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Welcome to the 'Aboriginal English in the Courts' kit

The 'Aboriginal English in the courts' kit is a kit designed for use by court officials such as solicitors and Magistrates.

This kit has been developed out of VALS exploratory research which inquired into the role of Aboriginal English in the courts for Indigenous Australians who had their matters heard in the Victorian regional and metropolitan court system. The data for this report and for the brochure on Aboriginal English, found in this kit, was collected during a two month period of observing the solicitors and clients of our legal service during court hearings and during the solicitor and client pre-court meetings. It is a finding in this report that the language which is predominantly spoken by Indigenous Australian people is Aboriginal English.

The report and the brochure both identify aspects of communication where difficulties can arise between speakers of Aboriginal English (AE) and speakers of Standard Australian English (SAE) in the three areas of pragmatics, linguistics and non-verbal language. Having some knowledge and understanding of how these difficulties may affect the outcome in the court is particularly relevant for solicitors and the Indigenous Australian people that they represent.

As Malcolm (1999) put it:

We have seen that the same English words and expressions can accommodate contrasting cultural schemas, so that speakers of standard English may think (on the basis of surface linguistic form) they are being understood by Aboriginal English speakers (and vice versa) but may be drawing on completely different inferences from the communication from those which were intended. (p. 74)

Linguistic-based research has suggested that asking indirect questions of Indigenous Australians (rather than direct) may be a better way to gain an understanding of what is happening and that this questioning approach could have relevance for most AE-SAE interactions. In a legal context, police and solicitors, when trying to gather evidence or take instructions, might reduce their risk of misunderstanding by learning to recognise and use AE.

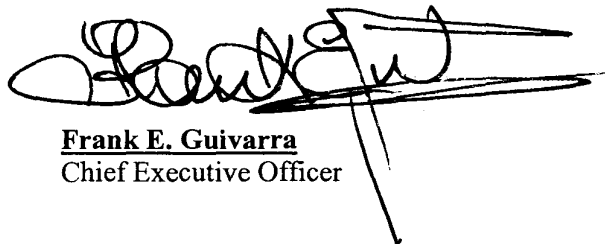
Indigenous Australians prefer to give specification of events or facts by relating information to something that is known or to a real event in the past or an anticipated event in the future, such as 'Show me how long the stick was..' instead of 'How long was the stick?'. It was shown that if the Indigenous Australian person was not given the chance to describe something using their own form of comparative language (specification) then they were not always able to give adequate, clear details about something that was very relevant to their court matter.

It should be noted that using a more contextual and narrative approach to allow for the use of AE specification will provide more information. This approach is likely to take a bit more time but has far greater benefits for both the Indigenous Australian and their solicitor.

The exploratory research indicated that there is much greater use of AE in the Koori Court than in the Magistrates' court. There will be obvious time pressures on Magistrates and solicitors in the Magistrates' court system and these constraints will hinder the full consideration of AE. However once there is greater recognition of AE and its varieties there will be more chance that courts will move to adjust their practice and better reflect the needs of Indigenous Australians.

Meanwhile, this Aboriginal English in the Courts' kit will provide you with an opportunity to read and reflect about Aboriginal English and to think about how it can be used in your professional practise to benefit the Indigenous Australians who enter the court system.

Yours Sincerely,
Victorian Aboriginal Legal Service Co-operative Limited



Frank E. Guivarra
Chief Executive Officer