

The logo consists of a black oval with a white double-line border. Inside the oval, the words "WALAMA LIST" are written in a white, uppercase, sans-serif font, with "PILOT" centered below it in a smaller, similar font. The background of the slide features a grey upper section and an orange lower section, separated by a white, torn-paper-like border. A decorative border of black dots follows the shape of the orange area.

WALAMA LIST
PILOT

**Walama List and Cultural Healing:
Not Just A List But An Idea**

2023 Public Defenders Conference

Justice D Yehia

THERAPEUTIC JUSTICE

- Therapeutic justice “*focuses attention to the law’s impact on emotional life and psychological well-being*”.* It emphasises the need for more effective forms of communication in relating to offenders and responding to their criminogenic risk factors.
- Therapeutic justice is associated with a set of practices, which include:
 - the use of cultural authority and dialogue;
 - the integration of treatment services;
 - ongoing judicial intervention and close monitoring; and
 - multi-disciplinary involvement and collaboration with community-based organisations.**

THERAPEUTIC JUSTICE

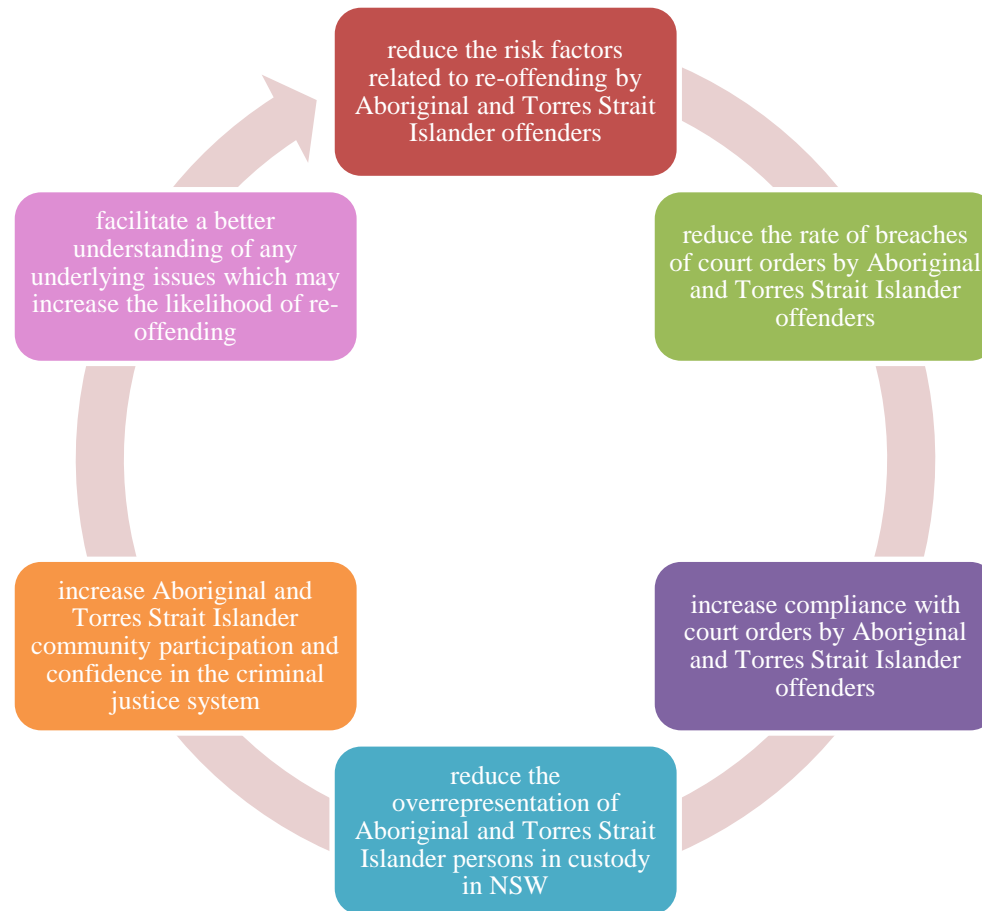
- In the context of Indigenous sentencing courts, therapeutic justice aims to empower Indigenous communities through the focal participation of Elders and community-led organisations. Indigenous sentencing courts centre a First Nations narrative to change dominant perspectives of the contemporary criminal justice system and better inform judicial officers about the circumstances and case management of offenders.*
- In commenting on the procedures and protocols within the County Koori Court, then Victorian Attorney-General, Rob Hulls, observed that:

*“In the mainstream court system, offenders can hide behind their lawyers. In the Koori Court, defendants have to speak for themselves and answer questions on why they committed an offence. They are forced to take full accountability for their actions in a way that is far more confronting than the mainstream court process”.***

WHAT IS WALAMA?

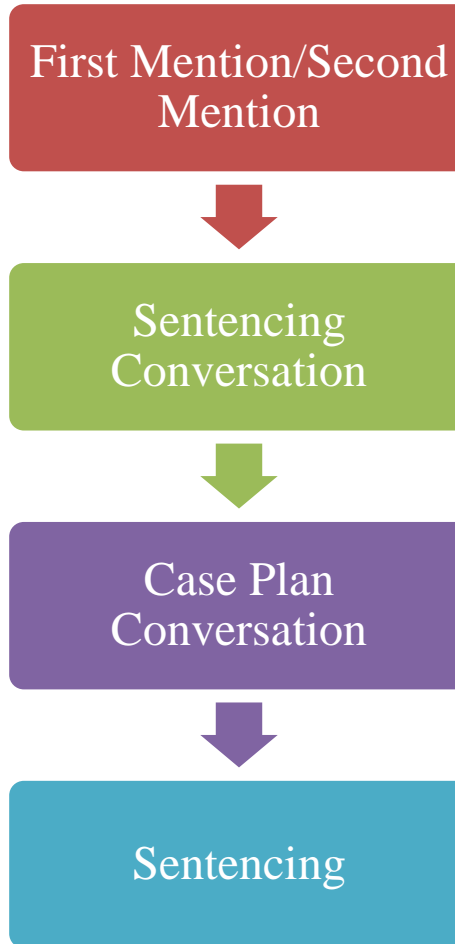
- ‘Walama’ is a word meaning ‘come back’ or ‘return’. In the context of the Walama List, it is a coming back to identity, community, culture and a healthy, crime-free life. The use of the word ‘Walama’ involved community consultation, including approval from the Metro Aboriginal Land Council.
- The Walama List introduces a process that is focused on a more holistic and intensive approach to sentencing that includes input from Aboriginal and Torres Strait Islander Elders and Respected Persons (ERPs) in an effort to reduce the over representation of Aboriginal and Torres Strait Islander people in custody by increasing engagement with the Court and reducing recidivism.

WALAMA LIST OBJECTIVES



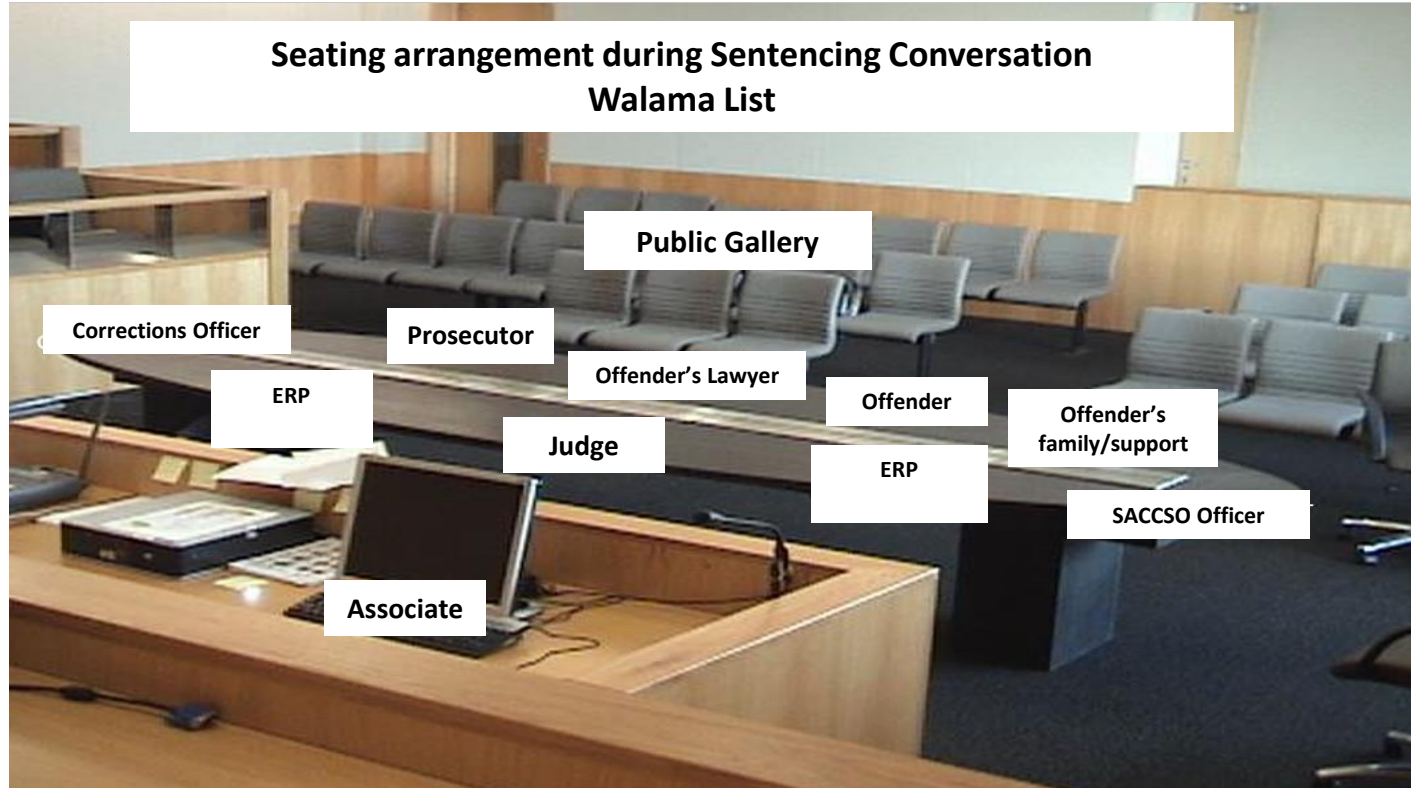
WALAMA LIST
PILOT

WALAMA LIST SENTENCING PROCESS



WALAMA LIST
PILOT

WALAMA LIST COURTROOM



AUNTY MARCIA ELLA-DUNCAN

Walama List Elder

Microsoft Teams

Walama List - Interview - Aunty Marcia Ella-Duncan

2023-02-28 01:44 UTC

Recorded by

Catherine Lomas

Organized by

Catherine Lomas

UNCLE DENNIS DUNN

Walama List Elder

Microsoft Teams

Walama List - Interview - Uncle Dennis Dunn

2023-02-28 03:10 UTC

Recorded by

Catherine Lomas

Organized by

Catherine Lomas

AUNTY BARBARA O'NEILL

Walama List Elder

Microsoft Teams

Walama List - Elders Interview Aunty Barbara O'Neill

2023-02-28 03:49 UTC

Recorded by

Catherine Lomas

Organized by

Catherine Lomas

CATHERINE LOMAS

Walama List Lead – Aboriginal Services Unit

Microsoft Teams

Walama List Interview - Catherine Lomas

2023-03-06 02:20 UTC

Recorded by

Shahad Al Majed

Organized by

Shahad Al Majed

JUDGE W HUNT

Walama List Judge – District Court of New South Wales



CRIMINAL LAW v CIVIL LAW

- Traditionally, civil law has referred to private wrongs, while criminal law relates to public wrongs.
- Existing and operating in silos when dealing with marginalised individuals, is arguably inefficient and, more importantly, ineffective. There is a significant intersection between criminal law and civil law.
- A plight of an individual who is being sentenced for an offence(s) cannot be effectively (or adequately) addressed without analysing, confronting, and addressing, the underlying disadvantage and deprivation. Those underlying issues often have nothing at all to do with the criminal law and are unlikely to be resolved by criminal lawyers.
- In the majority of cases, the following issues arise:
 - poverty;
 - drug and alcohol addiction;
 - homelessness and transience;
 - outstanding fines and debt;
 - protection and ADVO orders; and
 - parenting orders.

A HYBRID APPROACH IN THE WALAMA LIST

- The Walama List combines a multi-disciplinary approach to address the underlying risk factors of Aboriginal and/or Torres Strait Islander offenders. The Walama List process involves a multi-agency approach to sentencing to deliver wraparound support services.
- A Walama List Case Plan is formulated to meet the particular risk factors and needs of an offender, and may include a combination of culturally appropriate rehabilitation programs; counselling; employment; and housing.
- Case workers and service providers are present during the Sentencing Conversation and Case Plan Conversation to identify support services for the offender, to provide updates to the Court about the offender's progress, and to be held accountable for the provision of support services.

CASE STUDY 1

- Sally (a pseudonym) pleaded guilty to robbery and was referred to the Walama List.
- During the Sentencing Conversation, it became evident that Sally came from a deprived background, which included:
 - history of domestic violence;
 - children removed from her care;
 - drug use;
 - mental health issues; and
 - unstable housing.
- During the Sentencing Conversation, Sally recognised that her housing situation was the most urgent issue because she could not address all the other risk factors until she had a stable and safe place to live.
- How was this addressed in the Walama List?
 - Dedicated Community Corrections Officer assisted in securing emergency accommodation.
 - A referral was made to the Civil Law Team at Legal Aid in an effort to assist Sally with obtaining permanent and long-term accommodation.

SALLY'S WALAMA LIST CASE PLAN

IDENTIFIED RISK FACTORS

(Note: Only sections corresponding to identified risk factors to be completed.)

ACCOMMODATION

Current Issues: ██████ has identified that lack of accommodation is a predominate risk factor. Her main goal is to obtain stable and secure accommodation in the Sydney Metro area. ██████ is currently residing with friend in unstable accommodation.

ACTIONS TO ADDRESS RISK FACTOR	AGENCY/PERSON RESPONSIBLE	TIMEFRAME START/END	UPDATE
Referral made to St. Vincent's Homeless Health service for suitability assessment to assist with facilitating case management to include risk and responsivity factors	Community Corrections/ ██████	02/05/2022 through to sentencing	Referral was made to St Vincent's Homelessness Service.
Referral to Innari First Nations Homeless Support to assist with Housing application	Community Corrections/ ██████	02/05/2022 through to sentencing	Referral was made to Innari by ██████ to sign documents on 04/05/22

CULTURAL SUPPORTS/CONNECTIONS

Current Issues: ██████ takes significant pride in her culture, however, has identified she would like to connect and learn more about her with culture.

ACTIONS TO ADDRESS RISK FACTOR	AGENCY/PERSON RESPONSIBLE	TIMEFRAME START/END	UPDATE
Support from Aboriginal Community Engagement & Culture Officer (ACECO) ██████ for assistance with case management, motivation, and cultural support.	Community Corrections/ ██████	02/05/2022 - ongoing	Referral has been made. ██████ to continue to support ██████ on Walama List. ██████ to arrange further meetings with ██████

HEALTH AND DISABILITY (includes both Physical and Intellectual Disabilities/Closing the Gap Assessment)

Current Issues:

██████ does suffer from physical issues including but not limited to dental. ██████ is linked in with the Aboriginal Medical Service.

ACTIONS TO ADDRESS RISK FACTOR	AGENCY/PERSON RESPONSIBLE	TIMEFRAME START/END	UPDATE
Continued connection with Aboriginal Medical Service (AMS) regarding medications and general health.	██████ and AMS	Start: 04/05/22 to sentencing	██████ spoke with AMS last week. To continue to have appointments when issues arise.
Dental care	Aboriginal Medical Service/ Aboriginal Legal Service.	Start: 04/05/22 to sentencing	██████ was referred to Sydney Dental Hospital by AMS. ██████ to attend next available appointment. ALS and AMS to assist with follow up.

EMOTIONAL/PSYCHOLOGICAL/PSYCHIATRIC ISSUES

Current Issues:

██████ has a number of diagnoses that impact her. She suffers from a myriad of mental health issues including, PTSD and Anxiety.

ACTIONS TO ADDRESS RISK FACTOR	AGENCY/PERSON RESPONSIBLE	TIMEFRAME START/END	UPDATE
Trauma Counselling	Nelly's Healing Centre	Start: 4/05/22 to sentencing	Waiting for referral to be accepted. Once accepted ██████ will be linked into trauma counselling at Nelly's Healing Centre.

CASE STUDY 2

- Blake (a pseudonym) pleaded guilty to a number of break and enter offences and was referred to the Walama List.
- During the Sentencing Conversation, it became evident that Blake had a number of underlying issues, including:
 - history of being exposed to violence and drugs;
 - institutionalised;
 - semi literate;
 - never held stable employment;
 - no ID/Birth Certificate;
 - unpaid fines.
- Blake identified that it was important for him to address his drug abuse, in addition to finding stable housing an employment. However, this was impossible for him to do on his own as he had no ID, no birth certificate, no license, was semi literate and had significant debt.
- Blake’s Walama List Case Plan focused predominantly on obtaining identification for Blake before we could commence addressing housing and employment opportunities.

A PATH FORWARD

- Thinking about a different approach to sentencing generally, which includes the following:
 - better coordination between criminal law and civil law needs;
 - providing a safe space where offenders and their families can give the best evidence;
 - having a multi-agency approach to addressing the underlying issues giving rise to the offending conduct;
 - encouraging the presence of caseworkers at sentencing proceedings.