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Mapu Kungulu, Mapu Ngarlu, Mapu Muwarr Wakajku (Open Mind, Good Feeling, Good Talk and Business for All of Us): District and Supreme Court Judges' Conference, 11–14 September 2019

Anna Dwyer, Maria Morgan and Gillian Kennedy

Nulungu Publication Series

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WARNING: This document may contain images and names of people who have sadly passed away.

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Corresponding Author Affiliation: Nulungu Research Institute, UNDA, PO Box 2188 Broome WA 6725. Address for correspondence:gillian.kennedy@nd.edu.au The author accepts full responsibility for any omissions or errors contained in this paper.

Vanessa Margetts of Mud Map Studio was responsible for the template design of Nulungu Insights.

Cover Photo

Group photo at Port Smith.

Cover Artwork

Seeing Country by Nyaparu Laurel. Nyapuru Laurel was a Walmajarri artist and educator from the Kadjina Community (part of Millijidee Station) in the Kimberley region of Western Australia on the edge of the Great Sandy Desert. Along with her sisters, brothers and mothers, Nyapuru advocated to set up the remote Wulungarra Community School and, through her work, contributed to the passing on of knowledge of the land, law and culture to future generations. She passed away in August 2015. Extracts from *Seeing Country* are located throughout this publication.



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Acronyms

AIWA	Aboriginal Interpreting Western Australia
BAC	Bidyadanga Aboriginal Corporation

- CEO Chief Executive Officer
- KTLA Karajarri Traditional Lands Association
- NJCA National Judicial College of Australia
- QC Queen's Counsel
- UNDA University of Notre Dame Australia

INTRODUCTION*

In September 2019 the Nulungu Research Institute hosted 20 judges from the District Court of Western Australia (WA) and five justices of the Supreme Court of WA at the University of Notre Dame Australia (UNDA) Broome Campus for a cultural immersion experience and judicial conference. The program included an overnight trip to Karajarri country and a visit to the Bidyadanga Aboriginal Community (formerly La Grange Mission). The aim was to provide the judicial officers with an insight into the contexts of Aboriginal people living in remote parts of the Kimberley, and to offer tailored professional development sessions to assist them in their work with Aboriginal people. This paper provides the background and an overview of the program, portions of the feedback we received from the participants, and plans for extension of this initiative into the future.

Background

As noted in 2016 by the previous Chief Justice of WA, Wayne Martin QC.

The gross over-representation of Aboriginal people in the criminal justice system of Western Australia is, in my view, the biggest single issue confronting that system.

Cross-cultural training for professionals working in the justice system provides one avenue for addressing this challenge. This formed part of the recommendations from the 1991 Royal Commission into Aboriginal Deaths in Custody. Despite this being written almost three decades ago, many of the recommendations are still relevant today. For the Judiciary, professional development in Aboriginal and Torres Strait Islander cross-cultural understandings was the subject of Recommendation 96¹, which stated:

That judicial officers ... be encouraged to participate in an appropriate training and development program, designed to explain contemporary Aboriginal society, customs and traditions. Such programs should emphasise the historical and social factors which contribute to the disadvantaged position of many Aboriginal people today and to the nature of relations between Aboriginal and non-Aboriginal communities today. The Commission further recommends that

such persons should wherever possible participate in discussion with members of the Aboriginal community in an informal way in order to improve cross-cultural understanding. (Johnston 1991)

Although there have been ad-hoc attempts to follow through with this recommendation, there has been no routine or embedded training for magistrates or judges in WA.

This cultural immersion experience was the second program in the past three years that has been coordinated by the Nulungu Research Institute, the first held in 2016 in conjunction with UNDA's School of Law on the Fremantle campus, with an overnight stay at Fairbridge Village in Pinjarra. This "Cultural Dialogue" with the Noongar community was attended by 20 judicial officers from across all WA jurisdictions and included sessions such as 'Our Shared History', 'Aboriginal Culture, Values and Aspirations', and 'Communication and using interpreters'. The National Judicial College of Australia (NJCA) provided funding for both the 2016 and the 2019 programs. To our knowledge, 2019 was the first time such a comprehensive program has happened in the Kimberley.

Overview of the Program

The program was developed in close collaboration with Karajarri and Yawuru people, along with the Bidyadanga community, Aboriginal Interpreting WA (AIWA), and with numerous individuals who participated in sessions over the four days. There were a number of sessions tailored to the judicial context, and as such we worked closely with representatives from the judiciary to ensure that the content was relevant. Ultimately though, the program was grounded in the voices and perspectives of Aboriginal people. A visit to Bidyadanga and overnight trip on Karajarri Country allowed for both structured and informal interactions between the participants and community members. It was also an opportunity for judicial officers to share experiences of their own work, in order to foster 'two-way' learning, and to give the Aboriginal participants an opportunity to learn more about the role of judges and the court system.

* To reflect the shared contribution of each author in this paper, on occasion the writing changes from third person to first person point of view. When written in the first person, the name of the author is specified.



Importantly, the Karajarri title for the program, 'Mapu kungkulu, mapu ngarlu, mapu muwarr, wakajku' served as a reminder that coming together with an open mind (mapu kungkulu), having open and honest conversations about topics of relevance for both Aboriginal people and the judiciary (mapu muwarr) can result in a good feeling (mapu ngarlu) for everyone (wakajku). The Karajarri concept of ngarlu was an important one for the program. Ngarlu, referring to one's inner spirit or wellbeing, is a concept familiar to many Kimberley Aboriginal people, although language terms differ. For example, liyan is a word that is used in and around Broome, including by Yawuru people. It was a principle that underpinned the cultural immersion.

Pre-reading was provided to all participants in the lead-up to the immersion and included the late Joe "Nipper" Roe's (2000) much-cited chapter, Ngarlu: a cultural and spiritual strengthening model, Anna Dwyer's (2012) Pukarrikarta-jangka muwarr – stories from Karajarri Country and Joe Edgar's (2011) Indigenous Land Use Agreements – building relationships between Karajarri Traditional Owners, the Bidyadanga Aboriginal Community La Grange Inc. and the Government of Western Australia. Each of these provided essential background reading to help prepare the judges for their visit to the Kimberley.

The following sets out our reflections on each session of the program. Anna Dwyer begins with her personal reflection on the first half of the program.

Day 1: Conference Opening and keynote address

The Conference Opening and Welcome was held on UNDA's Broome campus on Graduation Square. As my role as Master of Ceremonies, I had the privilege to begin the Mapu Kungulu, Mapu Ngarlu, Mapu Muwarr, Wakajku Conference. I was honoured to introduce our important guest speakers, Mrs Dianne Appleby who did the warm Welcome to Country. The WA Attorney General, Mr John Quigley, officially opened the program, giving a speech which recognised the importance of the event (Figure 1). Our keynote speaker, Ms Ninielia Mills, spoke about her personal history, the concept of Mabu Liyan, hope and resilience in a speech entitled, "Past and present: a story of dispossession and discrimination turned to



Figure 1 WA Attorney General John Quigley presenting opening speech at the conference.

Judges' comments:

- The opening dinner and welcome to country and keynote set the standard for the program.
- Nini Mills was an excellent choice of speaker.
- Privileged to hear such a personal story
- I found Nini's speech very moving and articulate
- Set the scene for what was to come. Personal experience related from the heart.

hope and resilience". Nini's address was inspirational as she reflected on her experiences and was a highlight for all of us, setting the tone for the rest of the program (Figure 2). This evening also gave me the opportunity to have conversations with the judges about who they are and what their roles involved.

Day 2: Trip to Karajarri Country

The following day, we took the judges on an excursion to Bidyadanga Aboriginal Community, 200 km south of Broome. This gave the judges a chance to experience for themselves what an Aboriginal community really looks like. Bidyadanga is the largest community in the Kimberley. The people who live there are from the Karajarri, Nyangumarta, Juwaliny, Yulparija and Mangala language groups.

Before we left Broome, I gave a presentation to the participants to provide them with an orientation to



Figure 2 Nini Mills, Keynote presenter at opening dinner.

Karajarri kinship, Country, culture and language, and a short history of Bidyadanga community itself. It was almost midday by the time we arrived at the community. We visited the Karajarri Traditional Lands Association (KTLA) Rangers' office to introduce the judges to the Karajarri Rangers and the Karajarri Traditional Owners. Wynston Shovellor-Sesar (Project Officer) and Braedon Taylor (Ranger) organised the smoking ceremony (Figure 3) and Ms Rene Hopiga (Elder) did the welcome for the judges to safely enter our world of Karajarri Country and community.

The Karajarri Rangers gave a presentation about conservation, Indigenous Protected Areas, flora and fauna and management of our animals on Karajarri lands (Figure 4). I was very impressed to see some of the Karajarri women rangers talking and telling their stories about what their everyday life work means by managing our beautiful landscapes on Country. This was important for the judges to hear, because it gave them a different perspective of Aboriginal people as

Judges' comments:

• The rangers were a really positive crew

• I would love to know more about the work of the rangers and about the natural features of the country where we were visiting.



Figure 3 Judicial participants receiving welcome and smoking ceremony on Karajarri Country.





Figure 4 Anna Dwyer and the Karajarri Rangers presenting information about 'working on country' at the Ranger base in Bidyadanga.

opposed to what they usually see in the court room. They were impressed by what they heard.

Discussions with Bidyadanga Community Members

After the Ranger presentation, the judges walked over to the Bidyadanga Aboriginal Corporation (BAC) office for lunch. Once we all gathered around the office Ms Tania Baxter (BAC Chief Executive Officer [CEO]) and members of the Council were waiting to meet the judges. The food, prepared by Tania and the community members was excellent, and the judges were impressed by their warm hospitality.

After lunch we separated into two groups: a women's group and a men's group. In addition to the community members and the judges, other people who attended for this special occasion were local service delivery people including police, teachers, clinic staff, doctors, and drug and alcohol counsellors. The men stayed at the community office and had conversations with the male judges. The women moved into the women's centre and the judges talked about their roles and shared stories about working with Aboriginal people in the courts and the legal system. The community women talked to the judges about their lived experiences and what matters for the community within the legal systems (Figure 5). It was a powerful and emotional experience for everyone. The community women found these conversations to be of great importance. The day was a very productive day for community members and for the judges. One regret was the fact that there was not enough time to have all the discussions we wanted to have.

We then left the community for Port Smith where the group camped for the night.

Judges' Comments: • Speaking with the women and hearing their concerns was particularly inspiring • I very much enjoyed and appreciated the time at the community. For me it was the highlight of the conference. • A privilege to be invited into the community. Wonderful hospitality.



Figure 5 Discussing experiences of the justice system at the women's meeting.

Cultural Evening

After everyone was settled at Port Smith Caravan Park, we had dinner and the Yatangal Dancers performed for the judges in the evening. This was a night to remember and it was a time of relaxation. Everybody sat comfortably for the dancers to perform the corroboree on the night. The main performers were



two young boys and two men, and the Karajarri male singers. Mervyn Mulardy, who is the main singer for Karajarri Dancers, spoke about the traditional dance and told the stories about what each dance meant for Karajarri people. The judges and community members enjoyed the evening with dinner and a cup of tea. It was a good opportunity for the judges to relax and have informal conversations with everyone.

Judges' Comments: • I really enjoyed the cultural evening and in particular how the oral tradition is assisted by song and by dance.

Day 3: Port Smith

Kinship Activity

The Karajarri community members gathered the group of judges together at Port Smith to discuss our kinship system (Figure 6). I explained how kinship systems originated from the far distant past from supernatural beings called the pukarrikarra jangka (Dreaming places). The kinship system in our community positions us and relates people to one another, setting out rules of behaviour, including preferences for marriage, preventing marriages between 'close up' kin groups, and informing the organisation and performance of cultural rituals, including funerals and other ceremonies. I also explained some of the challenges we as Aboriginal people face such as 'the avoidance structures' we have with our in-laws. This is important because it can have implications in the court room. We did a role play activity with the judges. We gave them all a skin name and they had to work out who their brothers, sisters, parents and in-laws were. They found that this system is so complex and for some of them, it was difficult to understand. Many commented at how insightful the session was.

Judges' Comments:

• I now have a much better understanding of kinship complexity.

• Kinship activity successful in showing the complexity of relationships.

• The kinship activity was great fun. I love that it gave us an opportunity to have a good laugh with the Traditional Owners.



Figure 6 Anna Dwyer leading Kinship activity at Port Smith.

La Grange Massacre Site

The following morning, we visited a massacre site near Injudine Springs, a short drive from Port Smith Caravan Park. This place is significant to Karajarri people who remember the stories of what happened to the men, women and children who were killed there - stories that have been invisible to most Australians. The judges stood at the site and listened to Karajarri/Yawuru woman, Dr Kim Isaacs, tell her grandmother's harrowing and traumatic story about the 1864 La Grange massacre. Kim spoke about how her grandmother was a survivor for all of us in the Karajarri nation. This part of the silent history of our people is important learning for the judges, as it goes a long way to explaining the intergenerational trauma that has resulted from such injustices. It was an emotional and powerful experience for everyone.

Judges' Comments:

• Very moving. Made me realise the depth and impact of inter-generational trauma.

I was unaware of the La Grange massacre previously and am very glad to have that ignorance removed
Massacre site visit and Kim's talk brought home, from personal experience, the intergenerational damage which still endures.

Friday Afternoon Sessions at the Broome Campus

After these activities, we travelled back to Broome, ready for the afternoon sessions. Maria Morgan was the facilitator for these sessions and she reflects on each below.

Intergenerational Trauma: Professor Vickie Hovane (Keynote Address)

Professor Hovane spoke to the group about the impact intergenerational trauma has on Aboriginal people (Figure 7). She gave an evidence-based

account on how intergenerational trauma is affecting our people three or more generations on from the injustices Aboriginal people have faced since colonisation and the Stolen Generations. This was a detailed presentation which provided more context of trauma following the session at the massacre site.

Judges' Comments: • I had no real understanding of the long lasting intergenerational effect of trauma. •Professor Hovane was the highlight of the conference for me.



Figure 7 Prof Vickie Hovane presenting on intergenerational trauma.



A Magistrate's Perspective on the West Kimberley Region: Magistrate Liz Langdon

Magistrate Langdon is the local magistrate in Broome and played a critical role in supporting the development of the program from the judicial perspective. She was invited to speak about her experiences, and some of the successes and challenges of working in Broome and the West Kimberley on circuit. Her speech provided excellent insight. The judges did comment on her ability to work with offenders with more flexibility in sentencing whereas those in the higher courts did not have that ability as they are governed by a different set of rules to magistrates.

Yawardani Jan-ga (Horses Helping to Heal): Professor Juli Coffin

Professor Coffin gave a presentation about an equine-assisted learning program for young people that she leads (Figure 8). The program is based on the concept that horses can help young people suffering from trauma, mental health concerns or those who are involved in the justice system by helping them to self-regulate their emotions and to express themselves more openly and honestly. Juli's presentation was well received by the judges, particularly as it is a program that they are able to use as an alternative to a custodial sentence.

Judges' Comments: • Really enjoyed the highly positive talk by Juli and have taken her card.

Child Health Matters Panel Discussion: Dr Kim Isaacs, Dr Gavin Cleland and Dr Wey Mey Loh

Each doctor involved in this panel discussion has experience working with Aboriginal children in the Kimberley (Figure 9). The judges had already met Dr Kim Isaacs while at Port Smith. Dr Gavin Cleland



Figure 8 Professor Juli Coffin presenting the Yawardani Jan-ga (Horses that heal) story.



Figure 9 Dr Gavin Cleland, Dr Wey Mey Loh and Dr Kim Isaacs speaking about child development and health.

is a paediatrician at Broome Hospital and Dr Wey Mey Loh is a GP in Bidyadanga specialising in child health. The session was about child development, neurological assessments and access to health services. There was also some discussion around FASD which the judges participated in.

Judges' Comments: • The doctors were superb and their observations on the diagnosis of FASD were informative.

Day 4: AIWA and Heather Glass

This very practical and interactive session comprised half a day and was the final session of the program. We were fortunate to have in attendance for much of the program interpreters and staff from AIWA, including David Newry, Martina Badal, Ismahl Croft, Edwin Lee Mulligan, and CEO Ms Deanne Lightfoot. David Newry (Figure 10) is the founder of AIWA (previously Kimberley Interpreting Service) and he and Deanne Lightfoot gave a presentation about the history of the organisation and some of the important contexts around languages and interpreting in the Kimberley.



Figure 10 Mr David Newry presents the history of Aboriginal Interpreting WA.

Ms Heather Glass is an experienced interpreter and translator and provides professional development training on the importance of interpreting in various sectors. Heather presented on the basics of interpreting, as well as the Code of Ethics that Aboriginal interpreters must adhere to so that there is no bias when they interpret between the accused and the judge.

Judges' Comments: • Amazing session. I thought I knew a bit about interpreting but I learned so much more than I did. Excellent.

- This was a great session really identifying issues I need to be better at addressing.
- Rare opportunity to hear direct from interpreters.
- The most practical session on this subject I have ever heard.

Final Thoughts and Next Steps

While judicial cross-cultural education cannot, on its own, overcome the challenge of the overrepresentation of Aboriginal and Torres Strait Islander in the criminal justice system, this program and the previous one held in 2016 have been important steps on this road. As the participants included the heads of both the District and the Supreme Court — and was officially opened by the WA Attorney General — it is evident that there is commitment from those at the top and thus we anticipate that this program will continue into the future. The hope is that it will be repeated every year or two for new judges as they enter the judiciary.

The goodwill that was shown between the judges and the Aboriginal community members was significant. The judges came to the Kimberley with open hearts and minds and their evaluations show that they left with new insights, practical skills and "mapu ngarlu". We hope that this experience will be something on which they can draw in their work, and ultimately make a positive impact on relationships between Aboriginal people and the justice system.



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Author Biographies



Gillian Kennedy is a lecturer and researcher at the Nulungu Research Institute, University of Notre Dame Australia. She holds a Masters in Community and International Development and a Bachelor of Education (Primary). She has worked in regional and remote Aboriginal communities

in the Kimberley region since 2007. Gillian coordinates the Graduate Certificate in Aboriginal Studies and recently has been working with the WA Police and the WA Judiciary on professional development programs that build cultural and historical understandings of First Nations contexts. In 2016 she coordinated a judicial cultural immersion program on Noongar country. Gillian's research interests span many areas of Aboriginal-settler relations including justice, education, community development and ranger programs.



Anna Dwyer is an awardwinning Associate Lecturer at the Nulungu Research Institute, University of Notre Dame Australia. She is a Karajarri woman from Karajarri Country (190 km south of Broome) in the West Kimberley region. Anna's professional background is in

education and linguistics. Anna has been a cultural educator and Aboriginal researcher with the Nulungu Research Institute for the past 11 years. She is currently enrolled in a Master's Degree by Research through the School of Arts and Sciences at the University of Notre Dame. Anna is an outstanding researcher, producing and engaging in regional and national projects on topics such as caring for Country, health and wellbeing, language maintenance and education. Her interest is working closely with her people to do research that will assist both her own people and the wider Aboriginal community. Anna is a Director for the Karajarri Traditional Lands Association and continues to represent her people through her research on issues of law and culture, health and climate change. In 2018, she won the Kularri NAIDOC Person of the Year award, as well as the Vice Chancellor's award for University Teaching.



Maria Morgan was born in Broome and is from a wellknown family with traditional links. Maria is of Yawuru and Karajarri heritage. In her early years, Maria was appointed Liaison Officer for St Joseph's Catholic School. Maria previously worked as administrator at Wyndham's

local resource centre then took on the role of Women's CDEP Co-ordinator. Maria then spent 10 years with the WA Department of Training, working with trainees and apprentices in Wyndham and Broome. Maria and her family set up one of the longest running Indigenous tourism businesses which has led to their children having their own businesses in tourism. She recently helped Key Assets establish an office in Kununurra in May 2014 before moving to Broome to commence work as Cultural Security Officer at the University of Notre Dame.

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