

# **ANGLO/YOLNGU COMMUNICATION IN THE CRIMINAL JUSTICE SYSTEM**

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**I certify that the substance of this thesis has not already been submitted for any degree and is not currently being submitted for any other degree or qualification.**

**I certify that any help received in preparing this thesis, and all sources used, have been acknowledged in this thesis.**

[Redacted Signature]

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## **Abstract**

### **Anglo/Yolngu Communication in the Criminal Justice System**

Endemic miscommunication is notorious in Australian police and courtroom situations involving traditionally-oriented Aboriginal people of a non-English speaking background. While many communication problems have been identified, they are generally inadequately understood and most remain unredressed. The researcher has undertaken an intensive investigation of the efficacy, features and dynamics of intercultural communication in two police interviews and in several court cases where he was involved as an interpreter in the Djambarrpuyngu language for Yolngu witnesses and defendants (Yolngu are traditionally-oriented Aboriginal people from the Northeast Arnhem Land region of the Northern Territory). The court cases comprise a lengthy coronial inquiry investigating the shooting of a Yolngu man by police, a murder trial, and another trial involving violent sexual assault.

Taking a sociolinguistic approach, the researcher has utilised a framework developed from ethnography of communication, interactional sociolinguistics and pragmatics in analysing interpreted and uninterpreted interviews, based on electronic recordings and official transcripts. In seeking to understand not only the linguistic and cultural factors that often impede Anglo/Yolngu communication in police and courtroom contexts, but also the dynamics of this discourse, the study extends to consider legal, judicial and policy issues that were found to be influential in shaping it.

Miscommunication is found to be pervasive, extending through linguistic and cultural levels and especially prevalent in matters of enumerated measurement, spatial location, kinship, cultural values and mores, and spirituality. It is found that the English language proficiency of Yolngu interviewees is often severely overestimated by courts; and, that without interpreting assistance, Yolngu display vulnerability to verbal manipulation through their linguistic dependency upon Anglo interviewers in constructing their responses, and through any subtle deployment of miscommunication as an interviewing tactic.

With interpreting assistance, miscommunication is radically diminished (but not eliminated) provided that interpreters are permitted to explicate or explain messages in effecting meaningful communication and, where the interview is partially interpreted, to alert participants to hidden miscommunication—often deriving from the unrecognised intrusion of interlanguage in native speaker/non-native speaker communication.



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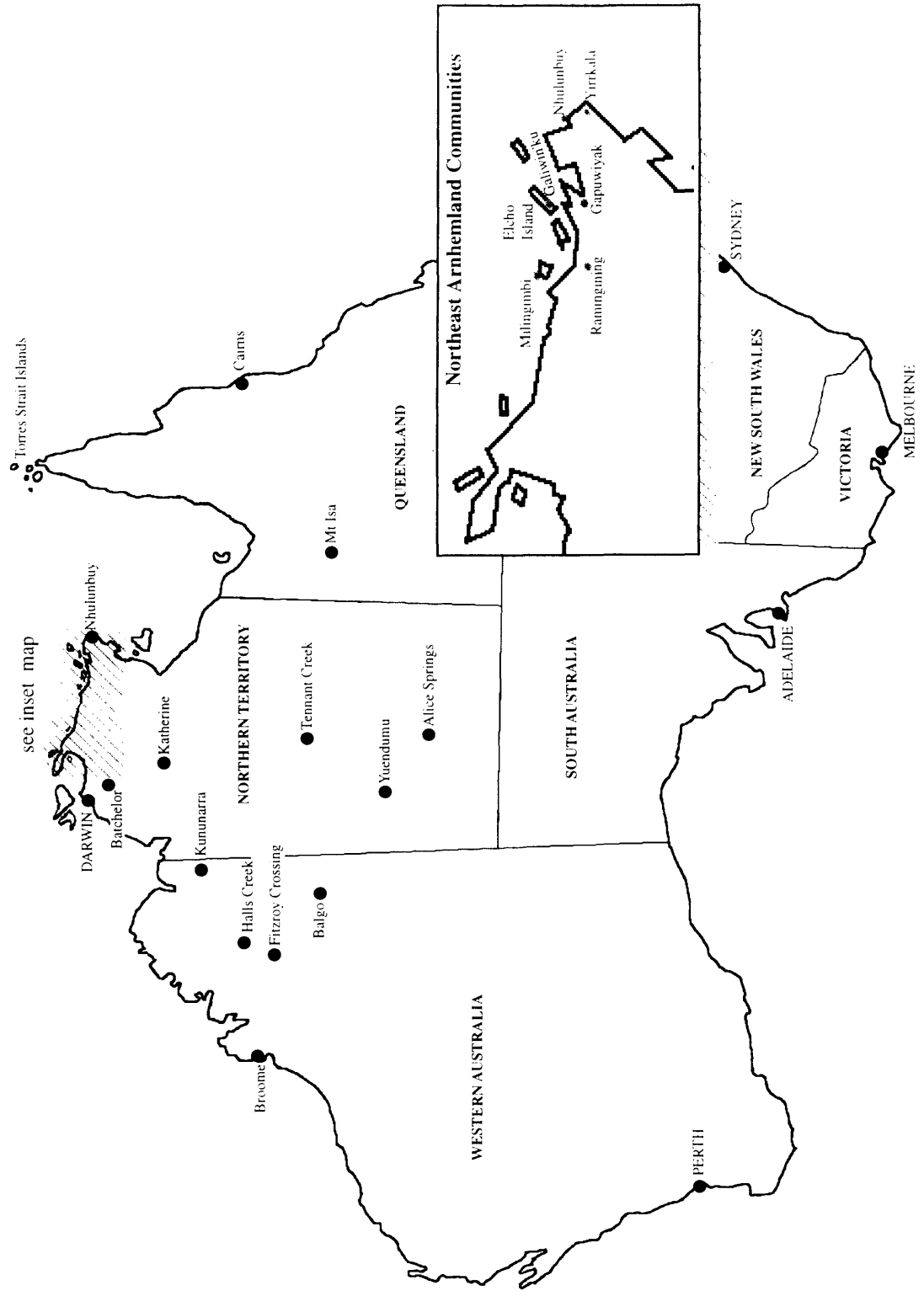
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**Map 1: AUSTRALIA & NORTHEAST ARNHEMLAND**





## Abbreviations

AG	Alfred Gondarra (witness, <i>Elcho Coronal</i> )
ASLPR	Australian Second Language Proficiency Ratings
AUSIT	Australian Institute of Interpreters and Translators
BG	Police Aide Brian Gumbula (witness, <i>Elcho Coronal</i> )
CAC	Counsel Assisting the Coroner ( <i>Elcho Coronal</i> )
CCP	Counsel for the Commissioner of Police ( <i>Elcho Coronal</i> )
CP	Crown Prosecutor ( <i>R v G</i> , <i>R v M</i> )
Cor	Coroner ( <i>Elcho Coronal</i> )
CTF	Counsel for Task Force police ( <i>Elcho Coronal</i> )
DC	Defence Counsel ( <i>R v M</i> , <i>R v G</i> )
DS	Detective Sergeant ( <i>R v M</i> )
Det	Detective ( <i>Elcho Coronal</i> )
E-YM interlanguage	English/Yolngu Matha interlanguage
GW	Geoffrey Walkundjawuy (witness, <i>Elcho Coronal</i> )
HA	community advisor who was a witness in <i>R v G</i>
Int	Interpreter ( <i>Elcho Coronal</i> )
JG	Police Aide Joe Gumbula (witness, <i>Elcho Coronal</i> )
KJ	The Hon. Justice Kearney (trial judge in <i>R v G</i> )
L1	a language learner's first language
L2	a person's 'second' language
M	defendant in <i>R v M</i>
MC	Michael Cooke (as witness in <i>R v G</i> )
NAALAS	North Australian Aboriginal Legal Aid Service
NAATI	National Accreditation Authority for Translators and Interpreters
NESB	Non English Speaking Background
NT	Northern Territory
OAD	Northern Territory Office of Aboriginal Development
PS	Police Sergeant ( <i>R v M</i> )
QCCP	Queen's Counsel for Commissioner of Police ( <i>Elcho Coronal</i> )
QCGF	Queen's Counsel for Ganamu's Family ( <i>Elcho Coronal</i> )
RB	victim in <i>R v M</i>
SAE	Standard Australian English
SL	Source Language
TL	Target Language
W	'prisoner's friend' and witness in <i>R v G</i>
WA	Western Australia
YB	Yilikari Bakimumu (witness, <i>Elcho Coronal</i> )

## Frequently Used Yolngu Terms

Balanda	the term used by Yolngu to refer to those of European origin
Yolngu Matha	generic term used by Yolngu to refer to their languages, whether individually or collectively ( <i>yolngu</i> = person; <i>matha</i> = tongue)



## Transcription notation

In some places within this thesis excerpts are taken from official transcripts and, apart from layout, are given unchanged. On other occasions it has been preferable to use transcripts prepared directly from electronic recordings (audiotape or videotape). Most commonly, however, extracts from official transcripts are used with added detail given by the author derived from audiotape. The amount of supplementary detail provided is consistent with the purpose at hand (extra detail commonly includes showing where lengthy pauses have occurred; revealing what was said in Yolngu Matha; or indicating transcription errors or omissions). The nature and source of transcripts and extracts are specified in the respective sections where they appear so that the reader is clear as to the level of detail that is encoded. The following transcription notation is used throughout.

(1) All official transcript text is given in courier font.

(2) All transcripts prepared directly by the author from electronic recordings are given in Geneva font.

(3) Personal names, place names and other identifying information that appear in both types of transcript are substituted by an initial (or initials) inside [square brackets] where it is desirable to mask identity.

(4) In places where official transcript text has been corrected by checking against audiorecordings or against notes taken while attending proceedings, errors in official transcript material are ~~struck through~~ followed by the **correction given in bold**.

(5) In places where official transcript text has been corrected by checking against audiorecordings or against notes taken while attending proceedings, English words that were heard to have been spoken but that do not appear in the official transcript **are added in bold**.

(6) In places where it is desirable to supplement the official transcript by also showing what was uttered in Yolngu Matha, these Yolngu Matha words are added < inside angled brackets and in Geneva font (*with translations given inside round brackets and in italics*) > — except where translations were provided by the interpreter at the time for inclusion in the official transcript, in which case *the relevant part of the official transcript is simply italicised*



(7) In accordance with transcript conventions of courtroom transcripts a single dash (—) is used within an utterance to indicate a pause or hesitation or a change in direction in the conversation. On the other hand, if it is required to indicate a longer pause then the dash will be doubled: (——). If it is required to indicate an extended pause, such as silence in response to a question then the dash will be tripled: (————).

(8) In accordance with transcript conventions of courtroom transcripts three dashes (— — —) are used to indicate that a speaker has been interrupted or has trailed off. When a speaker answers immediately upon the conclusion utterance of another, without any discernible gap, the ‘equals’ sign (=) will be used to indicate this.

A: Are you sure you are not making this up now? =

B: =I was there.

(9) In the case of official transcript text three dots ( ... ) indicates that material in the original has been omitted (usually for the sake of brevity). In the case of transcript prepared by the author from electronic recordings three dots ( ... ) indicates that part of an utterance has been omitted from the transcription. When one or more whole turns (such as a question or an answer) has been omitted this is indicated by three dots ( ... ) on a separate line.

(10) Where it is required to indicate the presence of added emphasis in an utterance then, regardless of the source of the transcript, underlining will be used, e.g.:

A: It was your fault, wasn't it?

(11) In using either official transcript texts or transcriptions prepared by the researcher directly from electronic recordings, single round parentheses are used to include additional or clarifying information e.g.:

A: Did you say that or not?

B: No. (shakes head)

Also, any commentary inserted within the transcript—whether within an utterance or between turns—(will be given inside single round parentheses).

(12) Where it is required to indicate overlap between utterances the oblique mark ( / ) will be used to identify the point at which overlap begins. The oblique ( / ) is also used, together with appropriate spacing, to reveal how the overlap is accommodated by the first speaker and how the utterances are coordinated, e.g.:

A: Are you able to remember / what time it was? /

B: /No, /I don't know.



(13) Outside of transcripts, *italics* are used to mark individual utterances that have been extracted from a transcript for use within any commentary or discussion. Since these represent direct quotes they will be further marked by single quotation marks. However, quotation marks will not be used in referring to general linguistic quotes or hypothetical utterances—these are marked only by italicisation. (Italics are also used in the conventional way to emphasise points within normal text.)