



THE LAW SOCIETY
OF NEW SOUTH WALES

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6 May 2022

Ms Jacqueline Fitzgerald
Executive Director
NSW Bureau of Crime Statistics and Research
Department of Communities and Justice NSW

By email: Jackie.fitzgerald@justice.nsw.gov.au

Dear Ms Fitzgerald,

Evaluation of the Walama List pilot

Thank you for contacting the Law Society and providing information on the evaluation that NSW Bureau of Crime Statistics and Research (**BOCSAR**) is proposing to undertake in respect of the effectiveness of the Walama List pilot.

The Law Society has long supported the implementation of the Walama List, and supports its evaluation by BOCSAR as part of an evidenced-based policy process.

We acknowledge BOCSAR's commitment to providing reliable quantitative evidence of the Walama List Pilot Project's success in reducing recidivism, to improve the outcomes for First Nations peoples interacting with the criminal justice system. We also acknowledge the importance of eliminating bias through the randomised *intention-to-treat* analysis noted in BOCSAR's proposal.¹

We further acknowledge that we are not necessarily the best placed organisation to comment on evaluation methods. However, from the viewpoint of best practice policy, we wish to raise for your consideration another relevant evaluation study. In our view, it is critical to closely involve Aboriginal and Torres Strait Islander peoples in research methodology design, to ensure that research in fact responds to community needs in evaluating programs and policies that affect Aboriginal and Torres Strait Islander peoples.

In this regard, we note the approach used by researchers at Western Sydney University (**WSU**) to evaluate the Parramatta Youth Koori Court Pilot, which has similar aims to the Walama List Court.² We understand that this study was informed by the insights of then-director of BOCSAR, Don Weatherburn, and aligned in principle with the Indigenous Evaluation Strategy,

¹ New South Wales Bureau of Crime Statistics and Research, *Evaluation Proposal for the Walama List* (Proposal, 2022) 2.

² Melissa Williams, David Tait, Louise Crabtree and Mythily Meher, *Youth Koori Court Review of the Parramatta Pilot Project* (Report, Western Sydney University, 2018).

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170 Phillip Street, Sydney NSW 2000, DX 362 Sydney
ACN 000 000 699 ABN 98 696 304 966

lawsociety.com.au

T +61 2 9926 0333 F +61 2 9231 5809
E lawsociety@lawsociety.com.au

the Australian Government's best practice guide for the evaluation of policies and programs for Aboriginal and Torres Strait Islander peoples.³

Of course, you are likely to be already aware of this study, but for the sake of completeness we note that the Youth Koori Court Pilot study was qualitative, and the evaluation method was devised in collaboration with Aboriginal Elders, young people, magistrates, lawyers and support persons involved in the Youth Koori Court Pilot. Quarterly meetings with the WSU's Aboriginal and Torres Strait Islander Employment and Engagement Advisory Board were conducted throughout the course of the study.

We understand that the method itself involved researcher observations of hearings, ongoing interviews with participants, families and stakeholders, analysis of sentencing transcripts, and a comparison of days in custody prior to and after completion of the Pilot. Elders were invited to translate researcher observations, to furnish them with "an Aboriginal perspective of what has transpired."⁴ This illuminated the assumptions and frameworks that researchers unconsciously brought to the study, and allowed the co-production of knowledge with Aboriginal people.

Further, the study evaluated the Youth Koori Court Pilot's impact on the broader causes of recidivism, including cultural connection, education, employment, accommodation, health, substance abuse and civil justice issues.⁵ We understand that co-designing the method provided richer insights into initiative's success. We commend the Youth Koori Court evaluation by WSU to you as a valuable resource to inform BOCSAR's evaluation of the Walama List Pilot.

Thank you once again for the opportunity to provide comment. Questions at first instance may be directed to Vicky Kuek, Principal Policy Lawyer, at victoria.kuek@lawsociety.com.au or 9926 0354.

Yours sincerely,



Joanne van der Plaats
President

³ Productivity Commission, *Indigenous Evaluation Strategy* (Report, October 2020) <<https://www.pc.gov.au/inquiries/completed/indigenous-evaluation/strategy/indigenous-evaluation-strategy.pdf>>.

⁴ Ibid 52.

⁵ Ibid 11-12.