



New South Wales  
Council for  
Civil Liberties

NSW COUNCIL FOR CIVIL LIBERTIES  
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**Copies to:**

NSW Attorney General, Mark Speakman SC  
Anthony Roberts MP, Minister for Counter Terrorism and Corrections  
Peter Severin, Commissioner, Corrective Services NSW  
Gary Forrest CEO Justice Health

**PUBLIC STATEMENT**

The NSWCCL acknowledges the strong leadership shown by the NSW Attorney General Mark Speakman SC in taking swift and decisive action to amend the *Crimes (Administration of Sentences) Act 1999* to create a power for early release to conditional parole in some circumstances. If this power is exercised to substantially reduce the number of people held in detention in NSW, this will be a significant step towards slowing the spread of COVID-19 and saving lives.

We urge the Attorney General to also consider relieving the strain on prisons and consequential health risks caused by the burden of overcrowding by amending the *Bail Act 2013*. In 2013 the Audit Office of NSW identified that 33% of the NSW prison population were on remand. This proportion of the prison population can only be reduced through release by police or courts under the *Bail Act*.

The current bail framework can be applied to reduce the numbers. In particular the court can take into account the delays which will be experienced in finalising cases as a result of the impact of the pandemic and also vulnerabilities of the accused, for example their age, pre-existing conditions or if they are an Aboriginal or Torres Strait Islander person.

However, the *Bail Act* does not currently provide for the impact of the spread of the virus within the prison system on the community or other people detained or working or attending correctional or detention centres. An express provision in the *Bail Act* which provides that the court must take into account the risks posed by COVID-19 to inmates, correctional staff and other gaol workers, their families and the community more broadly, would send a clear message to police and the courts that Parliament acknowledges the serious and fatal risks posed by a spread of this virus.

**Nicholas Cowdery AO QC**  
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