



New South Wales
Council for
Civil Liberties

NSW COUNCIL FOR CIVIL LIBERTIES
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Via email to:

The Hon Brad Hazzard - Minister for Health wakehurst@parliament.nsw.gov.au

Peter Severin - Commissioner, Corrective Services NSW ExecutiveServices@justice.nsw.gov.au

Gary Forrest - CEO, Justice Health gary.forrest@health.nsw.gov.au

The NSWCCL writes to express our concern in relation to the health and safety of persons in custody in NSW in light of the current COVID-19 pandemic.

We note from your website that there have been no confirmed cases of COVID-19 within the inmate population and 23 have been isolated for testing. We note that there was a confirmed case of a healthcare employee at the Long Bay prison hospital in March 2020.

Whilst we are much relieved that NSW has not experienced an outbreak in our prisons to date, correctional centres remain a 'high risk' setting, as identified by the Australian Government Department of Health and we hold concerns in relation to:

1. Issues impacting inmates' capacity to social distance
2. The impact on inmates' mental health and wellbeing as a result of restrictions to visits, lockdowns and reduced access to programs
3. Access to mental health care in this time

Capacity to social distance

We understand that structural issues and the prison populations present risk factors for the spread of disease amongst inmates and staff. Numerous examples of breaches of social distancing guidelines have been reported to NSWCCL. For example:

- Most inmates are not in a cell on their own. The limited space within shared cells forces inmates to be in close contact with one another for long periods of time whilst locked in their cells
- One report from Junee gaol where inmates take part in a daily muster where they are required to line up shoulder to shoulder
- Elderly kitchen workers having to come into contact with used plates and food scraps daily
- An inmate working in a gaol (who had a contract doing the laundry for the local meat works) reported washing blood stained and soiled clothing of abattoir workers. We were informed that masks were available but rarely used and not enforced
- An inmate travelling between gaols with a number of other men in the back of the prison van, sitting so close that they were touching knees

Could you please provide information as to how social distancing is being enforced and how contact with high risk items such as dishes and laundry is being managed?



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Impact on mental health and wellbeing

It is well accepted that restrictions on visits, lockdowns and reduced programs are likely to have an impact on mental health and wellbeing. Dr Andrew Ellis' report commissioned by the Legal Aid Commission, dated 9 April 2020¹, states that the COVID-19 pandemic:

“will have mental health effects [on persons in custody] by two main mechanisms: The first will be direct contribution to development of new psychiatric conditions in individuals by infection with a virus. The second will be the effects of social changes such as isolation or quarantine used to combat population wide infection, which may affect a wider group”²

Whilst there are no reported cases, we are concerned in relation to the second effect identified by Dr Ellis.

In relation to family visits the Australian Institute of Health and Welfare noted that

“Maintaining and improving family relationships results in a better transition from prison to the community, reduced reoffending, and better health and welfare outcomes for the person in the prison system and their children and families”³

A 2008 study by Brown & Brown stressed the importance of family visits:

“Protective factors are vital components of the pathway model, especially for prisoners who may be vulnerable and are experiencing prison induced stress. Visits and contact with family, support from inmates, Samaritans, staff and prison visitors are examples of contacts that may be protective, although it is likely that it is perceptions of loneliness and social support that are most important. It appears that family members are one of the most important forms of support available to prisoners”⁴

¹ <https://www.publicdefenders.nsw.gov.au/Documents/dr-ellis-covid-19-mental-health-issues-for-nsw-prisoners.pdf>

² At page 2

³ Australian Institute of Health and Welfare (2018), *The Health of Australian Prisoners*: Link to report: <https://www.aihw.gov.au/reports/prisoners/health-australia-prisoners-2018/contents/table-of-contents>

⁴ Samantha Brown and Andrew Brown, 'The Role of Loneliness in Prison Suicide Prevention and Management' (2008) 47 *Journal of Offender Rehabilitation* 443.



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Butler et al (2020) identify possible negative impacts of mental health impacts from extended cell confinement due to COVID-19:

“[T]he reduction of opportunities for meaningful and structured activities for prisoners such as exercise, education, training, work, informal socialising, and the real or perceived chance of being subject to long term cell confinement (‘lockdowns’) will impact on prisoner’s mental health and well-being”

The World Health Organisation in 2007 reported:

“Poor social and family support, prior suicidal behaviour (especially within the last one or two years), and a history of psychiatric illness and emotional problems are common among inmate suicides. Family visits may also be used as a means to foster social support, as well as a source of information about the risk for suicide of an inmate”⁵

Could you please inform us in relation to how are visits currently being facilitated and are there sufficient facilities to cope with the demand for communication with family? Is there a plan to allow a return face to face visits and if so, what will be the restrictions associated with these visits?

In relation to rehabilitation programs, could you please let us know the policy in relation to restrictions, in relation to what programs are currently restricted and if known, when/how will programs resume?

Access to mental health care

We understand that mental health services before COVID-19 within the correctional system were stretched, particularly given the proportion of people in custody suffering mental illness and cognitive impairment. Given the general high demand for these services and the extra stresses on prisoners at this time, could you please inform us as to whether additional mental health workers been employed to assist inmates and, if so, how the additional resources being distributed? We would be grateful if you could also inform us as to whether additional health procedures have been put in place to monitor and identify mental health issues in light of the likelihood of increased mental ill health during this difficult time and whether alternative methods of therapy (e.g. tele-therapy) are available in light of social distancing and restrictions.

⁵World Health Organization, Preventing Suicide in Jails and Prisons (Report, 2007) 7, 16 (citations omitted).



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We note the opinion of Dr Andrew Ellis in relation to the relationship between early release and community safety:

“In general, the criminological literature shows no correlation between length of confinement and risk of reoffending on release at a group level, therefore as a general policy this approach would not likely lead to an increased overall risk to the community from re-offence. An individual assessment of risk in community settings would need to be applied to individual cases.”⁶

Could you please let us know whether any inmates have been released early to parole by the Commissioner under the *Crimes (Administration of Sentences) Act 1999* (and regulations relating to COVID-19) and whether there is an intention to reduce the prison population further through early release?

Yours faithfully,

Nicholas Cowdery AO QC
President NSW Council for Civil Liberties

⁶ At page 6: <https://www.publicdefenders.nsw.gov.au/Documents/dr-ellis-covid-19-mental-health-issues-for-nsw-prisoners.pdf>