



Improving the lives of children and families  
through the resolution of family conflict



December 2019  
VOL. 14 No. 12

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## Executive Director's Message

*Peter Salem*

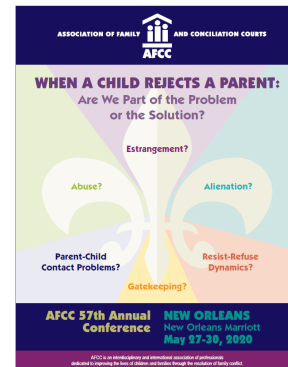
*Doing the same thing over and over  
and expecting a different result.*

The definition of insanity above is typically attributed to Albert Einstein, but according to [History.com](#), he never said it. "The Ultimate Quotable Einstein, an authoritative compilation of his most memorable utterances, identified the quote as a misattribution, and mentioned its use in the 1983 novel *Sudden Death* by Rita Mae Brown." It has also apparently been traced to a Narcotics Anonymous pamphlet.



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## AFCC 57th Annual Conference



**Coming soon to your mailbox:** The conference program brochure for New Orleans!

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[OnlineParentingPrograms.com](#)



## When a Child Rejects a Parent: Are We Part of the Problem or the Solution?

May 27-30, 2020

New Orleans Marriott

With the new year almost upon us, many AFCC members are planning their travel and professional development for 2020. Make sure to include the AFCC 57th Annual Conference!

**The conference program brochure** is now available online! Check out the sessions in store for you and get excited! **Online registration will open in early January.** Printed copies of the brochure will be mailed to AFCC members and other family law professionals.

[View the brochure](#)

## AFCC Webinar Series for Judicial Officers

AFCC has rolled out a series of free webinars for family law judicial officers. The webinars are designed to assist judicial officers with complex issues, such as special needs children, intimate partner violence, relocation, child development, children in court, high conflict cases, and self-represented litigants.

Each webinar is co-presented by a mental health professional and judicial officers. Judicial webinars free to both AFCC members and non-members.

[Watch now!](#)

## Another Perspective: Cultural Sensitivity and Meeting the Clients in Their Community

The Australia Chapter of AFCC held its annual conference in Sydney recently and this presentation about innovative family law procedures with the aboriginal people of Pilbara was especially interesting in illustrating that one size of justice does not fit all. [Read the transcript of the session.](#)

### Presenters:

**The Honourable Stephen Thackray**, Former Chief Judge, Family Court of Western Australia

**Brianna Lonnie**, Solicitor in Charge of the West Kimberley Legal Aid Western Australia



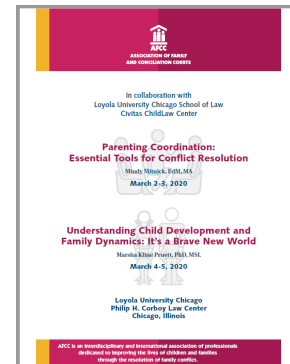
SOBERLINK



Online Parenting Programs

## AFCC Training Programs

Loyola University Chicago  
Chicago, Illinois  
March 2-3 & 4-5, 2020



## Parenting Coordination: Essential Tools for Conflict Resolution

Mindy Mitnick, EdM, MA  
March 2-3, 2020

## Understanding Child Development and Family Dynamics: It's a Brave New World

Marsha Kline Pruett, PhD, MSL  
March 4-5, 2020

## AFCC Chapter Conferences

### Arizona Chapter Annual Conference

January 24-26, 2020  
Sedona, Arizona

## COPC and AFCC Sponsor Training in Barcelona

AFCC and the Col·legi Oficial de Psicologia de Catalunya (COPC) will present a joint program, February 14, 2020 in Barcelona, Spain.

The program will address resist-refuse dynamics and parenting coordination, and feature AFCC President, Matt Sullivan, PhD, with European co-presenters and panelists, including AFCC members, Merce Farres, Nuria Mestres, and Teresa Williams. The program will be preceded by a networking event on Thursday evening, February 13, 2020. Special thanks to COPC and especially Connie Capdevila Brophy, for her collaborative efforts in hosting this program.

[Learn more](#)

## Donate to the AFCC Scholarship Fund

Help us reach our goal of raising \$25,000 by the end of 2019 to support the [AFCC Scholarship Fund](#)! Your contribution directly funds scholarships to worthy recipients who could not otherwise afford to attend an AFCC conference.

We suggest donating one billable hour. (If you don't bill your time, consider one hour of salary or equivalent.) If you can contribute more, that would be appreciated too! All donors will be included in onsite signage at the [AFCC 57th Annual Conference in New Orleans](#) and as a [contributor to the Scholarship Fund](#) on the AFCC website.

[Donate now!](#)

## Nominate a Colleague for an AFCC Award

AFCC awards acknowledge many important contributions made by individuals and organizations to enhance the lives of children and families involved in family courts. Your nominations help recognize these accomplishments.

Nominations for the following awards, to be presented at the AFCC Annual Conference in New Orleans, will be accepted online through March 20, 2020:

- **John E. VanDuzer Distinguished Service Award** recognizes outstanding contributions and/or achievements by AFCC members
- **Stanley Cohen Distinguished Research Award**, sponsored by the Oregon Family Institute, recognizes outstanding research and/or research achievements in

## California Chapter Annual Conference

February 7-9, 2020  
San Francisco, California

## Alberta Chapter Annual Conference

March 5-6, 2020  
Edmonton, Alberta

## Missouri Chapter Spring Conference

April 2-3, 2020  
Saint Louis, Missouri

## Ohio Chapter Annual Conference

April 7, 2020  
Columbus, Ohio

## Washington Chapter Annual Conference

April 24, 2020  
Seattle, Washington

## Australian Chapter Annual Conference

July 16-18, 2020  
Brisbane, Queensland

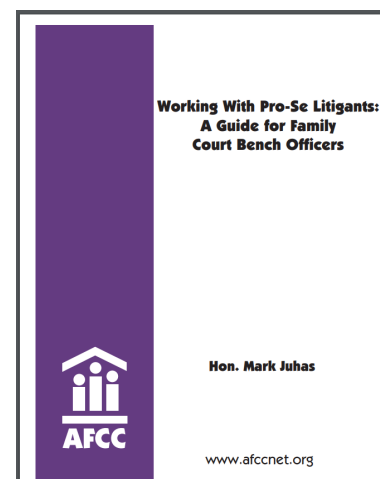
## Florida Chapter Annual Conference

September 23-25, 2020  
Orlando, Florida

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## Resource of the Month

Working with Pro-Se Litigants: A Guide for Family Court Bench Officers



the field of family and divorce

- **Irwin Cantor Innovative Program Award** recognizes innovation in court-connected or court-related programs created by AFCC members

Submit a nomination online, see past recipients, learn more about the awards and criteria.

## AFCC Awards

### Board of Directors Nominations

The AFCC Nominating Committee is seeking nominations for individuals to serve on the **AFCC Board of Directors**. Recommended individuals must be AFCC members and have an interest in and knowledge of AFCC and its work. Nominations must be received by **January 31, 2020**, in order to be considered by the committee prior to the election at the AFCC 57th Annual Conference in New Orleans. The term is three years, beginning July 1, 2020, and concluding June 30, 2023.

If you or a member you know is interested, please send the first and last name, contact information, resume, and a letter of intent to the AFCC Nominating Committee via email to [afcc@afccnet.org](mailto:afcc@afccnet.org).

### Training Programs on Parenting Coordination and Child Development

*Loyola University Chicago  
Chicago, Illinois*

#### Parenting Coordination: Essential Tools for Conflict Resolution

Mindy Mitnick, EdM, MA  
March 2-3, 2020

This program will describe the fundamentals of parenting coordination (PC), including the principles and functions of the PC role, the knowledge base for being an effective PC, and ethical guidelines. This interactive training will assist professionals in understanding the PC process, scope of authority, and techniques and strategies to help parents improve cooperation and communication. Participants will learn how to help clients utilize the process and how to effectively write recommendations or decisions.

#### Understanding Child Development and Family Dynamics: It's a Brave New World

Marsha Kline Pruett, PhD, MSL  
March 4-5, 2020

How do we do our best family law-related practice if we don't understand child and family development in terms of today's current issues, research, and practice relevant to separation and divorce? This workshop is for mental health, legal and educational professionals who work with children and families and want an update on what affects development—positively and negatively—and what they can do to tip the needle towards increased co-parenting and positive child development.

Register now!

### AFCC Webinar Corner

## Coparenting Research Year in Review

Michael Saini, PhD, Univ. of Toronto

January 16, 2020

1:00-2:00pm Eastern Time US



*Registration closes on Wednesday, January 15, 2020 at 9:00am Eastern Time.*

Start the new year right with being current about the latest social science research as it relates to co-parenting within family law matters. This webinar will highlight the empirical studies published in 2019 to identify trends in the research, review results regarding co-parenting psycho-legal issues impacting children and to identify ongoing needs, debates and gaps in the empirical evidence to inform practice with children and families involved in family law matters.

### Registration Certificate of Attendance

Members: \$15 Members: \$15

Non-Members: \$50 Non-Members: \$20

Attendees may purchase a certificate of attendance along with their registration. No refunds or credits will be issued if you are unable to attend the webinar.

Webinars will be archived as a member benefit, for personal use only. These can be found in the Member Center on our website. If you are not currently a member, join when you register to get \$10 off your first annual membership as well as webinar registration at the member price.

[Register today!](#)

## Member News

**Stacy Heard and Jennifer Wheeler** (right), AFCC members from Seattle, Washington, have written a book, published by the American Bar Association, titled [\*Family Law Attorneys and Parenting Evaluators: Improving Professional Collaboration\*](#). Congratulations, Stacy and Jennifer!



**Jack A. Rounick, Esq.**, Attorney and Founder of the Law Offices of Jack A. Rounick, LLC and AFCC member in Norristown, Pennsylvania, was recently selected as Top Attorney of the Year for 2018 and Lifetime Achievement in 2019 by the International Association of Top Professionals (IAOTP) for his outstanding leadership and commitment to the legal field. Recognition of this award was displayed on the Times Square billboard in New York in October 2019 and Jack will be honored at the IAOTP Awards Gala in Las Vegas in December 2019. With over five decades of experience, Jack focuses his practice in the area of matrimonial law and has maintained his solo practice in Norristown since 2012 serving clients throughout Southeastern Pennsylvania. Congratulations, Jack!



**Do you have a notable achievement to share?** Email [Gina Wentling](#) with your story

and a professional head shot (JPEG or PNG preferred), if you have one, to be featured in next month's Member News!

## AFCC Staff News

**Kelly Bienfang, BS**  
Operations Administrator

Kelly Bienfang joined AFCC in November 2019 as Operations Administrator. She will be providing support for membership, conferences, trainings, webinars and office IT. Kelly has a BS in Agribusiness from the University of Wisconsin – Platteville. Her tenure includes positions within full-service apartment management, non-profit tradeshow management, and office technology industry sectors.



### AFCC eNEWS

The *AFCC eNEWS* is the monthly e-newsletter of the Association of Family and Conciliation Courts. The *eNEWS* provides up-to-date information for professionals including practice tips, case law and research updates, international news, and the latest initiatives in family law and conflict resolution. The *AFCC eNEWS* is free and you do not need to be a member of AFCC to subscribe. [Subscribe here.](#)

*AFCC members are free to share eNEWS content.*

**EDITOR:**  
[Leslye Hunter](#)

**ASSOCIATE EDITOR:**  
[Gina Wentling](#)





ASSOCIATION OF  
FAMILY AND  
CONCILIATION COURTS



eNEWS

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## Message from the Executive Director

*Peter Salem*

*Doing the same thing over and over and expecting a different result.*

The definition of insanity above is typically attributed to Albert Einstein, but according to [History.com](https://www.history.com), he never said it. “*The Ultimate Quotable Einstein*, an authoritative compilation of his most memorable utterances, identified the quote as a misattribution, and mentioned its use in the 1983 novel *Sudden Death* by Rita Mae Brown.” It has also apparently been traced to a Narcotics Anonymous pamphlet.



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I raise the issue of insanity because the theme of the AFCC 57<sup>th</sup> Annual Conference is *When a Child Rejects a Parent: Are We Part of the Problem or the Solution?*, and seems reasonable to ask if AFCC as an organization is, in fact, insane. Why on earth would AFCC wade further into these troubled waters?

Leaving aside the question of whether our esteemed mental health professionals would agree with this definition of insanity, I’ll admit, there is some credence to these skeptical sentiments. This is AFCC’s third attempt

in the last 20 years to bring our organizational focus to an issue that is so challenging that we cannot even agree what to call it. Parental alienation? Parental alienation theory? Behaviors? Syndrome? Resist-refuse dynamics? The alienated child? Parent-child contact problems? Not to mention that some do not believe it exists.

Twenty years ago, venerated AFCC members Janet Johnston and Joan Kelly edited a special issue of *Family Court Review* (FCR) on the alienated child, and prior to its publication the authors presented to an overflow crowd at the AFCC 2000 Annual Conference in New Orleans. It was the largest AFCC conference to date, there was no controversy to speak of, and the journal was widely read and lauded.

Ten years later, various programs and processes to address parental alienation were developed, disseminated, and critiqued. Some of these were featured in a 2010 special issue of *FCR*, edited by AFCC members Nick Bala and Barbara Fidler, which was followed by an AFCC Annual Conference in Denver with over 1,000 people in attendance. Controversies were highlighted, and unlike the 2000 conference, there was conflict in the air.

Since then, things have gotten downright ugly at times. Advocacy groups, blogs, media, books and articles, programs, training, lawsuits, and board complaints abound, and the results are often less than constructive. AFCC has been accused of “promoting” everything from PAS to child sex trafficking by those who apparently have not verified their own sources.

The moment we posted the Call for Proposals for the New Orleans 2020 Annual Conference on social media there was a barrage of hostile comments along the lines of “AFCC is not part of the problem, AFCC *is* the problem.” Our recent survey on resist-refuse dynamics, conducted in collaboration with the National Council of Juvenile and Family Court Judges, was criticized as biased *in both directions* within 24 hours of dissemination, including emails of concern to both sponsoring organizations, and a complaint to the sponsoring university’s Institutional Review Board (IRB) demanding that the survey be pulled. The IRB reconfirmed approval for the project with no changes required to the survey and/or the data collection procedures.



And yet, here we go again, taking the risk of leading an incredibly difficult and polarized conversation in a search for better solutions. In April 2020, *FCR* will publish a special issue entitled, *Parent-Child Contact Problems: Concepts, Controversies, & Conundrums*. It is, again, edited by Barbara Fidler and Nick Bala, who showed their true AFCC colors by eschewing the whole Einstein/insanity thing. The special issue includes articles by some authors who vehemently disagree with one another. Many will be presenting their views at the conference, which takes place May 27-30, in New Orleans. You can look at the [program brochure here](#).

But here's the thing. AFCC has always been willing to shine a light on differences, but our mission is to focus on resolving them, through interdisciplinary, collaborative efforts, whether within individual families or between professionals who make up the membership. Although *FCR* and the 57<sup>th</sup> Annual Conference will present differences in perspective, we will unabashedly promote scholarly presentations, listening, respectful dialogue, good questions, and generating collaborative solutions to an extremely difficult issue. That is what this association stands for, whatever the topic of discussion. And in this day and age, that's really not so crazy, is it?

Wishing you a healthy, happy, and collaborative year in 2020.

***AFCC NATIONAL CONFERENCE***

***SYDNEY CONVENTION CENTRE,***

***15 AUGUST 2019***

***The Honourable Stephen Thackray***

***Former Chief Judge, Family Court of Western Australia***

Brianna and I want to begin by acknowledging the Gadigal people of the Eora Nation as the true owners of this land and by paying our respect to their elders, past, present and emerging.

Can I also thank AFCC for giving Brianna and me this opportunity to talk about the Family Court of Western Australia's work with the aboriginal people of the Pilbara in which I was involved before leaving the Court earlier this year.

And it's especially appropriate that this session is being chaired by my friend and former judicial colleague Robyn Sexton whose work with the aboriginal community here in Sydney got me thinking about better ways of working with aboriginal people in the family law space.

Most of us can remember where we were when Kevin Rudd made the famous apology to the stolen generations in 2008 – and those of you who do remember will know what hopes, if any, you entertained at the time for better outcomes for aboriginal children and their families. Such hopes no doubt at least included an expectation that we would never again have a generation of aboriginal children being raised by people other than their own families.

But we now know that the number of aboriginal children in out of home care then proceeded to double in the decade after the apology. In 2008 there were just over 9,000 indigenous children in out of home care in Australia – but that number has now increased to over 20,000.

In the last five years, the rate at which aboriginal children are placed on care and protection orders increased from 59 per 1,000 children to 68 per 1,000. The equivalent figure for the rest of the population stands at 6.7 per 1,000 children. So aboriginal kids are ten times more likely

to be the subject of such orders than non-aboriginal kids. It's therefore not surprising that of the roughly 5,000 children in care in my home state of Western Australia, 54% are aboriginal. And we know that of those children, only about 40% will be placed with an indigenous relative.

The effort needed to address this appalling trend must be considered in the context of the rapidly increasing proportion of our population which identifies as aboriginal. This went up from 2.5% in 2006 to around 3.2% in 2016, or in raw numbers, about 800,000 people.

We also know from the 2016 census that there are about 11,000 aboriginal families in Australia in which children are living with one or both of their grandparents in the absence of both parents. We can expect to see that number also grow as the aboriginal population grows.

So, what we see is a fast-increasing aboriginal population; a very troubling increase in the number of child protection orders relating to aboriginal children; and a significant number of families where the primary carers of aboriginal children are their grandparents. And, of course, there are many other families where children are living with relatives who are not their biological parents or grandparents.

Turning now to the East Pilbara where we have been working with the local people.

- Population figures vary, but there are about 10,500 people living in the East Pilbara.
- By far the biggest town in the East Pilbara is Newman, where our project was based. Newman has a population of about 7,000, of whom about 14% are aboriginal.
- There are a number of remote aboriginal communities in the East Pilbara, which bring the indigenous population up to about 20% of the total population – so, all up, there are probably in excess of 2,000 aboriginal people in the East Pilbara.
- The majority of these are Martu, who are the traditional owners of a large part of central Western Australia. The Martu were some of the last people to come into contact with Europeans Australians – and their languages are still widely spoken – indeed, some people speak no English or have English as a second or third language.

So, in taking the Family Court the 1,200 kilometres from Perth to Newman we were moving into territory well removed from the environment in which much of the work of the Family Court is done. We were dealing with a community in which one in five people are aboriginal; where it cannot be assumed that an aboriginal client speaks English; a community in which there are high levels of economic disadvantage; a community in which there is an extremely

high rate of teenage pregnancy and truly appalling health outcomes for Aboriginal people; and a community with high rates of substantiation of harm to children.

And what we also found, unsurprisingly, was a community that was traumatised – traumatised by the removal of children under now discredited government policies; further traumatised by the removal of children under current policies of child protection; and traumatised daily by the fear of future removals of their children and grandchildren. The trauma was all-pervasive and had to be understood and accepted before we could begin our work.

In my time at the Family Court it had become glaringly obvious that the family law system is not accessible to many aboriginal people and is not perceived as a good place for solutions for family problems. The family law process is time-consuming; it's very paper driven and there are numerous deadlines. It is almost impossible to access the system if you are an aboriginal person living in a remote location, especially if English is not your first language and you do not have access to the internet, let alone access to legal services for advice and assistance.

In 2017, I was asked to be a patron of an aboriginal organisation in the Pilbara. In that capacity, I was invited to a conference in Newman to launch another initiative aimed at addressing the high levels of family violence. While I was there, I had time to talk with local aboriginal people about how the family law system worked for them in the Pilbara.

Two things emerged:

First, there were serious issues confronting local people, which often brought families into contact with the Department of Child Protection, and not infrequently led to removal of aboriginal children from their parents.

Secondly, due to violence and/or drug and alcohol issues, children often ended up living with grandparents or aunties, but with no formal legal arrangement to recognise this.

I also learned that families were sometimes advised by DCP to get a Family Court order to support a safe placement of children with a family member. And grandparents and aunties looking after children told me that they would like to have a Family Court order so they could more easily deal with hospitals and doctors and schools. And they felt such orders would also help them prevent an unsafe parent from removing the children from their care.

But for people living in Newman, being told to go to the Family Court to get a court order is a bit like being told to go to the moon. So, what occurs is that some children end up in the formal care of the Department because the safe relative is unable to access the Family Court. This in turn leads to Departmental workers not thinking of Family Court orders as a viable option to support a safe placement, and instead they pursue orders in the Children's Court.

Alternatively, the Department ceases pursuing protection orders because the children are with a safe relative. But the result is that the children are left in a legal no-man's-land, being in the care of the relative who does not have any legal responsibility for them. And, as a double whammy, the caring relative does not receive the financial and other supports they would have received if the children had been formally placed in the care of the State.

So, having heard about the need for accessible family law services in the Pilbara, and with the help of an aboriginal advisor, I started consulting with local elders about a culturally appropriate way of bringing family law to the people.

We were warmly invited by a group of elders to come to Newman and to work on Martu land. I made it clear in the consultation process that we would remain only as long as we were welcome and that we wanted the program to be as sensitive to local cultural issues as was consistent with the application of the law we are required to administer.

During one visit to Newman as part of the initial consultation, I went into the office where I was to meet some more elders, only to find real-live clients waiting to see "the Judge", with more on the telephone wanting to come in from remote locations. I was dressed in shorts, T-shirt and thongs but nevertheless proceeded to conduct what might loosely be called court hearings. In retrospect, seeing those first clients was extremely helpful in stimulating my thought about the program as I learned firsthand the complexity of local issues, and I also made our presence known to people who thereafter spread the word about our project.

On the advice of a local elder we named our work the Jiji Nyirti project- - "jiji nyirti" in the local language means "little children". We had a team T shirt produced with that name and a logo designed by the sister of our Family Court Consultant who worked with us on the program. The logo explains how children are protected by layers of family and community in aboriginal society – and the T shirt gave us something to wear other than suits and ties, which we knew wouldn't go down well in Newman.

The shirts not only identified us as part of the visiting Family Court team but were also a great conversation starter. We were given credit for using a design by an aboriginal artist and naming our project in the local language. The shirts also helped create the air of informality which we went to great lengths to encourage to make people feel comfortable and less threatened by contact with a legal system they understandably fear.

In delivering a full wrap-around legal service, we were blessed to secure the support of four organisations who have been with us almost every step of the way. They are Aboriginal Family Law Services, the Aboriginal Legal Service, Legal Aid WA and the Pilbara Community Legal Centre. Each of these organisations has vast experience in delivering services to aboriginal people and have networks that proved invaluable in quite surprising ways – for example in locating family members whose whereabouts were not known to other members of the family.

All these services volunteered their expertise, their lawyers, their domestic violence worker and homelessness consultant to come to Newman to support this entirely untested initiative without any extra funding. Those who have responsibility for budgets know what a commitment that was, especially given the expense of working in remote areas. I want to thank our four partners for the leap of faith they took in accompanying the Family Court on this journey, which for me at least was the most rewarding experience of my career.

So, what was different about this program?

First, our court was not run out of a courthouse. We knew that, for aboriginal people, courts are where you are sent to gaol or where your children are taken from you. So, our program was run out of Newman House, which is a facility where aboriginal people already go for support. We did keep the courthouse in reserve just in case we needed more office space or if we ended up with a hearing where the informality of Newman House would have been unsafe. We never encountered such a situation.

Secondly, in our court, clients didn't have to dress up, wear shoes or speak English. I didn't, in fact, notice that our very first client came to court without shoes until I looked at a photo later, and realised she had been barefoot throughout the hearing. Perhaps my attention was diverted by the fact that she had paint spots on her face and hands, having come straight from the Art Gallery where she had been painting one of her beautiful pieces of art. The same Gallery where her lawyers from Legal Aid had gone to take her instructions at her request, sitting on

the ground, while she was happily getting on with her dot painting, which she told me took her mind back to her country where she had lived happily before encountering Europeans.

The next thing that was different was that every one of our clients had a lawyer. Conflicts were not a problem with four legal services on hand. Many clients presented with multiple legal and social issues and these were attended to as far as practicable. We did not turn anyone away. Many people had come from remote communities, and every client was a potential source of referral of their friends and relatives.

This diverse range of services was provided by our four partner legal organisations who worked alongside each other, sitting around the same table, looking for good solutions for families. Of course, where necessary, they worked privately, but the overall theme was collaboration. I understand this is, in fact, how they like to work in other settings; but it was a joy to behold.

Our visits to Newman were only five days in duration. Our aim was to finish each case in those five days. So as soon as one of the lawyers saw a client who appeared to need more than just legal advice, we would identify who were the likely other parties to the problem. Then, rather than waiting for filing and service of court documents, one of the other lawyers would reach out to those other relatives, offering to represent them if the matter proceeded to a hearing.

These offers were always taken up so that, at the first court event, the Magistrate had an idea of the views of all the important members of the family. By the nature of the work, there was usually no conflict about the best outcome. But where there was conflict, we sought to address it in a culturally appropriate way, with mediation skills being at the forefront of our practice.

In the course of our work, we made very clear we were not there to apportion blame or punish anyone. We were just looking for solutions which kept aboriginal children with their families, on their land and connected to their culture. In other words, to make sure they don't add to this new generation of children who are in the care of the State. So, our message, loud and clear, was that we were the "helping court" - which it was always intended our court would be.

Another thing that was vital was that every client was able to access an interpreter. I remember, for example, one of our clients coming to see us wearing very fashionable clothing including a brilliant white shirt and tie – not something that one sees often in Newman! It turned out that this fashionable young man, spoke almost no English – although I was able to ascertain that he was a musician – and "guitar" was one of the few words he knew in English.

Desmond Taylor, our interpreter, could be understood by our young musician and by all our clients. Desmond has vast experience in interpreting all around WA. Just by the way, he was probably the second last aboriginal child in Australia to have been born to a traditional family who were still living in the desert at the time of his birth. He and his wife Colleen and their wider family provided us with extraordinary support and inspiration throughout our program.

During our second circuit to Newman we arranged to have another, female, Martu interpreter available for situations that we anticipated may arise due to cultural issues or conflicts.

The next thing to understand about our program is that there is no paperwork – or *milli milli* in the local language. Family Court paperwork is daunting enough for city people who have English as their first language. It was never going to work in the Pilbara, especially as we wanted our cases to be finished within hours or days – not months and years. Our file therefore consisted of a one-page application form, completed by the lawyer, which contained the client's name, contact details, names of kids and family members. Clients didn't have to set out orders they were seeking – they just said in a few sentences what was the problem they would like the judge to help to resolve.

There is no need in this paperless system for affidavits saying bad things about other family members. Several family members shared with us that Martu don't like saying bad things about their family – and are very forgiving, or at least understanding, of the type of behaviour that has brought relatives into contact with the child protection system.

The other, massively important, thing we learned was the healing effect of our clients being given the time and space to tell their story orally to an empathetic audience. These stories enabled families to externalise their own, often unspoken, safety plans for children, within the spaces, within the yarning and the probing that our program allowed. This is the “family way” safety planning that is organised by the older people, that is understood within the family, but sometimes not teased out, or even hidden, by the fast-paced, conflict-provoking, paperwork-driven, European processes.

The hearings I observed, which were conducted by Family Court Magistrate Eric Martino, were without doubt the most moving and powerful court hearings I have seen in 40 years in the law. It's not often you see everyone in the room laughing or crying – or the clients hugging the Magistrate at the conclusion of the proceedings.



These hearings were arranged around the client's timelines, not ours. There was no appointment system and clients were therefore never late. We knew they usually didn't have a car; we also knew they had other business, including stuff that comes up unexpectedly. Sometimes we had to go looking for clients when we needed them, and sometimes I acted as chauffeur to get people to meetings or hearings. I'm guessing there haven't been too many court projects where the Chief Judge is the chauffeur, court officer and dispenser of water, lollies and biscuits. But then again, there probably haven't been many hearings where the Magistrate is to be found colouring in drawings with a little kid, while their somewhat older little relative is being interviewed by the Family Consultant and the Independent Children's Lawyer in the adjoining room.

Clients who were not comfortable coming to Newman House were seen in their homes and we also made clear we would see them anywhere, including at the Women's Refuge or under a tree at the local football oval. Feedback also suggested clients might like hearings at a culturally appropriate site in a riverbed, well out of town – so we went back with equipment to accommodate such a hearing – but we were told on arrival last November that it was too hot, even for the locals! – so we stayed in the airconditioned cool of Newman House.

During our time in Newman, local people wandered in and out of the big room where we did most of our work. One lady brought all her shopping in a trolley and the lawyers put the cold stuff in the fridge. She then sat around the table with us for hours, causing much hilarity by her commentary – and then she turned out to be a client who needed a court hearing.

The hearings themselves, except the first one which was done around the big table, were held in one of the smaller rooms, where everyone, including the Magistrate, just sat in a circle, with a view out onto the park. The Family Consultant sat next to the Magistrate, helping with the question and answer process and successfully reducing any high English into concepts our clients could more readily understand. So, for example, who has “parental responsibility” became “who is the boss for making decisions about jiji”. I was sitting in the back of the room making notes – and I don't know how many times I wrote in the margin comments about how absolutely vital it is for our program to have our Family Consultant.

I'm going to break now and let Brianna tell you a little more from the perspective of a lawyer intimately involved in the program. When she's finished, I'm going to share with you some feedback we received from our clients and play you a short video.

*Brianna Lonnie*

*Solicitor in Charge of the West Kimberley*

*Legal Aid WA*

I recall the first time Steve and I met to talk about this project. We discussed the concept and some of the barriers that would need to be addressed and overcome – and then he proceeded to tell me about what he was not an expert in. This was a very humbling experience for me, working so closely with the most senior Family Court Judge in WA, who openly acknowledged he was not an expert in everything. It was both honest and refreshing. It was Steve's leadership that inspired us and brought together the relevant services and individuals, who collectively had the expertise needed for this project to be successful.

Every member of our project team was valued and encouraged to contribute their ideas, views and reflections. They brought a range of skills, experience and relationships. We had a mix of legal practitioners and social scientists who brought extensive experience working in regional areas and with aboriginal families. More senior practitioners brought family law and child protection experience and provided mentoring for the more junior practitioners, who brought enthusiasm and existing relationships within the region. Everyone had an understanding of the dynamics of family violence, and the impact of inter-generational trauma.

In developing this model, it has been essential to understand the barriers to accessing justice for aboriginal families, particularly where remoteness is a factor. Steve has touched on some of the key features of the program. There are many barriers. Obtaining identification documents and birth certificates are significant barriers. For many, English is a second, third or fourth language, there are literacy issues, limited legal services and infrequent or no court sittings, vast distances to access services, communication challenges by phone, limited access to interpreters and limited recognition by most agencies and departments about the need for aboriginal interpreters at all.

There are significant fears and distrust of the system, distrust of child protection or welfare workers, a belief that a court is a place where people get punished, young people and adults are removed from their communities by a "court" to go to prison or into state care. The court

systems are foreign concepts, our court language and high English is inaccessible – when we study law and begin our careers as court advocates, we learn a new language, and these are complex legal concepts that may have no easily understood or interpretable meaning.

There are many challenges for aboriginal families who are required to engage with child protection. It is important to understand the cultural and historical contexts and to hear about each client's family's experience with the welfare system to understand why they may struggle to engage with the department. It is also particularly important to recognise the impact of inter-generational trauma, grief, loss and connected mental health issues. Many protection orders are made final in the Children's Court on an ex parte basis, after parents allegedly "fail to engage" with the department or the court process. This leads to many orders being made for children to remain in State care until they are 18, without sufficient involvement of families.

One of our key objectives to overcome some of these barriers was to build trust with families and with the community more broadly. This meant engaging with a wide range of community members, stakeholders and organisations. We recognised that there were different views within the community, and that we couldn't be guided by only the views of one person providing cultural or community advice, nor one group, nor one source. We consciously avoided aligning ourselves with any particular group or organisation, as there were local tensions that we became more aware of over time.

Building trust also meant ensuring we were committed to "two-way learning" and being culturally competent and respectful. We arranged cultural awareness training by the KJ Rangers, a large aboriginal organisation in Newman, for the entire project team in Newman upon our arrival for the first visit. We continued to develop our understanding of relevant cultural considerations for working with the Martu people each visit. The roles of women, men and extended family in raising and caring for children, kinship system, avoidance relationships, skin groups, marriages and the impacts of "wrong way" marriages and tribal punishment were explained in more detail by our cultural advisors, who also shared many personal stories. This assisted our team to better understand considerations that are taken into account when determining culturally appropriate placement of children. We also arranged for the project team to participate in an interactive workshop on Working with Interpreters facilitated by Aboriginal Interpreting WA.

We recognise the need for community legal education about the family law system and cross-jurisdictional issues. We delivered legal education to local stakeholders including the police, child protection staff, local community services and agencies so that they understood what this court could do to help families and to help them identify people who may benefit from engaging with our program. We also provided legal education to our interpreters and advisors. A highlight was when the KJ Rangers' women's leadership group met with members of our team in Perth. We delivered some legal education and the group spent some time in one of the vacant courtrooms in the Family Court building. We have also been able to deliver legal education utilising the Blurred Borders cards, a communication resource kit that uses visual aids and plain English definitions to explain legal concepts.

We have enjoyed some shared learning opportunities where members of our team have presented sessions to each other. On our most recent trip, a lawyer from the Department of Child Protection was also in Newman. He delivered some legal education to our team about the child protection system and led a very interesting discussion about some of the relevant cross-jurisdictional issues and the relative benefits of orders for parental responsibility in the Family Court as opposed to Special Guardianship Protection Orders in the Children's Court.

Engaging in these activities to increase our cultural competency, and listening to feedback from families who attended court hearings, has given us some insight into the challenges of how aboriginal families navigate living in "two worlds".

Building and maintaining relationships in the community is also crucial to the success of the project, and this has been a challenge when all the members of our team had to travel to Newman from different parts of the State to participate and deliver the services. Building relationships usually takes time, and a consistent presence. The role of the Pilbara Community Legal Service was particularly important as their lawyers and social workers travelled to Newman frequently and they had a permanent presence in Newman through a financial counsellor. Some of the important relationships we developed were with local aboriginal staff at different agencies who were able to identify matters, refer clients to our services between trips and ensure our project was promoted within the community before we arrived.

This project has certainly been organic in nature and ever evolving. We adopted a flexible approach to our practice and to the process, took on board feedback from clients and from each other and made adjustments where we needed to. Each afternoon while we were in Newman,

Steve made sure we spent time as a group reflecting on the day. This allowed us all to share our experiences each day, while being mindful of confidentiality obligations to our clients, but to also reflect on what worked well and what we could do differently. This was often when the truly collaborative nature of what we were doing was most apparent. Everyone felt comfortable sharing their insights and observations, and provided constructive feedback to each other. This even included practitioners giving feedback about the Magistrate in court sittings!

This process encouraged us all to be self-reflective. This project worked, because we left our egos, and the politics of our organisations behind and we listened, to each other and to the aboriginal people from the country we were working on, as they were the experts that we needed to guide us. And when we listened, we learnt. We all acknowledged when we didn't get something quite right – we didn't like to call them mistakes – and we are still continuing to learn.

For the lawyers involved in this project, most of our work was done outside the court room, where we worked hard to overcome the barriers I've highlighted, and to ensure all parties could access legal assistance and participate in a meaningful way in the proceedings. The lawyers didn't generally speak during the court hearings. The clients told their own stories and interacted directly with the Magistrate and the Family Consultant.

We all recognised the court hearings were incredible healing processes for those involved. The success of the hearings was in the talking and in the listening, and that is what the social scientists do so well. They made the people feel heard and helped the lawyers and the judiciary better understand the complexity of people's lives by reframing language, lowering high language, questioning and probing, in a culturally safe way that significantly improved the communication.

I have worked in the Kimberley for about 10 years. For almost the entire time I was in the East Kimberley, 100% of children in care were aboriginal. In the West Kimberley, there are only 2 children in care who are not aboriginal. We know these children are caught in a cycle of intergenerational trauma. We also know that these children are significantly more likely to come into the juvenile justice system, and in turn be imprisoned as adults, and this contributes to the tragic and unacceptable over-representation of aboriginal people in custody in WA.

This program is about trying a different way of doing things – it is innovative, creative, flexible, has been developed from the ground up and by listening to aboriginal people and adapting our legal system to meet their needs.

We operate in a world that is process driven, heavy on regulations, dependent on budgets and where we are measured by our outputs and our ability to meet our KPIs. We operate with limited resources and usually need funding for “pilots” before we can try something new.

It has been an incredible experience to be part of this project and to have played a role in developing a new approach to helping aboriginal families. It has been extremely satisfying, on a personal and professional level, to see the positive impact that we were able to have on the lives of many families in the Pilbara. One of the challenges now, is in how we measure success, and we need a fresh approach.

The success of our project is not based on the numbers, and how many people we helped. It is about the improved social outcomes for the families who we assisted, and the long-term benefits of empowering families and facilitating a healing process that will improve the lives of the participants, the children and extended families. We are confident that the children will be safer and have a greater likelihood of growing up connected to their families, their country and their culture.

As practitioners, we need to recognise that the Family Court can be part of a preventative process, it can empower aboriginal families who make safe arrangements for their children that are culturally appropriate, and put clear boundaries in place. A Family Court order can demonstrate to the child protection system that family can find a solution to keep children safe, which means they are not in need of protection and do not need to be removed and taken into care.

Through this project we have also had the opportunity to talk with stakeholders around the state such as the police, child protection and court staff about the way they respond to family violence incidents. The advice is generally to obtain a restraining order. This is not always the right option for families, particularly where they want to stay together, but want the violence to stop. The advice should be to get legal advice. And the challenge for legal services in regional areas, is to ensure they are adequately resourced and staffed to assist these clients and that they have sufficient knowledge and skills to provide clients with complex cross-jurisdictional advice about restraining orders, child protection and family law. This shift

requires a systemic response that encourages clients to engage with lawyers and to proactively seek assistance to resolve their matters through legal processes, rather than take no action where the result is much more likely going to mean the intervention by the Department for child protection.

When we remove some of the barriers that limit access to the Family Court, our legal advice changes about the legal options and the best legal process to meet a client's needs.

As a community, we should be investing in this model of the Family Court that should be seen as a preventative legal process. We need to share this message, that the Family Court is a "helping court".

We need to acknowledge and recognise the incredible strength of aboriginal family, community and kinship structures and allow the "white" legal system to support family-led solutions and value aboriginal lore and culture.

*Hon Stephen Thackray then resumed his part of the presentation*

Thanks Brianna. You were such a key part of our program – it was an honour to work with you and your colleagues.

Ladies and gentlemen, I hope that you agree this is a project that could teach us a lot about delivering services, not just to aboriginal people, but also to many of our Family Court clients and others with family problems. I would like to finish by sharing some feedback we received from clients – after all it's what they think about the project that matters.

The first, reflection is from a client who had tried previously to access the Family Court system: She said:

I used to live in Perth before, so I knew about the Family Court. Somebody told me about it, and they took me there. It was a big building it was frightening. I was so scared that I didn't go in, I went straight home. The next time I went there I did go in. There was too many people, I had to repeat myself too many times, it was very scary and frightening, that was just to get some advice. I didn't go back there again.

When the Family Court came to Newman, I still didn't want to go in. I didn't really understand what we were there for. I told my husband he needed to go in. Even my family were worried about coming in, they were worried about having a police record. I explained to them it was about the children not them. But when it came to me, I was scared too – I was worried about what the mother might say. My husband had to remind me that we have our families' children

already because the family trust us and with legal custody we can make decisions for the children.

Going through this Family Court, I didn't know who the judge was, they were dressed in normal clothes. It was very calm. It really helped me to open up properly, opened up my feelings. I had a good cry. I cried when my daughter/niece said she was happy for me to look after her child. She then talked about how I raised her up good way. We didn't really talk about this before. We didn't really even talk about the care arrangements for the children before this – they just happened. Talking about it made me feel good and I think it made her feel good too. We were all happy with the decision we made.

...

I cried when I told my story in the Family Court. Everyone was crying. They really listened. It was a real people's court. I felt lighter when I walked out like a big weight off my shoulders. I was worried before court because I didn't want to mess the family arrangements up. In this court everybody got listened to. Some of the families just wanted short arrangements to be made, and some wanted longer arrangements made. It has been good learning about what the Family Court can do to help us. It can be a good way, and our way is a good way too – it's about getting a balance. Two-way balance.

The next reflection is from the larger than life client whose shopping we looked after. I gather that she is now our Number 1 public relations agent in Newman. I gave her a lift home after the hearing – as I mentioned, chauffeur was one of my key jobs. Coming out of the court she told us she felt so happy she wanted to do a cartwheel. On the way home she said to me “*Steve, you've got a pretty good team up here. If I could, I would give them 100 points.*” She had also told me that in our court, she actually felt like she was wanted – which she said she had never experienced before.

After we left Newman, this lady sent one of our lawyers, who has since been appointed a Family Court Magistrate, a bundle of messages, in which she described the effect of the hearing on her nephew, Charlie, who was interviewed by the Family Consultant while the Magistrate was doing his colouring in. I should first explain though that the court order, at her request, contained a number of injunctions preventing activities that were not to occur at her home – and she told us she was going to laminate this order and stick it on her front door: Anyway, one of her texts to her lawyer said;

*Charlie said thank you to all you gang*

*When I told him [about the court order] his face [had] the big smile and he said mum I love you so much and [I] told him about the sign I am putting on the door.*



*He was so happy he said no more drunken people coming [here] and I told [my little boy] what I went to court for - and he said Charlie is going to be my uncle forever? I said yes*

*You guys deadly made me and my son so happy it's more like made a little family happy*

*Now I am laying with my baby this house is so happy.*

Unfortunately, I understand that the future of this program is now dependent upon new funding being provided to the Court. Unless that funding is obtained, there will be no more visits to Newman or any of our many other remote communities. There is, however, a commitment to do this Jiji style of work in Kalgoorlie during the existing Magistrate circuits - and, fittingly, it will operate under the title of the "Family Way Family Court".

I'm also pleased that the ALRC report has recognised how important it is to have aboriginal liaison officers. During my time as Chief Judge I only once went to Canberra to plead for funding and that was to keep our Indigenous Family Liaison Officers. I was successful, but the funding was later withdrawn without explanation. For projects like this to succeed we must work with, and indeed be led by, aboriginal people – and for this we need on our side the credibility, the skills and the knowledge only aboriginal people can bring.

Before I sit down, I want to share with you a video compilation of some amateur photographs taken during our visits to Newman. The family featured in this presentation generously agreed to let us use their images as they wanted us to spread the word and wanted other families to use our service. I need to warn aboriginal people that sadly one client in the video has since passed away.

You will see in the video Legal Aid lawyers taking instructions at the Martumili Gallery where some of our clients draw their world-famous paintings. There are some shots of lawyers working side by side and relaxing together after work. There are also some capturing the KJ Rangers women's leadership group during their visit to the Family Court in Perth. There are some pictures of Magistrate Martino preparing for a hearing and receiving a big hug from a client afterwards – and there are some of our team at the home of our first clients, hand delivering them their court order. It finishes up with a shot of our paint smattered, barefooted client, and her beautiful little grandson taken just after her hearing was finished.

Just before I play the video though, I would like to thank everyone involved in the project for their enthusiasm, their commitment and their skill in delivering services to aboriginal people. Thank you to the elders and the local people for their encouragement and guidance. Thank you especially to our clients who trusted us with their worries and shared their stories with us and spread the word about the Helping Court to their friends and families.