaska, J.O. and Di Clemente, C.C. Towards a comprehensive model of change. In: W.R. Miller and N. Heather (Eds), Treating addictive behaviours: Processes of change. NewYork: Plenum Press 1986 and Prochaska, J.O. and Di Clemente, C.C. Stages of Change and the modification of problem behaviours. In M. Pearsen, R.M. Eisler and P.M. Miller (Eds), Progress in behaviour modification. Sycamore: Sycamore Press 1992.

Depending on the stage of behaviour people are in different actions are required to shift them towards the next stage. People will generally only move out of Rejection if it becomes too uncomfortable for them to remain in it – this movement can be influenced by creating or emphasising negative consequences for the undesired behaviour. For example, if exposed to police and court involvement for violent or other criminal behaviour. Once people are aware of or experience these negative consequences they may move to Pre-contemplation where they are open to considering the alternative behaviour but may not be actively considering adopting it. In order to influence them towards contemplation it is necessary to promote the desired behaviour as relevant, desirable and appropriate. Once people see the desired behaviour in this way in order for them to take the next step and actually do the desired behaviour (action) Andreason<sup>80</sup> suggests that the benefits of doing so must outweigh the perceived costs, people must believe they can do it and other people need to positively influence and support the behaviour change. Having done the behaviour for the first time, in order for that behaviour to be repeated (Maintenance) it is critical that the expected benefits are actually delivered and that these do outweigh the perceived negative consequences of undertaking the behaviour.

This section summarises what people have reported about the stage of change they are in and what would help to shift them towards the desired behaviours.

### **10.1. Using mediation rather than violence and then keeping to the agreement**

This subsection examines how to encourage more people to use mediation and keep to their mediation agreement.

#### **In summary**

The majority of participants are already using mediation and keeping to their agreements. However, it appears that a significant proportion are not doing so. In order to move people through the stages of behaviour it would be useful to:

- Position mediation and sticking to the agreement as relevant, desirable and appropriate which means something that strong, courageous, brave, caring, loving people who care about their families and the community do;
- Promote the key benefits - restoring relationships, increased safety for individuals and the community, a sense of relief about not having to worry about being attacked and increased status and respect;
- Address the barriers - the belief that violence is the best way to sort out disputes and the strong desire for and social expectation of physical revenge/justice, fear of looking weak and negative experiences of mediation as well as lack of commitment to the mediation agreement;
- Ensure Elders and authorised outsiders promote the benefits of mediation, importance of keeping to the agreement and are actively involved in the mediation and its follow-up and publicly acknowledge people who do the right thing;
- Make it easier - ensure all parties are represented and the right people involved with mediation and follow-up, increase sense of control over the process and commitment to the agreement; and

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<sup>80</sup> See also Andreason, A. Marketing Social Change 1995. See also Maibach E, Cotton D. Motivating People to Change: A Staged Social Cognitive Approach. In: Maibach E, Parrott R, editors. Designing Health Messages: Approaches from Communication Theory & Public Health Practice Thousand Oaks, CA: Sage 1995.

- Deliver the expected benefits - mediators are sober, impartial, keep the matter confidential and do not allow any parties to be bullied. Mediation should run on-time with equal participation from both 'sides' and that there is a genuine desire to end the conflict, provide meaningful restitution to the aggrieved party and that all parties stick to the mediation agreement. It is also important that the Police are involved present if the matter is serious volatile and people do not feel safe.

The majority of participants (53%) have been directly involved in mediation as a party to a dispute<sup>81</sup> and so are either at the Action or Maintenance stage of behaviour. However, just under half (47%) have not been involved in mediation and are therefore it is hypothesised that they are either in Rejection, Pre- contemplation or Contemplation stages or they have not had opportunity to be party to a dispute.

The majority of participants felt that people stick to their mediation agreement sometimes (57%) often (18%) and very often (8%). Very few felt that people hardly ever or never kept to their mediation agreement but sixteen per cent said they didn't know if this was happening. This suggests that the majority for this behaviour are also at the Action stage of behaviour however further analysis of the cycling or repeated mediations by same parties would provide better data using actual behaviour rather than self-reported behaviour.

### **10.1.1 Moving towards Contemplation and Action**

In order to initiate a trial of mediation amongst the 47% of people who are not using it, behavioural theory suggests that it would be helpful to:

1. Increase awareness of using mediation and the need to keep to the mediation agreement as relevant, desirable and appropriate;
2. Promote the credible and most compelling benefits of mediation;
3. Address the barriers to mediation and decrease the costs;
4. Ensure influential others are doing and saying things that will encourage use of mediation; and
5. Make sure people believe that they can take part in mediation successfully and that it is not too difficult.

The research explored what people on Mornington Island felt would encourage them to use mediation and stick to the agreement.

The research suggests that in order for mediation to be seen as relevant, desirable and appropriate it will be important for using mediation to be associated with being strong, heroic, brave, courageous, caring, helpful, loving, showing good leadership and helping the community<sup>82</sup> and as giving those involved improved status and respect.

One of the most effective ways to move people towards considering and taking part in mediation is to encourage those who have been involved in successful mediation to share their experiences with the broader community. People said that they were more likely to consider mediation if they heard about or observed it helping other people. For example, in a famous example, there was a 'big mob' of young people outside the PCYC starting to get into a scuffle. When the PLO went out to sort it out the young people said 'we want mediation'.

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<sup>81</sup> Please refer to Appendix A Demographics.

<sup>82</sup> During projection exercises with selected participants in the qualitative interviews these were the positive words and imagery that fitted with the desired behaviours the Project is trying to encourage.



The key **benefits** that people on Mornington Island experienced from using mediation and sticking to the agreement which would need to be communicated include:

- Peace-restoring, healing and strengthening family and kinship ties and relatedness. Mediation enables people to restore and maintain family relationships. *"Why fight when we all countrymen."* (Woman, 45-54 years, Observer of a mediation);
- Sense of relief *"Felt like a weight off my shoulder"*. (Man, 45-54 years, Party to a dispute);
- People can go about their daily business and get on with their lives without fear, stress and tension. *"I could go to the shop without worrying I was going to get a spear in my back."* (Man, 35-44 years, Party to a dispute).
- Stopping the escalation of fighting - there are fewer big fights or at the most extreme end riots where larger groups of extended family start getting involved; consequently, many of the disputes that come before mediation now are smaller in nature involving fewer participants;
- Mediation gets to the root of the problem. *"It [mediation] helps me understand what the problem is and also helps to settle people down."* (Man, 55-64 years, Party to a dispute);
- Mediation has given people another tool, an alternative way to resolve civil disputes compared to fighting or the Police and courts - previously their only options were to escalate the dispute until external action by the Police and courts happened, escalate the dispute until it resulted in serious injury or death or leave the community and deal with the result through avoidance (dispersal – which has become far more difficult with the concentration of the population into the township of Gununa).

The key **barriers** that participants suggested would need to be addressed in order to increase use of mediation include the following.

- The desire for payback - some people want revenge and won't be satisfied until they get it. Often people want to have a little fight first and then go to mediation.
- Strength - not standing up for yourself and your family physically can be perceived as being weak and a denial of relatedness to others. Relatedness is a key theme- people use conflict to maintain in/out group dynamics by supporting family and friends and distancing themselves from outsiders and enemies.
- Pride - some people are too ashamed realising that they are in the wrong and don't want to face it at mediation. Paradoxically being involved in previous mediations where one party has been identified as being dishonest or spreading rumours may be a barrier to participating in further mediations due to perceived 'shame job'.
- Some mentioned there was a lack of representation of different family groups in the small pool of mediators that are most often used. This can lead to a perception of kinship-based conflict of interest and most feel that a broader representation of family groups would reduce this risk and encourage more people to use the service. In addition, a broader representation of families will reduce the risk of people not sticking to their agreement because the right authority figures for each family are more likely to be present. The pilot fieldwork found that around a quarter (28%) of people reported that their family was not represented in the current pool of mediators.

- Some lack knowledge of what Junkuri Laka does. Many lack clarity around what can be referred to mediation. There is also a lack of awareness and understanding that you can have mediation before a fight rather than only once the fight has occurred/started. *"We need more information about mediation and more promotion of how it helps"* (Man, 55-64 years, Party to a dispute)
- The social tolerance for violence. Some people feel that fighting is a way to end violence. For example, two brothers were arguing over a girl so their mother told them to end it by fighting. This was observed by the mediation coordinator. *"Sometimes it [the dispute] goes on for life. Mediation should let the people fight and get it out of their system."* (Man, 55-64 years, Party to a dispute). This acknowledges that many feel there is nothing inherently wrong with a 'fair' fight. In a broader sense conflict is natural, performs a social function and can have positive outcomes when managed appropriately<sup>83</sup>. Mediation itself needs to give participants the freedom to express strong emotions, grief and anger 'to get it out of their system safely' (service provider) provided this does not spill over into violence.
- A few said the Elders sometimes talk down too and shame young people in mediation and this has led to disengagement by some young people.
- Some people sort out their own problems in their own way *"...without outside people interfering"*. (Community member anonymous). This may involve informal mediation, arguing or sorting it out by a fight of a mixture of all three.
- Some young people want to get off the Island. For these people; being sent to family on another Island or even to jail is preferable to staying on the Island. For some, jail has become a rite of passage where they get three meals a day, a roof over their head and structure to their lives. Sadly, people are also often reunited with family in jail.
- Difficulty of getting people to engage in any structured activity.
- Out of control drinking, substance abuse and gambling, (Grog, Gunja and Gambling).
- Some people go to mediation with no intention of settling the matter and are going for other reasons such as to stay out of jail or use the process for point scoring or political reasons.
- The mediation agreements are often broken when people get drunk or high or when people become stressed or they hear rumours and trash talking.
- Some people feel the right family or clan mediators were not present, especially the mother's eldest brother. Often the right Elders are not present *"[The local lead mediator] does his best but does not represent all clan groups."* (Woman, 35-44, Support person of someone in a dispute)
- Some people may feel they have been unduly influenced by others to attend mediation.

The influential others who can have most impact on encouraging people to use mediation and to stick to the Mediation agreement are primarily community leaders/Elders/family members particularly the mother's oldest brother/ local people working in services. Other influencers include authorising outsiders (Mediation Coordinator, mediators, nurses, nurse

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<sup>83</sup> Zondag, B. (2006), *The Structure of Civil Conflict A First Step to Computer Assisted Dispute Resolution in Dispute Resolution Centre, Occasional Paper Series 06/1 Feb 2006, Massey University, pg 1*

practitioner/doctors, church ministers, teachers, Centrelink officers, social services workers, police, magistrates).

These groups can influence people to use mediation by willingly participating in mediation themselves, talking about the benefits of mediation they have experienced or witnessed, proactively suggesting that people use mediation as well as recognising and congratulating people who participate in mediation for helping to keep the community safe.

In order for the authorising outsiders to positively influence people to use mediation Service Providers suggests that it will be useful to increase awareness of what Junkuri Laka do and are clear about what can be referred to mediation and promote the benefits of mediation for both participants and key influencers to key influencers.

The Program should also establish and promote referral pathways both to and from mediation particularly for services such as Child Protection, Youth Justice, Wellbeing Centre, Mission Australia, Ambulance/Paramedics, Night Patrol, Hospital, Save the Children, Safe Haven, and the Women's Shelter.

There are a number of barriers that impede cooperation between Service Providers which will need to be overcome. These include:

- Politics and personality conflicts between managers of different organisations.
- Competition for funding between organisations and fear (over potential loss of funding) and jealousy if other Service Providers seemed to be making more progress therefore restricting the incentive to work together;
- Being only focussed on 'their patch' rather than looking at the bigger picture for the community;
- Being too busy to coordinate their efforts with other Service Providers - many good initiatives and programs fail because people are forced to get involved in too much paper word and administration.

This research suggests that it would be **easier** for people to take part in mediation and stick to the agreement and to believe they will be able to do so and achieve a positive result if:

- They were confident that information will remain confidential unless otherwise agreed, that mediators will be fair and that they will be safe;
- They felt they had some control over where the mediation will be conducted and who will attend - ideally there should be a mediator from each major clan group for all larger mediations. They should also reflect the gender make-up of the parties involved in a dispute;
- Senior family Elders, a member from each clan group and especially the mother's eldest brother is present at all larger mediations;
- There is a gender balance appropriate to the parties involved and the nature of the matter being mediated;
- The parties are ready for mediation and genuinely want to work through the issues to achieve a settlement or reconciliation;

- Participants are given the option of signing an agreement and if appropriate, offer for the agreement to be published in the Junkuri Laka newsletter or noticeboard<sup>84</sup>;
- Follow up is conducted with parties to a dispute at various intervals to ensure the mediation agreement is still working;
- Present mediation participants with a 2 minute tick and flick survey to test satisfaction with the process;
- Managing strong emotions and resilience training so people are better able to manage emotions in the heat of a volatile or difficult mediation;
- The contact number and easy access via all channels i.e. mobile, text, email, dropping into the office was available and promoted. Presently people are greeted with a mobile message that says don't leave a message. The contact details could be promoted via rubber wrist bands, fridge magnets, stickers, key rings, footballs and other sports gear. When people are making a decision as to whether to call the Police or mediation service they need to know the mediation number and they need to know they will get a quick response from the mediation service;
- A whole-of-community based social marketing campaign was implemented which involved all Service Providers, Council, leaders and Elders taking a stand against violence. The campaign could be built around the slogan: "I'm going to walk away, but I'm gonna have my say, (at mediation) or "I'm gonna have my say, but for now I'm gonna walk away";
- There was more promotion of the success stories and benefits including promotion via community meetings, posters, local radio, social media and newsletters and community champions.

### **10.1.2 Moving towards Maintenance**

In order for people who have been involved with mediation for the first time to get involved in future it is critical that their experience delivers the benefits they expected to receive from their involvement. If the benefits are not experienced it is unlikely people will get involved in mediation more than once. People who have had negative experiences of past mediations reported that they would not use mediation again. These negative experiences included:

- A mediator who once turned up drunk;
- Mediators perceived to have taken sides and not remained impartial;
- Mediators or other family present not keeping parts of the mediation confidential as had been agreed at the mediation;
- Other parties kept breaking the mediation agreement and no resolution was found until the Police stepped in;
- Sometimes not all the relevant family members are present or there is uneven representation with more family members turning up to support one side;
- Involved parties not turning up at the same time leaving one party waiting around sometimes for hours;

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<sup>84</sup> Behavioural change theory and Behavioural economics suggests that people are more likely to stick to commitments if they have to put their name to it and even more so if the agreement is publically promoted via publishing in a newsletter.

- People turning up to mediation to meet their own agendas rather than seeking a genuine end to the conflict, for example turning up to get charges dropped - one case was highlighted when a young woman stabbed her sister, went to mediation and the charges were dropped and then three weeks later the same girl stabbed and seriously injured another girl;
- A few have felt bullied during mediations and complain that everyone was swearing at each other;
- A lack of meaningful restitution to the aggrieved party - sometimes sorry does not make participants feel any better.

While these issues were only voiced by a few participants, their influence on others could be disproportionate as they are likely to be telling other family and friends that mediation is a waste of time.

To establish mediation as a credible alternative to using violence to settle disputes it is critical that realistic expectations are set about the benefits mediation will deliver and that the way that mediation is experienced actually delivers to that. This research suggests that people expect the mediators to be sober, impartial, keep the matter confidential and do not allow any parties to be bullied. In addition, there is an expectation that the mediation will be run on-time with equal participation from both 'sides' and that there is a genuine desire to end the conflict, provide meaningful restitution to the aggrieved party and that all parties stick to the mediation agreement. It is also important that the Police are present if the matter is volatile and people do not feel safe. The potential of further police action if people do not keep to the mediation agreement is also an effective influence.

In addition community members suggested that the following methods of acknowledgement would encourage them to use mediation again:

- A written letter of congratulations from the community Council;
- A certificate of appreciation presented to them by the superintendent of police based in Mt Isa;
- Verbal appreciation from respected Elders and leaders and where appropriate the OIC at the local police station; and

Aid that will assist the parties to dispute to keep to their mediation agreement such as a ticket off the Island or assistance with DNA testing to determine parentage.

## **10.2 Encouraging others to use mediation and to keep to their mediation agreement**

This subsection examines how to encourage people to encourage others to use mediation and to encourage others to stick to their mediation agreement.

### **In summary**

The majority of participants are already encouraging others to use mediation and keep to their agreements. However it appears that a significant proportion are not doing so. In order to move people through the stages of behaviour it would be useful to:

- Emotional position encouraging others to use mediation and keep to the agreement as relevant, desirable and appropriate which means something that strong, courageous, brave, caring, loving people and good leaders who care about their families and the community do;

- Promote the key benefits - keeping the community peaceful, keeping friends and family away from the courts, reducing absenteeism and pride and satisfaction from helping others;
- Address the barriers - the social discomfort and risk of getting involved in other people's business when violence can be seen as safer, more private and easier and lack of knowledge about the mediation agreement;
- Influential others - encourage Service Providers and community members to promote the benefits and successful outcomes resulting from mediation and the importance of sticking to agreements.
- Make it easier - provide training about when and how to encourage others and make it socially acceptable to encourage others towards mediation and to keep to their agreements.
- Deliver the expected benefits - communicate the positive outcomes of mediation and keeping to the agreement to community members and Service Providers so that they can see that by encouraging others they have played a part in keeping the community safe and feel proud, happy and satisfied.

### **10.2.1 Moving towards Contemplation and Action**

Half of participants (53%) had made a referral to mediation<sup>85</sup> and the majority of respondents (61%) remind or encourage others to keep to their mediation agreement. In order to encourage the 48% of people on Mornington Island who have not encouraged others to use mediation and the 36% of people who have not encouraged others to keep to their mediation agreement to do so for the first time behavioural theory suggests that it would be helpful to:

- Increase awareness of encouraging others as relevant, desirable and appropriate;
- Promote the credible and most compelling benefits;
- Address the barriers to encouraging others and decrease the costs;
- Ensure influential others are doing and saying things that will encourage others; and
- Make sure people believe that they can successfully encourage others and that it is not too difficult.

The research has identified ways that people on Mornington Island felt would influence them to encourage others to mediation and to stick to their mediation agreement.

The research suggests that in order for encouraging others to use mediation and to keep to their mediation agreements to be seen as relevant, desirable and appropriate it will be important for people who do so to be associated with being strong, heroic, brave, courageous, caring, helpful, loving, good leader and helping the community<sup>86</sup> and as receiving improved status and respect.

A highly effective way to move people towards considering encouraging others would be positive word of mouth from other community members, mediators and Justice Group Elders who have experienced positive results from encouraging their family members.

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<sup>85</sup> Please refer to Appendix A Demographics.

<sup>86</sup> During projection exercises with selected participants in the qualitative interviews these were the positive words and imagery that fitted with the desired behaviours the Project is trying to encourage.

The publication and promotion of personal testimonies or stories from other communities on local radio, or videos on social media could also be very effective.

The benefits for **community members** to encourage others to use mediation and keep to their mediation agreement are very similar to the benefits identified with using mediation and sticking to the agreement. Most community members say they are encouraging others to use mediation more than they used to because they don't want to see other family members or friends fighting and getting hurt. *"Help my people live in peace"*. (Man, 55-64 years, Mediator)

Other more personal and immediate benefits for **community members** to encourage others to use mediation and keep to the mediation agreement include a sense of relief and feeling good, strong, satisfied, connected to others for doing the right thing and encouraging others to go to mediation and to keep to the agreement. It will stop fighting, stop other family getting hurt, protect women and children and could save family from getting seriously hurt, ending up in hospital or going to jail. People believe that by encouraging others they are being a good role model for kids, family and rest of community and being a leader. People also feel proud and happy and get a sense of satisfaction and achievement from feeling that they are helping others to stay out of trouble, not go to jail and not get hurt.

The benefits for Service Providers to encourage their staff or clients to use mediation include:

- Less absenteeism as mediation can help staff sort out family problems and come to work more often;
- A 'feel good' factor as Service Providers believe encouraging others to use mediation means they are doing a good job, doing their job properly, being professional *"...giving my clients and staff all the information that can help them."* (Service Provider);
- A more peaceful community makes it easier for community members to engage with Service Providers;
- More holistically servicing the needs of the same client group i.e. families with complex needs; and
- Saving time and money helping them focus on more critical issues e.g. Police, School and the Hospital.

People who remind others to stick to their mediation agreement reported that they did so because they did not want to see other people getting hurt or have to go through the court system and possibly end up in jail. Key **benefits** of reminding others to stick to their mediation included feeling good for helping people and helping keep the peace and stopping the escalation of fights and making the community safer and stronger and preventing people from having to go through mediation again or face the formal criminal justice system.

The barriers for community members to encourage others to use mediation are quite different from the barriers to using it personally and relate to the social discomfort of getting involved in other people's business. People may feel that other people's conflict is 'not my business' and do not want to be seen as a 'sticky beak' or 'busybody'. The competition - ignoring or turning your back on the situation - is perceived as being easier and safer and there is a belief that resolving conflict with fists is quicker, easier and more private. Equally the Police may be seen as more effective if previous attempts to use mediation have failed. The barriers for Service Providers include:

- A lack of information about the mediation service, what it can be used for and how it can help
- The time involved in making the referral e.g. filling out forms and follow up
- A perception that mediation is difficult to work with and a bit of a closed shop and not cooperative with other services.

Barriers to **reminding others to keep to their mediation agreement** included not wanting to get involved and the belief that ignoring the situation is easier and safer. Other barriers included out of control drinking, not knowing there was a mediation agreement and uncertainty about the content and validity of the agreement.

The **influential others** who can have most impact on reminding others to stick to their mediation agreements are the same as the previous Behaviour Change stage: Community leaders/Elders/family and authorised outsiders.

IN addition to the strategies already mentioned, **Service Providers** suggest the following would make it **easier** for them to encourage their staff and clients to use mediation:

- More promotion of the good news stories and how mediation can help;
- Quick, easy and simple 2-way referral process;
- More acknowledgment of the contribution that other Service Providers are also making;
- More of an open door policy and less of a closed shop;
- Make a face-to-face visit to each service provider to build relationships, trust and cooperation for mutual gain; and
- Succession planning, MOUs, strengthening relationships, hand over protocol so that when staff leave relationships and cooperation will be maintained.

**Community members** suggested that it would be **easier** for them to remind people to use mediation and keep to their mediation agreement if they knew about the agreement and if:

- Training was available about when it is appropriate and safe to do this and how to do it respectfully and sensitively;
- They knew the right Elders were at the mediation; and
- There was an expectation created that community members would encourage others to use mediation and would follow-up to encourage people to keep to their mediation agreements.

### 10.2.2 Moving towards Maintenance

In order for people to repeat the behaviour of encouraging others to use mediation and to stick to their agreement it is critical that they experience the benefits they expected to receive and that these are perceived to outweigh the costs.

Public recognition that those who encourage others to use mediation and to keep their mediation agreement have 'done the right thing' and helped to keep others and the community safe was suggested as something that would reinforce the behaviour.



## 10.3 Becoming a mediator

This subsection section examines how to encourage more people to become mediators.

### In summary

In order to encourage more people to become mediators it would be useful to:

- Emotionally position mediators as strong, courageous, brave, caring, loving people who care about their families and the community who are highly respected in the community and leaders or potential future leaders;
- Promote the key benefits - making the community safer, healing relationships, keeping people away from courts and jail, pride and satisfaction from helping others and being seen as a leader with high status in the community;
- Address the barriers - not wanting to interfere in others business, not feeling safe and being abused, stress and discomfort when own family is involved, not being seen as impartial, not having the authority in some situations;
- Influential others - encourage authorised outsiders and community member to promote the benefits of being a mediator and the value mediators provide to the community and to show respect for mediators and the mediation process.

Make it easier - create the social expectation that family business is everyone's business and provide status and recognition for the work mediators do, provide mediators with training and ongoing professional development.

### 10.3.1 Moving towards Contemplation and Action

One in five (22%) of participants had themselves worked as mediators<sup>87</sup>. In order to encourage more people to become mediators behavioural theory suggests that it would be helpful to:

- Increase awareness of being a mediator as relevant, desirable and appropriate;
- Promote the credible and most compelling benefits;
- Address the barriers to becoming a mediator and decrease the costs;
- Ensure influential others are doing and saying things that will encourage people to become mediators; and
- Make sure people believe that they can successfully become a mediator and that it is not too difficult.

The research suggests that in order for position being a mediator as relevant, desirable and appropriate it will be important for mediators to be seen as strong, heroic, brave, courageous, caring, helpful, loving, a good leader and helping the community<sup>88</sup> who have status and respect.

**Benefits** that would need to be promoted include:

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<sup>87</sup> Please refer to Appendix A for more details.

<sup>88</sup> During projection exercises with selected participants in the qualitative interviews these were the positive words and imagery that fitted with the desired behaviours the Project is trying to encourage.

- Helping the people – saving lives, serious injury and healing families. *"It feels rewarding and you get a sense of achievement."* (Mediator);
- Feel respected for helping the community sort out its own problems. *"Everyone looks up to me now...they know I can help sort things out."* (Mediator); and
- Status as an important leader / future leader or role model who is doing the right thing by the community.

**Barriers** that would need to be addressed include:

- Getting involved in other's business – not my business;
- The stress and discomfort of having to remain impartial when one's family or extended family are involved in the mediation;
- Getting challenged as not having authority or people may think the mediator is taking sides;
- Getting abused or shouted at;
- Sometimes not feeling safe; and
- May have other family commitments or obligations or other work that interferes with their availability to do mediations or to participate in training.

The key **influential others** who could encourage more people to become mediators are, once again, community leaders/Elders/family members and authorised outsiders. These people could encourage people to consider becoming a mediator by speaking about mediators in a positive way and promoting the positive impact of mediation on the community.

People suggested that to make it **easier** for them to become a mediator there is a need to create the belief that family business is everyone's business – 'we all need to take a stand to stop the violence and create a more peaceful community'. Further, mediators need to be provided with more status and recognition for the challenging work they do. Suggestions included:

- Photos of each mediator and which clan/s they identify with in Junkuri Laka building. These also go out with each newsletter and be placed on the [Junkuri Laka](#) website. Make use of Mission Australia's community newsletter for the same purpose;
- Promote the good work mediators are doing via local radio, newsletters, national conferences and social media;
- Mediators to be provided with a uniform and badge so they are identifiable in the community;
- Provide mediators with their own locker and copy of the Elders' Rules and other training materials;
- Mediators receive ongoing professional development through formal accredited training and informal coaching, training and mentoring;
- Trips to other remote communities to cross pollinate ideas about mediation; and

- Developing a panel of mediators who can work across a cluster of communities like Mornington Island, Mt Isa, Doomadgee, Aurukun and Burketown.

### **10.3.2 Moving towards Maintenance**

In order for people to retain mediators it is critical that they experience the benefits they expected to receive and that these are perceived to outweigh the costs.

Public recognition for helping to keep others and the community safe, increasing the status of mediators, and ongoing professional development and Awards ceremonies were suggested as something that would remind, reward and reinforce to mediators that they were doing great job in difficult circumstances.

## 11. Dialogue

This evaluation provided an opportunity to pause and reflect. This is a point in time to look at what MIRJ has achieved and what still needs to occur to meet the long term programme objectives. CBSR believes that the process of evaluating has been transformative based on the feedback and dialogue that has occurred during the feedback sessions with the community and during the draft reporting. The participatory approach taken to evaluate the project provided a space for community members to rethink and focus on the programme.

There were a few key themes that came from the community and stakeholders when reporting back the results.

### In summary:

People were relieved that the evaluation found such strong support for mediation as they believe it will help ensure the service remains in the community.

Many feel the evaluation was useful because it has independently shown how important and useful the service is to the community.

People agree that mediation is helping people have more confidence that they can resolve their own issues in their own way, healing relationships and getting to the root cause of the issues better than the police and courts.

Service providers were universally supportive of the evaluation's findings and all want to work with the Junkuri Laka Justice Elders to learn more about mediation and provide a better service to the same clients. The School, RJCP, Mission Australia, the Wellbeing Centre all expressed an interest in mediation training, awareness raising and getting more involved.

People congratulated the government for providing funding to employ local people to collect and analyse data, provide input into the survey questions, research processes and feeding back the results. All strongly felt this is the way the government should fund future research on Mornington Island.

Just sitting down and asking 200 plus people the survey questions has got people thinking more and talking more about mediation. Some are saying they want to get more involved in mediation or mediation training but they are unsure how to do this.

The following quotes highlight the key themes that people expressed during the mediation evaluation feedback with community members and service providers on the 25<sup>th</sup>, 26<sup>th</sup> and 27<sup>th</sup> of June 2014.

### 11.1 Comments on findings

*None of these results surprise me. The community really needs mediation. This report shows that.*

*It sorts out trouble better because it helps families resolve disputes in their own way, gets to the root causes of the issue and helps restore family relationships and his healing the community. That's true it!*

### **11.1.1 Relief**

*I have been looking forward to getting the results. I am really relieved it's so positive it means it [mediation] will not be taken away from us.*

*It's really good you did this. The programme needed looking at and refreshing.*

*Thanks for your work we really need this thing [mediation] to keep going.*

*People will use this report. This is very useful. Some will quote it word for word to keep things on the straight and narrow.*

*This [evaluation] is something we have been looking for a long time. This shows we are feeling more confident that we can solve our own issues in our own way. We use <coordinator> he shares information and has good ideas that can help us.*

*This is great so mediation is diffusing problems in the community. It's the tool we use all the time. People feel safe and know it's confidential and supportive of their issues.*

*People are feeling more confident that when they walk away they can fix things themselves.*

*We really need a rehab on Bentick and a drop-in centre when people get drunk. Fly in fly out services don't work. You can't be here one week and gone the next. It doesn't work.*

### **11.1.2 Surprise**

*That's a lot of people you interviewed. I'm surprised how many people took part.*

*A 94 % success rate for mediation. That is almost perfect for this island. Only 84% in the NT so Mornington has bragging rights!*

*It's true that it's helping Elders get more respect. Anything that can shift power back to elders from kids is a good thing. Kids don't listen to us.*

*I know its working because things are a lot more peaceful than they used to be.*

## **11.2 Comments on recommendations**

*It's a deadly programme. I want to see it continue to happen and for more people to get involved. I am 100% supportive of mediation.*

*Need more women and young people involved - this could mean the original model needs looking at again. Originally it was based around male Elders doing the mediation...there was not one female signature at the bottom of the Elders' Rules.*

*Sometimes mediation doesn't work because the other person keeps up the fighting. Or other family who were not there [at mediation] keep it up. Things were not solved until it went to court. You always need to have the right family present.*

### **11.2.1 Referrals**

*It's not for mediators to make referrals. Their job is to help sort out problems. People need to take responsibility themselves and go to these services. These*

*services are there so people should use them. It's not part of mediation to mandate that people go to other services.*

*Services need to get out there in the community and promote their services and how they can help.*

*The services do need to work better together, if they are here for the community.*

*Service providers could be there at the beginning or at the end of a mediation; they don't need to be there for the confidential part of the mediation [i.e. family group conferencing type approach].*

*If we are going to make more referrals we want some follow up about what has been done and what the outcomes were.*

### **11.2.2 Young people**

*Young people need to get involved but not as mediators that should be reserved for Elders as they have the wisdom and knowledge. The Elders can guide the young people and the young people can learn from the Elders doing the mediation.*

### **11.2.3 Women**

*Yes we need more women mediating because lots of disputes involve women or are about women's business. Jealousy, DV, girl on girl fighting.*

### **11.2.4 The story of mediation on Mornington Island**

*You need to acknowledge the hard work that has been done from the start and since Phil left. When Phil went we were just left. <The coordinator> worked hard with us to make things come good.*

*Mediation has always been here. We just did not call it that. Square up was what happened at funerals. Now we have to learn the Whiteman's way to forgive and forget without fighting.*

### **11.2.5 Making mediation agreements more sustainable**

*Are the same people going through mediation? Need better referrals.*

*Which families feel they are not represented? How do we go about identifying? Is it more mediators or just making more use of the mediators we already have?*

*<The coordinator> is doing it the right way every time he ensures the right relationships are part of the mediation circle.*

*How do you capture data post mediation? It doesn't work because people just want to leave. May have to put on food to keep them there and fill in short survey.*

*Offer for the agreement to be published in the Junkuri Laka newsletter or noticeboard. That sounds a bit like naming and shaming.*

### **11.2.6 Using a wider pool of mediators**

*Maybe [PROJECT CO-ORDINATOR] works with [MEDIATOR] a lot because other mediators are busy or hard to track down.*

*We need to give others the opportunity to do the mediations. Roger needs to pull back a bit and let others step up. Roger could then guide and mentor the other mediators.*

*Need Kaiadilt and Lardil mediators at every mediation. Using mainly one mediator is not culturally appropriate - better to work with mediators from all 4 main clans. Ideally have male and female from each clan at all large mediations.*

*Need more involvement of the Elders as the advisers for both parties. It's important that we keep on using Elders as they are our leaders at the end of the day. They explain relationships between families, country, and community. But they also need to stick to the issue and stay relevant.*

*The reliance on [PROJECT CO-ORDINATOR] worries me. He is too stretched and he is going to Doomadgee soon. What's going to happen here? Succession planning is needed.*

### **11.2.7 Police and JP Court**

*I don't like the Police always coming. But [PROJECT CO-ORDINATOR] is there to help us understand the Whiteman's law and to help us. So he needs to work closely with the police. He helps us in court and keeps our people out of jail.*

*I like having the police there because I feel safer.*

*You need to talk more about the links between the JP Court and mediation.*

*You talk about alcohol, substance abuse, lack of jobs and kids learning violence from a young age. But there is more to it than that. What about the child neglect, lack of parental care and lack of aspirations for our young people. Things like basic care and hygiene and a lack of parenting skills. People bottle up emotions and don't know how to communicate them without throwing punch.*

*I would like to see the JP Court have the power to make offenders participate in family programmes like 20 hours a week at Save the Children, give them education, community awareness training, help with budgeting, pride in my house, ATODS and Anger management.*

### **11.3 Changes happening during the evaluation**

Mediation has become more top of mind for some people.

*I remember doing this survey. I have been thinking more and talking to others more about mediation since doing the survey.*

*I have been thinking about and talking about mediation more since the interview.*

*A few people came up to me after the interviews when you left and still wanted to talk about mediation.*

A judge dressed in full robes, local Elders and JP Court representatives, police, corrections and other key stakeholders were involved in a ceremony to mark the establishment and successful ongoing operation of the JP Court.

A new generation of mediators led a large and serious mediation back in April.

### **11.3.1 Service providers**

There is a feeling that people are thinking about doing things more collaboratively since the evaluation. Service providers like the Wellbeing Centre, Mission Australia and Save the Children, RJCP and the School are keen to work with Junkuri Laka to provide a better service to the same clients. Some would also like to learn more about mediation, come to mediation and play a part in mediation if they can help. Some are keen to explore training options around mediation and want to be involved next time training takes place on Mornington Island.

*Yeah we could make more referrals to mediation. Yes we are keen to work with mediation more in the future.*

*I want to do the mediation training; can you send me the information?*

*Mediation needs to link in with the Men's Group, ATODS and DV services.*

Youth engagement is a real challenge for all services. RJCP is thinking about employing a local researcher as a youth mentor and engagement officer. RJCP are open to discussing running activities around mediation, making a film documentary about mediation and conducting annual community satisfaction surveys about mediation.

*Some people don't feel safe because they are worried the police could raid them anytime day or night.*

*It's a great idea to have a trained up panel of local mediators that can work across Mt Isa, Burketown and Doomadgee.*

### **11.3.2 The way the research was done**

*People don't usually come back. This is really good...really important you are giving this feedback to the community.*

*This is great. Very useful. You must be very proud of this work. I want to get involved. It gives people something to think about as well as showing how important it [mediation] is. And how it can be strengthened more for the community.*

*It's the way it should always be done, we never usually get to see the results. We did a thorough evaluation when ATSIC was around and never even got an email back.*

*You did it the right way getting around and talking to everyone in the village, outside the shop and in people's homes.*

*Employing locals is the way to go, people speak up more, you get better information, and people trust you. The government should always do it this way [working with local people and feeding back the results].*

*It was a fantastic approach [working with local researchers and feeding back the results]. Local people should be involved in any future review. You want the community to be part to the review. They can translate in a way that community people understand. Because we understand the cultural protocols and body language we can draw more out of the people. Because we already know a lot of stories about mediation we can get more out of them and the people feel empowered and part of the process when they are talking to a local. Also people know the story is right because local people were the ones who got it.*



*You did the right thing employing young Dirk, Wade and Farrah.*

*It was good that you gave people \$20. Even that small token meant a lot to people.*

## 12. Appendices

### 13. Appendix A: Demographics

This section details the demographic characteristics of the sample.

**Table 19: Demographic characteristics – Demographic characteristics - Clan**

<b>Clan</b>	<b>%</b>
Lardil	48%
Kaiadilt	23%
Gangalidda	7%
Yankaal	7%
Other	0%
Not relevant	10%
DKPNTA	5%

**Table 19: Demographic characteristics – Demographic characteristics - ATSI status**

<b>ATSI status</b>	<b>%</b>
ATSI	91%
Non-ATSI	9%
Not relevant	0%
DKPNTA	0%

**Table 19: Demographic characteristics – Demographic characteristics - Gender**

<b>Gender</b>	<b>%</b>
Male	45%
Female	55%

**Table 19: Demographic characteristics – Demographic characteristics - Age**

<b>Age</b>	<b>%</b>
25-34	23%
35-44	25%
45-54	17%
55-64	15%
65+	10%

<b>Age</b>	<b>%</b>
DKPNTA	1%

**Table 19: Demographic characteristics – Demographic characteristics - Marital status**

<b>Marital status</b>	<b>%</b>
Married	66%
Not married	33%
DKPNTA	0.5%

**Table 19: Demographic characteristics – Demographic characteristics - Has children**

<b>Has children</b>	<b>%</b>
Has children	81%
No answer	16%
DKPNTA	3%

DKPNTA stands for Don't know/prefer not to answer

The following table includes the demographic profile of Mornington Island on ABS 2011 Census data.

**Table 20: ABS 2011 Census data: Population profile**

<b>Age Groups</b>	<b>Male</b>	<b>%</b>	<b>Female</b>	<b>%</b>	<b>Total Persons</b>	<b>%</b>
18-24	34	13	50	16	84	15
25-34	58	23	92	29	150	27
35-44	64	25	55	18	119	21
45-54	52	20	56	18	108	19
55-64	22	9	36	12	58	10
65+	24	9	23	7	47	8
Total	254	100	312	100	566	100

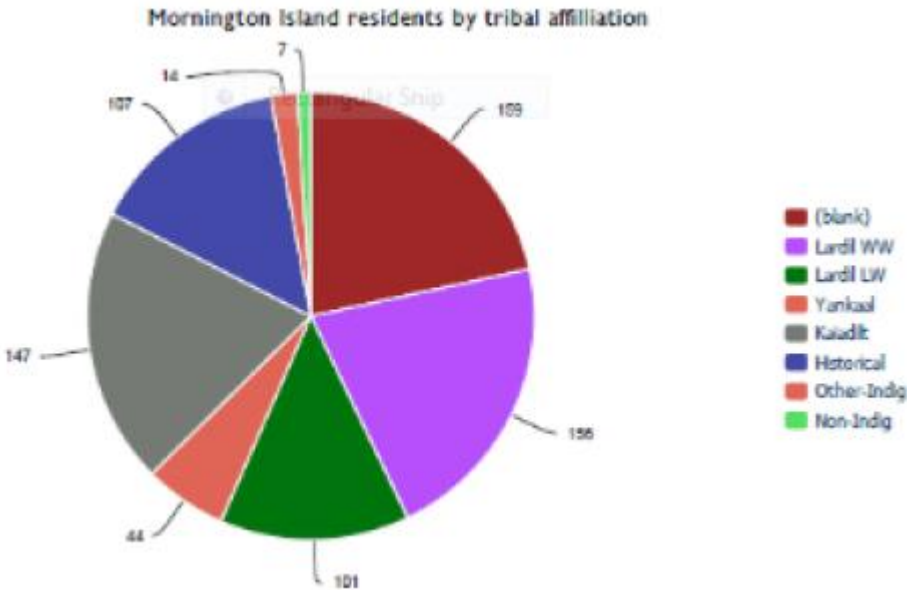
Source: ABS 2011 Census data.

Based on this ABS data, the sample achieved suggests a slight over sampling of the 35-44 and 55-65+ age groups and a slight under sampling of the 18-34 year age group. Although less representative than 2011 ABS statistics it should be noted that people aged over 35 tended to provide deeper answers than younger people as well as having more knowledge about community safety issues and the history of the MIRJ Project . If anything this may improve the quality of data, particularly qualitative data. We also supplemented the quantitative survey with a number of depth interviews with young people including 4 mini groups, a focus group of young men at the school plus 5 depth interviews.

In terms of the overall gender balance of the sample, the survey was spot on, with 45% male and 55% female participants.

**In terms of clan group:**

**Figure 86: Tribal affiliation**



**Source:** Junkuri Laka’s membership database.

The chart on the above is based on Junkuri Laka’s membership database. This suggests the tribal make on Mornington Island is roughly:

- Lardil =33%
- Kaiadilt= 19%
- Yankaal = 6%
- Other = 42%

This compares to the sample achieved: Lardil 48%, Kaiadilt 23% and Yankaal 7% and Gangalidda 7% and Not relevant/don’t know 15%.

**Awareness of and participation in mediation**

**Awareness of mediation**

All participants (100%) were aware of mediation.

**Knowledge of who to contact about mediation**


Almost all of participants (98%) knew who to get in touch with to get advice on mediation.

**Referrals**

Half of participants (53%) had made a referral to mediation. The remaining half (47%) did not. Of those who had made a referral: Half (56%) had made 1-4 referrals, the

remainder of referrals were fairly evenly spread across 5-10 (15%) 11-20 (6) and 21 or more (16%).

**Table 21: Referrals**

Referrals (n=123) %		Number of referrals (n=65) %	
Referral	53% 	1-4	56%
No referral	47%	5-10	15%
		11-20	6%
		21+	16%
		DKPNTA	6%

M4 Have you ever made any referrals to mediation with <coordinator/mediators?  
M4a IF YES: How many?

**Family members working as mediators**

Almost three quarters of participants (71%) knew of a family member who worked as a mediator. The remaining 28% did not.


**Working as mediators**

One in five (22%) of participants had themselves worked as mediators. The remaining 78% had not. Of those who had worked as mediators:

- 48% had done so 1-4 times;
- 10% had done so 50-10 times;
- 5% had done so 11-20 times; and
- 20% had done so 21 or more times.

The remaining 18% did not know – relatively high response for this type, presumably because some participants had lost count.

**Table 22: Worked as mediator**

Worked as mediator (n=178) %		Number of meditations (n=40) %	
Worked	22% 	1-4	48%
Not worked	78%	5-10	10%
		11-20	5%
		21+	20%
		DKPNTA	18%

M6. Have you ever worked with the coordinator/mediators as a mediator?  
M6a. IF YES, how often?

**Receiving help in a dispute i.e. directly involved as a part to a dispute**

More than half of participants (53%) had received help in a dispute from mediators. The remaining 47% had not. Of those who had received help: most (77%) had received help a relatively small (1-4) number of times. The remaining responses were fairly evenly spread across 5-10 times (8%) 11-20 times (9%) or 21 or more times (3%).

**Table 23: Receiving help in a dispute**

Received help in dispute (n=183) %		Number of occasions (n=97) %	
Received help	53%	1-4	77%
Did not	47%	5-10	8%
		11-20	9%
		21+	3%
		DKPNTA	1%

M7. Has coordinator/mediators ever helped you in a dispute?  
M7a. IF YES, how often?

**Family member or support person of someone in a dispute**

Two thirds of participants (65%) had been a family member or support person of someone in a dispute. The remaining 35% had not. Of those who had been a family/support person: most had done so 1-4 times (59%). In terms of other responses:

- 20% had done so 5-10 times;
- 10% had done so 11-20 times; and
- 7% had done so 21 or more times.

**Table 24: Family member or support person of someone in a dispute**

Family/support in dispute (n=182) %		Number of occasions (n=123) %	
Family/support	65%	1-4	59%
Not family/support	35%	5-10	20%
		11-20	10%
		21+	7%
		DKPNTA	4%

M8. Have you ever been a family member or support person of someone in a dispute?  
M8a. IF YES, how often?


**Sat and watched**

Some participants did not engage with the mediation process, but rather just sat and watched. This was the case for half (47%) of participants. The remaining 44% were more actively engaged. Of those who sat and watched, most (70%) had done so 1-4 times. In terms of other responses:

- 15% had done so 5-10 times;

- None had done so 11-20 times; and
- 8% had done so 21 or more times.

**Table 25: Sat and watched**

Sat and watched (n=177) %		Number of occasions (n=87) %	
Yes	47% 	1-4	70%
No	44%	5-10	15%
		11-20	0%
		21+	8%
		DKPNTA	7%

M9. Or did you just sit and watch?

M9a. IF YES, how often?

## 14. Appendix B: Learnings from the Pilot fieldwork

Based on the Pilot fieldwork, CBSR recommended the following changes to the Post Pilot fieldwork:

- Insert 'How often...' at the start of most quantitative questions on the Report Card.
- Change "everybody" to "both sides of a dispute and their families" e.g. Q8.
- Insert questions that capture key elements of program logic e.g. How often have you encouraged others to use mediation? See Q18-20.
- Insert local researcher photos into the promotion poster alongside CBSR researchers.
- Develop proposed lists of biggest changes and challenges for the Most Significant Change (this will be done in conjunction with local researchers over the first few days of Post Pilot fieldwork).
- Focus mainly on community members who have been involved disputes or as mediators, young people, and Service Providers in the Post Pilot fieldwork.
- Find out how to engage more families and young people in mediation and to be mediators.
- Insert a new battery of questions just for mediators around training needs, remuneration, and Elders' Rules. See Q23-26c.
- Omit the "do you trust" clause from Q14-16 involving confidentiality, impartiality and voluntary participation.
- Consider videoing key interviews so we can make a film documentary of the MIRJ Project use as a tool to engage young people. This matter has already been raised with PM&C and we are awaiting advice from the Evaluation Steering Committee.



## 15. Appendix C: Banbaji Student Service

### Figure 87: Banbaji Student Service

#### Banbaji Student Service

Award: National Meritorious Police Award 2013 Australian Crime And Violence Prevention Awards

"On Mornington Island, minor conflicts between students can escalate into major community violence and unrest. The Banbaji Student Service manages the conflicts between students in a timely and culturally appropriate manner and further, provides targeted activities and education to students, which assists in preventing violence in the community. The key strategies of the Banbaji Student Service are:

- Mediation service to assist disputing students and their families.
- 'We're all Family' community-wide anti-violence promotion.
- Resilience building activities for students.
- Social media monitoring.
- Traditional role education for Indigenous youth.

Operating in the Mornington Island community since January 2012, the program has been formally accredited improving student attendance by creating by creating a safe and supportive school environment; and reducing community violence arising from student disputes."



Congratulations to the PCYC Mornington Island Banbaji Student Service Program and PCYC Mt Gravatt Multicultures Program for winning Australian Crime and Violence Prevention Awards.

Album: Timeline Photos  
Shared with: Public

Source: [Australian Crime and Violence Prevention Awards: Winning projects 2013.](#)

- Check out a sample of the service's crime prevention promotion on social media emphasising the "[we are all one family on Mornington Island](#)" theme.

## 16. Appendix D: Outputs and outcomes recorded in the MIRJ Project database

Presented below are the mediation files recording Project outputs and outcomes to 30/4/14. If the Empty (cases still in mediation) and No engagement (people not interested in participating) columns are omitted, one is left with 396 relevant cases. 374 of these or 94% were successfully resolved, either at intake or by Settlement (where parties agree to disagree) or Reconciliation.

However, without a breakdown of clan group, age and gender we have no way of knowing who the Project is helping with their disputes, who is not engaging and which people need better or more targeted assistance.

The records also represent point in time statistics and do not demonstrate if people are keeping to their agreement. Families could be resolving issues at mediation and then going home and saying they were just going along with things in front of mediators but still actually feel the same. Under this type of scenario the dispute could easily happen again the next time someone gets drunk or stressed.

**Figure 88: Mediation files: Outputs and outcomes**

30/4/2014 DRB SDA Mediation - Crosstab outcome x disp/process ID

**DRB SDA Mediation : Mediation files | Crosstab outcome x disp/process ID** APR-30-2014 9:54 PM

Crosstab outcome x disp/process ID

Outcome	empty	No engagement	Resolved at intake	No show	Walk out	Inconclusive	Settlement	Reconciliation	Totals
Disp/proc ID	Number of Mediation files	Number of Mediation files	Number of Mediation files	Number of Mediation files	Number of Mediation files	Number of Mediation files	Number of Mediation files	Number of Mediation files	Number of Mediation files
<u>Conflict management</u>	1	23	27	3	0	9	77	60	200
<u>Police complaint</u>	0	1	11	0	1	1	7	1	22
<u>Civ M-Family</u>	1	6	5	1	1	3	26	22	65
<u>Civ M-Workplace</u>	0	1	3	0	0	0	4	0	8
<u>Civ M-Neighbour</u>	0	1	0	0	0	0	0	0	1
<u>Civ M-Other</u>	2	2	3	0	0	0	14	6	27
<u>RJ-Bail application</u>	0	0	0	0	0	0	2	0	2
<u>RJ-Pre-court diversion</u>	1	3	5	0	0	1	13	18	41
<u>RJ-Court diversion</u>	2	1	0	0	0	1	19	21	44
<u>RJ-Case management</u>	2	0	2	0	0	0	2	4	10
<u>RJ-Pre-sentence</u>	0	9	2	0	0	0	1	5	17
<u>RJ-Parole applications</u>	0	0	0	0	0	0	0	1	1
<u>Banbaji</u>	0	5	2	0	0	1	3	8	19
<b>Totals (56 groups)</b>	9	52	60	4	2	16	168	146	457

## **17. Appendix E: Most Significant Change ballot**

The list of the biggest changes and biggest challenges the MIRJ Project was associated with are presented below. 212 people voted on their top 3 from each list in order of priority. The lists were developed after the first week of the Post Pilot fieldwork in partnership with the local research practitioners.

### **Biggest changes due to Mediation**

- A. People are happier and less stressed.
- B. Less big fights
- C. Fights stop rather than going on – less ongoing “grudge” fights
- D. More people go to mediation
- E. More people telling others to go to mediation rather than fight
- F. Less criminal charges and less jail time
- G. More children going to school
- H. People safer
- I. People able to get on with their lives
- J. Brings families back together
- K. Less people go to hospital
- L. Elders getting stronger as leaders

### **Three most important things needed to make mediation better**

- A. Get more families involved as mediators
- B. Get more young people involved as mediators
- C. Other services need to refer/partner with mediation to help the people
- D. More training for mediators
- E. Mediators need to be more fair/ neutral
- F. Local people need to run mediation more
- G. Train up the next generation of leaders
- H. Jobfind and Justice Group set up a training activity around leadership and mediation
- I. Move Junkuri Laka building into town
- J. Telling people more about good news stories, how mediation works brings families together

## 18. Appendix F: Bibliography

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# 19. Appendix G: Client satisfaction and follow up data capture forms

Please note the data capture instruments below are just starting points. CBSR will work closely with Junkuri Laka and other key stakeholders to refine these tools to ensure they are fit for purpose. This process will start during the final evaluation visit to Mornington Island in the last week of June.

## Client satisfaction template to be filled in by all participants



Please take a minute to complete this form to help us improve our service. All responses are confidential and no one's names are recorded on this form.

Community member: Yes/No

Service Provider: Yes/No

Date of birth:

Indigenous: Yes/No

Non Indigenous: Yes/No

Gender: Male/Female

Where in Mornington Island do you live?






Clan/family group:

Did we treat you well?

Yes- very happy	Sort of - happy	Neither happy or unhappy	Not really so I'm unhappy	No at all so I'm very unhappy	Don't Know/Prefer not to answer
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Did we help you with your problem?

Yes- very happy	Sort of - happy	Neither happy or unhappy	Not really so I'm unhappy	No at all so I'm very unhappy	Don't Know/Prefer not to answer
					

**If YES:**

**Skills or knowledge**

**Feelings/emotions**

**Behaviour**

**Life circumstance**

What could we have done better?

**Other potential questions:**

- Was the mediator fair?
- Were you treated with respect?
- Did you have a chance to have your say?
- Are you happy with the outcome or can you live with the outcome?
- Did the mediation help you understand your conflict and think about it differently?
- Will the agreement stop you from arguing/fighting over this matter in the future?
- Do you commit to keeping to the agreement and to walk away with "one story"? (So parties can share the outcome with the wide community).

**Mark the statement that best describes you**

The questions below will help the Mediation Coordinator and Justice Group understand what stage of behaviour change people are in, and therefore what strategies will be most effective in nudging them to the next stage of behaviour from pre-contemplation to maintenance. See Appendix K for more details on strategies that will be most effective based on the behaviour targeted and the stage of behaviour change participants in the program are in.

- I use mediation whenever I need to
- I sometimes use mediation when I need to
- I sometimes think about using mediation but haven't yet
- I have never thought about using mediation
- I have never thought about using mediation and I'm not interested

**Mark the statement that best describes you**

- I encourage others to use mediation whenever I need to
- I sometimes encourage others to use mediation when I need to
- I sometimes think about encouraging others use mediation but I haven't yet
- I have never thought about encouraging others use mediation
- I have never thought about encouraging others use mediation and I'm not interested

**Mark the statement that best describes you**

- I encourage others to stick to their mediation agreement whenever I need to
- I sometimes encourage others to stick to their mediation agreement when I need to
- I sometimes think about encouraging others to stick to their mediation agreement but haven't yet
- I have never thought about encouraging others to stick to their mediation agreement
- I have never thought about encouraging others to stick to their mediation agreement and I'm not interested

**Follow up template for longitudinal tracking and continuous improvement**

The following form could be modified to provide a longitudinal tracking data collection instrument.

**Mediation Case Management**

Client name:

Date of birth:

Gender: Male/Female

File Open:

Referrer:

**Previous/current adverse contact with the criminal justice system if relevant**

Offence	Sentence	Incarceration Date	Release Date



### Previous mediation contact

Case Number/Name	Dispute Process Identifier	Charges laid	Outcome

### Keeping the mediation agreement (healing)

Case Number/Name Dispute Process Identifier	Follow up dates 2 weeks, 1 month, 6 months	Outcome	Why was mediation agreement broken?/ What has been put in place instead

**Referral Case management**

	Required	Provided	Referred	Unavailable	Outcome
Anger Management					
Domestic Violence counselling					
Drug and alcohol support					
Mental Health support					
Other Health support (please specify)					
Accommodation support					
Basic living skills					
Couching or mentoring*					
Cultural identity support					
Education support					
Employment support					
Financial advice*					
Transport					
Other Health support (please specify)					

**Evaluation of case management**



Please take a minute to complete this form to help us improve our service. All responses are confidential and no one's names are recorded on this form.

Community member: Yes/No

Service Provider: Yes/No

Date of birth:

Indigenous: Yes/No






Non Indigenous: Yes/No

Gender: Male/Female

Where in Mornington Island do you live?

Clan/family group:

Did we treat you well?

Yes- very happy	Sort of - happy	Neither happy or unhappy	Not really so I'm unhappy	No at all so I'm very unhappy	Don't Know/Prefer not to answer
					

Did we help you with your problem?

Yes- very happy	Sort of - happy	Neither happy or unhappy	Not really so I'm unhappy	No at all so I'm very unhappy	Don't Know/Prefer not to answer
					

**If YES:**

**Skills or knowledge**

**Feelings/emotions**

**Behaviour**

**Life circumstance**

**Mark the statement that best describes you**

- I use mediation whenever I need to
- I sometimes use mediation when I need to
- I sometimes think about using mediation but haven't yet

- I have never thought about using mediation
- I have never thought about using mediation and I'm not interested

**Mark the statement that best describes you**

- I encourage others to use mediation whenever I need to
- I sometimes encourage others to use mediation when I need to
- I sometimes think about encouraging others use mediation but I haven't yet
- I have never thought about encouraging others use mediation
- I have never thought about encouraging others use mediation and I'm not interested

**Mark the statement that best describes you**

- I encourage others to stick to their mediation agreement whenever I need to
- I sometimes encourage others to stick to their mediation agreement when I need to
- I sometimes think about encouraging others to stick to their mediation agreement but haven't yet
- I have never thought about encouraging others to stick to their mediation agreement
- I have never thought about encouraging others to stick to their mediation agreement and I'm not interested

## 20. Appendix H: Fieldwork instruments and forms

### Quant Report Card

**Project No.:** 002216

**Project Name:** Mornington Island Restorative Justice Evaluation

Time started:

Location:

Community member: Family/Clan /Prefer not to answer

Service provider: Yes/No

Service provider type:

Have you ever made any referrals to mediation with Berry, Monty or Phil: Yes/No

**IF YES** How many:

Key stakeholder: Yes/No

Key stakeholder type:

Aboriginal and Torres Strait Islander: Yes/No

Non Indigenous: Yes/No

Gender: Male/Female

Age: 18-24/25-34/35-44/45-54/55-64/65+/Prefer not to answer

Married: Yes/No/Prefer not to answer

Children: Yes/No/Prefer not to answer

Do you know about mediation (i.e. Mornington Island Restorative Justice Project) on Mornington Island? Yes/No

IF NOT SURE SAY: "Roger Kelly and Berry help out with mediation..."

Do you know about it now? Yes/No **THANK PARTICIPANT AND STOP**

Does anyone in your family work with Berry as a mediator? Yes/No

Have you ever worked with Berry, Roger or Phil as a mediator? Yes/No

**IF YES** How often:

Has Berry, Roger or Phil ever helped you in a dispute? Yes/No

**IF YES** How often:

Have you ever been: ... a family member or support person of someone in a dispute?  
Yes/No

**IF YES** How often:

Or did you just sit and watch? Yes/No

**IF YES** How often:

Does mediation/peace keeping (i.e. the Mornington Island Restorative Justice Project)...(ASK THIS FOR EVERY QUESTION BELOW AND CIRCLE ANSWER)

**1. Do people use mediation when there is trouble?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How do people know about mediation?

Why do people want to use mediation when there is trouble (what are the good things)?

Why don't people use mediation when there is trouble (what are the bad things)?

What would encourage more people /make it easier to use mediation when there is trouble?

Who or what would encourage people to use mediation more? What would they do or say?

How should people be rewarded for using mediation rather than fighting?

**2. Does the mediation help the community sort out its own trouble (i.e. manage conflict) without fighting (payback, family feuding, bullying)?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come? (ASK FOR EXAMPLES)

**3. Does the mediation stop the trouble before people start fighting?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

**4. Does the mediation stop adults getting in trouble with the police and court?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

- 5. Does the mediation stop the young ones/children getting in trouble with the police and court?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

- 6. Does the mediation feel like it's for your community (i.e. like it belongs to you and you support it)?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

- 7. Does the mediation sort out trouble better than the police or court?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

- 8. Does the mediation make it better for everyone when sorting out trouble compared to the police and court?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

- 9. Does the mediation help Elders do more things and talk more to the young people?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

**10. When the Elders are doing the mediation, do the young people listen to them and take notice?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

**11. When the Elders are doing the mediation, do the adults listen to them and take notice?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

**12. Do the young people want to learn the mediation business?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

**13. Does the mediation help the Elders to get respect from the people here?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

**14. Do you trust that mediations are confidential unless otherwise agreed?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		



How come?

**15. Do you trust that the mediators will always be fair (impartial)?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

**16. Do you trust that the people are never forced into the mediation?**

Very often	Often	Sometimes	Hardly ever	Never	Don't Know
All the time	A lot		Not much		

How come?

What have been the biggest changes in the community since mediation started in 2009?

What challenges still need to be overcome to make mediation work better for the community?

Do you have something else you would like to say, or to tell your mediation story?

**WRITE IN TIME FINISHED**

## Information Sheet and Consent Form

My name is \_\_\_\_\_ today I am working for a company that has been asked by the Australian government to find out how mediation is going. Our company is called Colmar Brunton Social Research.

We are talking to people about whether or not mediation has changed how disputes and disagreements are settled, and if so, how it has changed and what could make it better. Mediation started in 2008 and it is now timely to see if its making a difference to the lives of people on Mornington Island. The information you give us will be used to see how effective mediation is and if it's helping your community.

By taking part in this survey your name will not be used in any reports and the information you give and any quotes we use based on this interview will not be able to be traced back to you unless you say this is ok.

The information from the survey will be PRIVATE (confidential) and locked away.

The interview will take about 10-30 minutes depending on how much you want to say.

**YOU DECIDE IF YOU WANT TO TAKE PART IN THIS SURVEY. THIS MEANS YOU CAN SAY NO.**

**YOU CAN STOP AT ANY TIME.**

**YOU DON'T HAVE TO ANSWER ANY QUESTION YOU ARE NOT COMFORTABLE ANSWERING.**

Do you have any questions about what we are doing? Do you have any worries about what we are doing?

Can you help us by taking part in the survey?

CONSENT

*(to be signed by researcher on behalf of participant once consent is given if they don't want to sign themselves)*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

If you have any problems please call the following people regarding the project.

Colmar Brunton: John Young Ph: 0437 865 279

Martina Wardell - Department of the Prime Minister and Cabinet Ph: (02) 6228 6562

## POST PILOT Quant Report Card

**Project No.:** 002216

**Project Name:** Mornington Island Restorative Justice Evaluation

L1. Time started:

L2. Location:

D1. Community member: Yes/No

D2. Family/Clan

1. Kaiadilt: Yes/No

2. Lardil: Yes/No

3. Gangalidda: Yes/No

4. Yankaal: Yes/No

5. Other (WRITE IN):

99. Prefer not to answer: Yes/No

D3. Service provider: Yes/No

D3a. Service provider type:

D4. Key stakeholder: Yes/No

D4a. Key stakeholder type:

D5. Are you Aboriginal or Torres Strait Islander?

1. Yes

2. No, non-Indigenous

D6. Code gender

1. Male

2. Female

D7. Which age range do you fit into?

1. 18-24

2. 25-34

3. 35-44

4. 45-54

5. 55-64

6. 65+

99. Prefer not to answer

D8. Are you married?

1. Yes

2. No

99. Prefer not to answer

D9. Do you have any children?

1. Yes

2. No

100. Prefer not to answer

M1. Do you know about mediation (i.e. Mornington Island Restorative Justice Project) on Mornington Island?

1. Yes

2. No

99. Prefer not to answer

**IF NOT SURE SAY:** "Roger Kelly, Berry, and Frank help out with mediation and Phil and Monty used to help out too..."

M2. Do you know about it now?

1. Yes

2. No (**THANK PARTICIPANT AND STOP**)

M3. Do you know who to contact to get mediation or advice about mediation?

1. Yes (go to M4)

2. No (go to M4)

M4. Have you ever made any referrals to mediation with Berry, Roger, Phil or Monty?

1. Yes (go to M4a)

2. No (go to M5)

M4a. **IF YES**, how many?

1. 1-4

2. 5-10

3. 10-20

4. 20+

99. Prefer not to answer (go to M5)

M5. Does anyone in your family work with Berry as a mediator?

1. Yes (go to M6)

2. No (go to M6)

99. Prefer not to answer (go to M6)

M6. Have you ever worked with Berry, Roger Phil or Monty as a mediator?

1. Yes (go to M6a)

2. No (go to M7)

99. Prefer not to answer (go to M7)

M6a. **IF YES**, how often?

1. 1-4

2. 5-10

3. 10-20

4. 20+

99. Prefer not to answer (go to M7)

M7. Has Berry, Roger or Phil ever helped you in a dispute?

1. Yes (go to M7a)

2. No (go to M8)

99. Prefer not to answer (go to M8)

M7a. **IF YES**, how often?

1. 1-4

2. 5-10

3. 10-20

4. 20+

99. Prefer not to answer (go to M8)

M8. Have you ever been a family member or support person of someone in a dispute?

1. Yes (go to M8a)

2. No (go to M9)

99. Prefer not to answer (go to M9)

M8a. **IF YES**, how often?

1. 1-4

2. 5-10

3. 10-20

4. 20+

99. Prefer not to answer (go to M9)

M9. Or did you just sit and watch?

1. Yes (go to M9a)

2. No (go to Q1)

99. Prefer not to answer (go to Q1)

M9a. IF YES, how often?

1. 1-4

2. 5-10

3. 10-20

4. 20+

99. Prefer not to answer (go to Q1)

Q1. How often do people use mediation when there is trouble?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q1a. How come? **(ASK FOR EXAMPLES)**

Q2. How often does the mediation help the community sort out its own trouble (i.e. manage conflict) without fighting (payback, family feuding, bullying)?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q2a. How come?

Q2b. What would make this better?

Q3. How often does the mediation stop the trouble before people start fighting?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q3a. How come?

Q3b. What would make this better?

Q4. How often does the mediation stop adults getting in trouble with the police and court?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q4a. How come?

Q4b. What would make this better?

Q5. How often does the mediation stop the young ones/children getting in trouble with the police and court?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q5a. How come?

Q5b. What would make this better?

Q6. How often does the mediation feel like it's for your community (i.e. like it belongs to you and you support it)?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
-----------------------------	-----------------	--------------	--------------------------	----------	--------------------------------------

Q6a. How come?

Q6b. What would make this better?

Q7. How often does the mediation sort out trouble better than the police or court?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q7a. How come?

Q7b. What would make this better?

Q8. How often does the mediation make it better for everyone (**both sides of a dispute and their families**) when sorting out trouble compared to the police and court?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q8a. How about the victim and their family?

Q8b. How about the perpetrator / offender and their family?

Q9. How often does the mediation help Elders do more things and talk more to the young people?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q9a. How come?

Q9b. What would make this better?

Q10. When the Elders are doing the mediation, how often do the young people listen to them and take notice?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
-----------------------------	-----------------	--------------	--------------------------	----------	--------------------------------------

Q10a. How come?

Q10b. What would make this better?

Q11. When the Elders are doing the mediation, how often do the **adults** listen to them and take notice?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q11a. How come?

Q11b. What would make this better?

Q12. How often do the young people want to learn the mediation business?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q12a. How come?

Q12b. What would make this better?

Q13. How often does the mediation help the Elders to get respect from the people here?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
-----------------------------	-----------------	--------------	--------------------------	----------	--------------------------------------

Q13a. How come?

Q13b. What would make this better?

Q14. How often are mediations confidential unless otherwise agreed?



5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q14a. How come?

Q14b. What would make this better?

Q15. How often are the mediators fair (impartial)?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q15a. How come?

Q16. How often is mediation voluntary?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q16a. How come?

Q17. Overall do you feel safer because mediation is happening on Mornington Island?

1. Yes (go to 17a)
2. No (go to 17b)
99. Prefer not to answer (go to 18)

Q17a. How often do you feel safer because mediation is happening on Mornington Island?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
-----------------------------	-----------------	--------------	--------------------------	----------	--------------------------------------

Q17b. How come?

Q18. Do you use mediation more than you used to or not?

1. Yes (go to 18b & 18c)
2. No (go to 18b & 18c)
99. Prefer not to answer (go to 19)

Q18b. How come?

Q18c. What would encourage you to do this more?

Q19. Do you encourage others to use mediation more than you used to or not?

1. Yes (go to 19b & 19c)

2. No (go to 19b & 19c)

99. Prefer not to answer (go to 20)

Q19b. How come?

Q19c. What would encourage you do this more?

Q20. Do you remind or encourage others to keep to the mediation agreement?

1. Yes (go to 20b & 20c)

2. No (go to 20b & 20c)

99. Prefer not to answer (go to 21)

Q20b. How come?

Q20c. What would encourage you do this more?

Q21. How often do people stick to their mediation agreement?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q21b. How come?

Q22. What would happen if mediation was not here on Mornington Island?

Q23. Do you have something else you would like to say, or to tell your mediation story?

### **IF A MEDIATOR ASK:**

Q24. How happy (satisfied) are you the training / mentoring you received to be a mediator?

Very happy	Happy	Neither happy or unhappy	Unhappy	Very unhappy	Don't Know
------------	-------	--------------------------	---------	--------------	------------

Q24b. What training and support have you received?

Q24c. What other training do you need?

Q25. How happy (satisfied) are you with the pay you get for mediating?

Very happy	Happy	Neither happy or unhappy	Unhappy	Very unhappy	Don't Know
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Q25b. How come?

Q25c. Would you like to be doing mediation more often? How come?

Q25d. What are the good things about being a mediator?

Q25e. What are the bad things about being a mediator?

Q25f. Who or what could encourage you to do more mediations?

Q25g How would you like to be rewarded or recognised for being a mediator?

Q26. How often are the Elders Rules followed?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
-----------------------------	-----------------	--------------	--------------------------	----------	--------------------------------------

Q26b. How come

Q27. How often do you let the police or Berry know if you find out about serious crimes during mediation?

5. Very often/ All the time	4. Often/ A lot	3. Sometimes	2. Hardly ever/ Not much	1. Never	99. Don't know/ Prefer not to answer
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Q27b. How come?

Q27c. What would encourage you do this more?

**L3. WRITE IN TIME FINISHED**

## **21. Appendix I: Supporting documents**

### **11 Elders' Rules and Eight Steps**

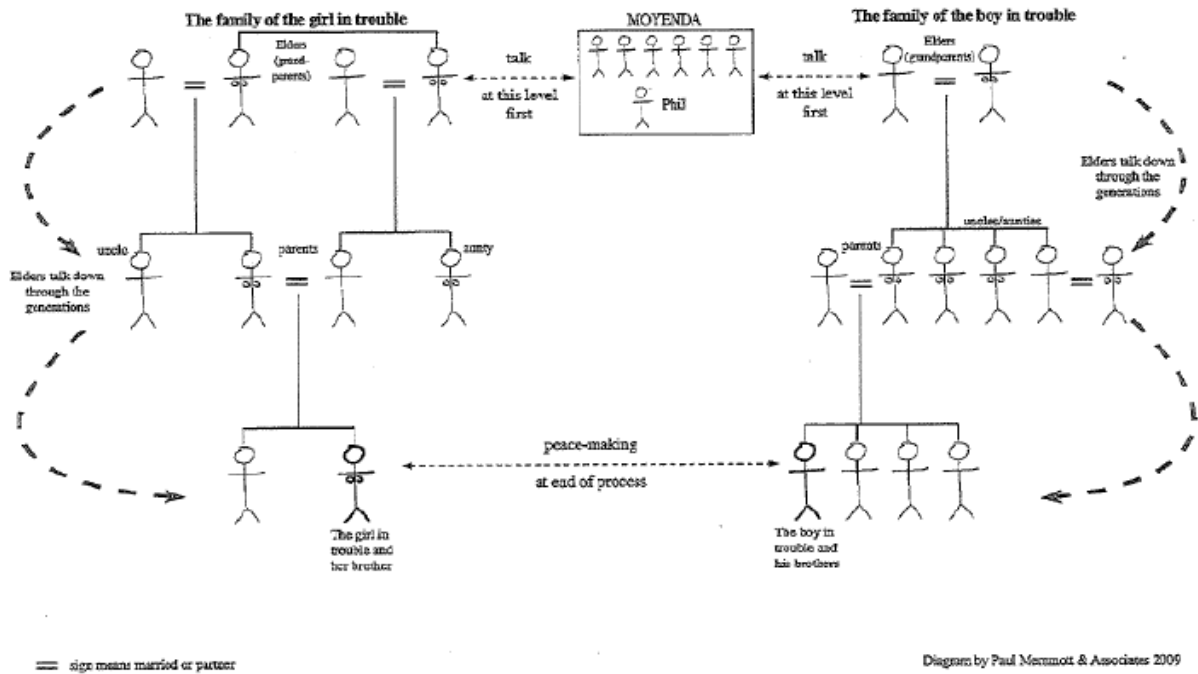
#### **Rules for peacemaking**

The Muyenda Elders have set up the rules so peacemaking meetings can run properly and respectfully. Everyone must agree to abide by the rules before taking part.

1. Peacemaking is for everyone who lives on this country Gununa.
2. People should sort out their own conflicts first and only come to their Elders when they really need to.
3. Elders working together are the rightful people with authority to run a peacemaking meeting, called Mediation.
4. The Elders must be fair, not take sides or join in the argument.
5. Elders can sort out with the family who attends and who are the right people to speak from both sides.
6. No one is allowed to come to Mediation drunk or if affected by drugs.
7. At the Mediation one person talks and everyone should listen to them. People involved have the right speak and to be heard but no one can take over the meeting.
8. When the conflict is sorted out, both families are asked to make an agreement to put things right. This agreement is written down and signed by those involved.
9. Both parties must stick to their agreement. If they break the agreement it can go to the Police and Courts to be dealt with.
10. What is spoken at the peacemaking meeting must stay there unless both families agree on what to tell others who need to know.
11. If people don't accept the Elders' peacemaking, then they can go to the Police and Court to have it dealt with.

These rules were set up by the Moyenda Elders

# Gununa Peacemaking Program



**We the Elders and young leaders of Gununa support  
peacemaking on this Island and the rules for Peacemaking.**

**Signed:**

*Cecil Goodman*  
**Cecil GOODMAN**

*Graham Toby*  
**Graham TOBY**

*Cyrl Moon*  
**Cyrl MOON**

*Roger Kelly*  
**Roger KELLY**

*Richard Roughsey*  
**Rev Richard ROUGHSEY**

*Teddy Moon*  
**Teddy MOON**

*Hugh Ben*  
**Hugh BEN**

**Edgar WILSON**  
*Edgar Wilson*

**Darryl WILLIAMS**  
*Darryl Williams*

**Matthew PETERS**  
*Matthew Peters*

**Cedric SCOLES**  
*Cedric Scoles*

*Gordon Watt*  
**Gordon WATT**

*Reggie Robinson*  
**Reggie ROBINSON**

**Ashley GAVENOR**  
*Ashley Gavenor*  
*Christopher Loogotha*  
**Christopher LOOGOTHA**

**Rodney NARANATJIL**  
*Rodney Naranatjil*

**Frank WATT**  
*Frank Watt*  
*Chicko*  
**Clement HILLS**

*Chicko Toby*  
**Chicko TOBY**  
*Kenneth Jacob*  
**Kenneth JACOB (Jnr)**