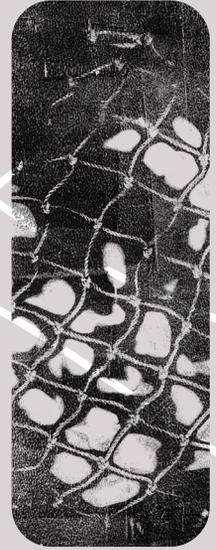


Access to Justice

MARANA DYARIGALI



Christopher Cuneen

Interviewed By:
Professor Robynne
Quiggin

Chris Cunneen is Professor of Criminology at the Jumbunna Institute for Indigenous Education and Research at the University of Technology Sydney. Chris has held previous roles at James Cook University in Queensland, the University of New South Wales (UNSW) and the Sydney Law School. Chris has been working with Aboriginal organisations engaging in socio legal, and criminological research for the last 35 years.

Chris first started doing work around justice issues and policing issues in Northwest NSW around Bourke, Brewarrina, Walgett and Dubbo. Since the mid 1980's Chris has been researching criminal justice issues, working for significant inquiries such as the Royal Commission on Aboriginal Deaths in Custody, the National Inquiry into Racist Violence, the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children, the NSW Aboriginal Child Sexual Assault Taskforce, and on a range of other research and inquiries for the Australian Human Rights Commission and with ATSIC before it was abolished. He is currently involved in supporting justice reinvestment projects in Aboriginal communities across the country through the Justice Reinvestment Network Australia, and is also working with the National Justice Project to establish a web-based Indigenous Hate Crime Register to enable Aboriginal people to report incidents of racism and racist violence.

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Chris shares insights into the research that he has been involved with over past decades, around civil and family law issues for Aboriginal people, including legal issues from housing to racial discrimination and child protection. Chris speaks about the importance of building relationships with communities and working with Aboriginal organisations and knowledge holders to design research questions that have relevance and impact for the community. The research in Chris's view, provides practical solutions to people that have real world problems that needed to be investigated.

About Chris

Professor Cunneen has a national and international reputation as a leading criminologist specialising in Indigenous people and the law, juvenile justice, restorative justice, policing, prison issues and human rights. Chris has participated with a number of Australian Royal Commissions and Inquiries (including the Stolen Generations Inquiry, the Royal Commission into Aboriginal Deaths in Custody and the National Inquiry into Racist Violence), and with the federal Australian Human Rights Commission. He taught criminology at Sydney Law School (1990–2005) where he was appointed as Professor in 2004. He was also the Director of the Institute of Criminology (1999–2005) at the University of Sydney.

RQ Could you talk to us about the early days of your research?

CC I started working with Aboriginal communities in the mid 1980's when I was working for the NSW Bureau of Crime Statistics and Research. They had me work on a project based in north west NSW, in particular, because I already had some established relationships with people in Bourke, Brewarrina and Dubbo. I have always been interested in working with Aboriginal organisations, particularly Aboriginal and Torres Strait Islander Legal Services and that's still as true today as it was 35 years ago. I have maintained those relationships to the Legal Services, other Aboriginal organisations and people around the country.

A key part of that relationship building has come from working for various inquiries and with various Indigenous and non-Indigenous NGOs. I was involved early on as an activist for police and prison reform including with the community-based Campaign for Criminal Justice and the Committee to Defend Black Rights in the events leading up to the establishment of the Royal Commission in 1987. I did some research work for the Royal Commission and also for Aboriginal organisations' submissions to the Royal Commission, including with the (then) National Aboriginal and Islander Legal Services Secretariat. And so I've always seen my work as being not purely academic, but also having political and policy impacts. Certainly the work we're doing now, around access to justice is directly connected to improving the outcomes for Aboriginal organisations, communities and people.

RQ UTS Indigenous educational research strategy talks about being community driven. Can you talk about how your projects have been community driven?

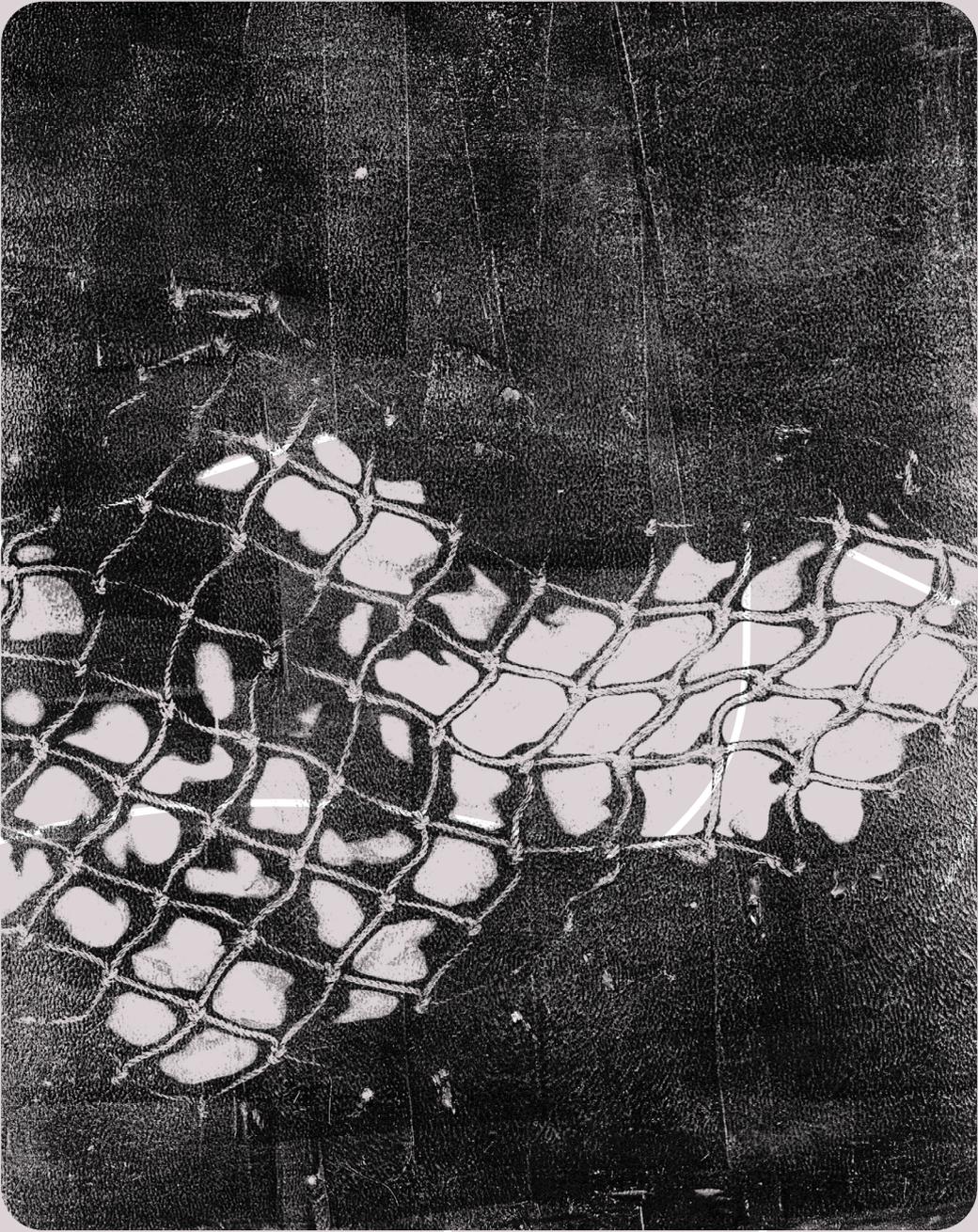
CC The access to justice work started around 2005 when

Carol Thomas, an Indigenous lawyer who was the head of the Aboriginal Unit within NSW Legal Aid, came to me and said, we really need to know something about the civil law needs of Aboriginal people in NSW. She said we know a lot about what the criminal justice needs are, but we don't know much about the legal needs around things like housing, racial discrimination, child protection, Centrelink and all those types of issues. That research started with the NSW Legal Aid Commission. It was driven from the very start by Aboriginal people working in the area who had specific research needs or research questions they wanted answers to. Those questions overlapped with interests that I had and they have had a very direct policy impact. There were changes to NSW Legal Aid to improve the services provided to Aboriginal communities in New South Wales, and eventually the establishment of an Aboriginal Civil Law Service within NSW Legal Aid and that's still working there today. Now, a decade and a half later, we are having discussions with the Aboriginal lawyers in that section in Legal Aid about doing some work for them on the legal needs of Aboriginal young people.

I have academic outputs. I write books, I write journal articles and I do things that an academic is supposed to do. But for me, it's always been about working with Aboriginal communities or organisations to bring about change and benefit to Aboriginal people.

RQ Have there been issues with knowledge holders around culture or language when you have come to understand the community and the organisations you have worked with?

CC A lot of the work that we have done over the years has been with Aboriginal community controlled organisations many of whom have Elders involved within their boards, or in professional positions. The people I have worked with have been knowledge holders. Working with and respecting what people already know is really important. This translates in practice through the types of research questions you ask. Our work is driven by what Aboriginal people already know and what they want answers to.



In terms of language, a lot of the work we have done over the last decade has been in remote communities, working through national projects with a focus on access to justice. We have just finished a major project for the Aboriginal Legal Services and Legal Aid in the Northern Territory, which involved a lot of remote area work in the Barkly region. Language is a really big issue in this work because people don't speak English or English is the third or the fourth language. Working with and respecting people in this instance translates to recognising the need to use interpreters. You might think that people speak English, but in fact, it is not their primary language. So it is really important to have people who can translate the everyday English that academics and researchers use into something which is understandable to people in the community you are talking with.

In terms of cultural dimensions, one of the things we see as important in the work we do with legal need and access to justice is the use of Yarning Circles as a process to gather knowledge. We always leave it up to communities to make a decision as to whether they want separate groups for men and women. On rare occasions a community may want to meet men and women together, but in most cases, they much prefer to meet and have those Yarning Circles separated. The communities themselves can make the decisions about how the research is done. You cannot simply direct research in a way that you as the researcher might think is best or convenient for you. There is a great need for respect and flexibility.

RQ How do you bring the different community preferences into the design of the project you are working on?

CC Maggie Walter and Chris Anderson wrote a book called *Indigenous Statistics: A Quantitative Research Methodology*. It is a great analysis, from an Aboriginal perspective, of the problems with a lot of statistical work that is done in relation to Indigenous people, both in Australia and Canada. It analyses the way social, health and justice statistics can reflect a deficit approach to Aboriginal people. They write about how numbers and statistics are used to hide as much, or more than, what they might tell you. And I think, the way you get

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around that is by sitting down, talking to people and providing them an opportunity to tell you what it all means. I think the current emphasis on data sovereignty ties into this: it is about providing the space for the community to determine research agendas, priorities and interpretation of data outcomes—so in a broader sense returning knowledge/data to the community.

RQ Does this sort of thinking inform the way you approach an ethics application?

CC The work we have been doing has been generally defined and generated by Aboriginal organisations, so it answers at least some of the questions you get in ethics applications straightaway. Principles of reciprocity, benefit and informed consent also need to be thought about and put into practice when developing the research design. We designed and implemented the work we have done on access to justice with the Aboriginal Legal Services. It was not us going to remote communities to talk to people about their legal problems. We actually went with lawyers from the legal services to address those legal problems and give legal advice. This is an example of reciprocity in the design of the project. It was a real kind of activist approach. We were providing practical solutions to people that had real problems. It was really important for us to give something back straight away whilst working in communities.

RQ Can you talk about the impact of your research outcomes and the data that you have collected?

CC One of the outcomes from the legal needs and access to justice project was the production of infographics. We made five minute infographics with the assistance of Aboriginal narrators from the general areas where we had taken the information from. The intention was to present the results of in a way that goes directly back to the community. NSW Legal Aid used the research to redesign their civil law service for Aboriginal people in NSW. The most recent impact was in the Barkly region in the Northern Territory. The North Australian Aboriginal Justice Association and

the Northern Territory Legal Aid Commission have used the results to reframe the way they provide services and allocate lawyers in remote communities in the Barkly. Aboriginal organisations have used the results from this research into legal need over the last decade, to argue in funding applications for what they actually need to provide services. It has also been picked up by non-Aboriginal organisations, for example the Productivity Commission's report on access to justice arrangements, which came out a couple of years ago now, relied heavily on the work.

RQ Would you like to comment further on the importance of an evidence base in effecting policy development in the field you work in?

CC It is really important. There had never been an assessment of the civil and family law priority areas for Aboriginal people, until we started doing this work in the early 2000s. Everybody knows about the really horrible over representation of Aboriginal people in prison, problems with over policing and deaths in custody. That is something that is much more in our face all the time. There was much less information on the legal needs and issues around matters like housing, credit and debt, racial discrimination, social security, consumer problems and child protection—all of which are really big issues for Aboriginal people and communities. We did this work to provide an evidence base and to ask what the key areas of non-criminal, legal need are for Aboriginal people. We were able to identify, for example, that housing and racial discrimination were the two most frequent issues that people in the community identified as a problem with a potential legal response and remedy.

RQ Would you like to reflect on any learning experiences you have had working in this research area?

CC Negotiating the politics around research can be really difficult. I do not say this in a negative way and I don't think the politics of research is any more or less predominant in Aboriginal communities than in non-Aboriginal communities. Sometimes it is negotiating the politics within and between Aboriginal organisations, other times it is negotiating

the politics between Aboriginal and non-Indigenous organisations. There is a lot you need to do that you often learn through mistake, or by thinking something sounds straight forward but it isn't. I certainly have made mistakes in terms of not being clear, particularly of relationships. I'm not necessarily thinking of just cultural relationships, I'm thinking about political relationships as well. As a non-Aboriginal person, you have to tread carefully and respectfully.

I think the only way you learn that is through experience, it takes time and I think you need to be aware that you are going to make mistakes. You won't always be the most popular person around the place. It is about negotiating and working your way through all the issues as they arise. For example, a lot of Aboriginal people are sick to death of being researched. People can be very reluctant when you arrive in a remote community, even though you might be doing work for an Aboriginal organisation. You need to be patient and explain the reason you are there and doing the work. You need to explain, for example, that it is an Aboriginal community controlled organisation that wants the answers to your questions so they can better understand and improve the work they do for community. It is really important to explain yourself, what you are doing and the kind of benefit that comes back to the community.

RQ What is it like to walk into a place where people have been giving and giving, where they might be reluctant to sit down and give of themselves again?

CC Explaining ourselves carefully has been a way we have tried to get around this experience. Our research strategy has been to employ local people, which has been really important. For example, we went out to Alpururulam, which is one of the most remote communities in the Northern Territory near the border of Queensland. It is about 500 kilometers down a dirt road to Alice Springs. Whenever a plane comes in they take somebody away to arrest them, they remove a child, or it is because of a medivac. There is a sense of people coming here is not good news.

So it is not surprising there is initial distrust, and it is important to explain what you are doing carefully. Also we engage people locally to do paid work for us, bringing people together for a Yarning circle and paying the people in the Yarning circle for their attendance. We have done this by working with Aboriginal community controlled organisations, Elder groups or the Local Aboriginal Council. I think that is an important practice, rather than just rocking up there cold and expecting people to talk to you.

RQ Do you think the research community has moved on from worrying about paying people for participation and the impact on objectivity?

CC I hope so. I wrote a book with Juan Tauri, who is a Maori scholar, called *Indigenous Criminology*. In one section of that book we talk about an approach called 'committed objectivity'. We actually took it from Biko Agozino, a Nigerian scholar who has written extensively on the need for decolonising research.

'Committed' and 'objectivity' are not mutually exclusive concepts. We want to bring them together. You still want to do good research, but you can be a committed researcher at the same time. You can have a level of commitment to the benefit of the community as well as producing good research. You may not want to use the word 'objective', but we have used it as a term qualified by 'committed'. It is the idea of bringing good quality research from a committed perspective.