

## Open letter to NSW Premier Minns and the Labor Government

We the undersigned are legal practitioners, community workers and academics working across the fields of law, criminology, social sciences and Indigenous studies, who hold grave concerns about the proposed laws that will make it harder for young people aged 14-17 to be released on bail for certain offences.

We support the Premier's [goal to improve community safety and wellbeing and strengthen early intervention](#) initiatives. The proposed laws however will have the opposite effect.

**The evidence tells us that such laws do not make communities safer and in fact exacerbate the social drivers of young people's contact with the justice system.**

The proposed laws will undermine the NSW Government's commitment to Closing the Gap targets and increase the long-term social and economic costs of incarceration of children and young people. In NSW the average cost per young person in detention was \$2759.13 per day in 2022-23.<sup>1</sup>

**We urgently call for you not to progress these laws** that will make it harder for children between the ages of 14-17 to be released on bail for certain break and enter and car theft offences.

The Government acknowledges the result will be that more children are imprisoned on remand.

**More punitive bail laws and new offences will not achieve our common goal: safer communities.**

We know from the NSW Bureau of Crime Statistics and Research (BOCSAR) data that the majority of young people in custody in NSW are already there on remand, which means they were detained after bail was refused by either police or the courts.<sup>2</sup> That a high proportion of those are Aboriginal and/or Torres Strait Islander children and young people is a massive indictment on the system as it is currently operating, with those statistics set to worsen with the proposed bail changes.

- At the end of December 2023, there were 174 young people incarcerated in NSW. 74.1% of those young people were on remand. Of the total youth custody population, 61.5% were Aboriginal and/or Torres Strait Islander young people.
- The average age of young people on remand after bail was refused by police was 14 years old, and 100% of those were Aboriginal and/or Torres Strait Islander young people.<sup>3</sup> The average age of remanded young people refused bail by the courts was 16.2 years of age.
- And 65.1% of the 129 young people on remand in custody in NSW were Aboriginal and/or Torres Strait Islander.

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<sup>1</sup> Productivity Commission, Report on Government Services 2024, Table 17A.21,

<https://www.pc.gov.au/ongoing/report-on-government-services/2024/community-services/youth-justice>

<sup>2</sup> NSW Government, Bureau of Crime Statistics and Research, [Custody Statistics \(nsw.gov.au\)](#)

<sup>3</sup> NSW Government, Bureau of Crime Statistics and Research, NSW Custody Statistics Quarterly Update Report, December 2023. Available: [NSW Custody Statistics Dec2023.pdf](#)

## **Here are the facts, Premier.**

1. The evidence is clear - once bail is denied, children are more likely to be enmeshed in the criminal justice system.

Overwhelming evidence by youth detention management, children's commissioners, outside experts and young people pointed to the fact that [youth detention does not work](#), and in fact [aggravates the traumas](#) and behavioural issues that young people experience. The Royal Commission into Youth Detention and Child Protection in the Northern Territory (2017) identified the adverse impact of detention on young people, including cognitive and behavioural development.

2. The proposed bail changes and new offences will be disastrous for Aboriginal and Torres Strait Islander children and young people.

Aboriginal Community Controlled Organisations (ACCOs) in NSW, including the [Aboriginal Legal Service NSW/ACT](#) and [Deadly Connections Community Justice Services](#) and others, have expressed grave concerns about the adverse impact the proposed bail reforms will have on Aboriginal and Torres Strait Islander teenagers. It will exacerbate pathways to adult imprisonment, given the high rates of recidivism that correlates with youth detention. The Government must act to fully support the ACCO-led implementation of diversion models and accommodation options, which keep young people engaged in community life and create belonging.

3. The proposed bail changes and new offences do not address concerns for improved community safety. They undermine the investment made by the Government to resource the real solutions that will work.

We welcome proposals by the government to increase funding for community services to regional NSW. But these services will be undermined by the bail and new offence provisions which aim to lock more children up.

4. Evidence-based solutions which are therapeutic and non-punitive must be the priority.

Young people require a supportive environment in which they are engaged in therapeutic responses that address the underlying causes of offending. There is no role for punitive reforms in solutions that can work. Many children in youth detention have disabilities with high and complex needs that can only be addressed in the community. This includes individualised and wrap-around services and responses that involve family, school, community, cultural and my therapeutic supports. These must be supported and led by Aboriginal Community Controlled Organisations.

## **The community-led solutions are ready to be actioned, Premier.**

We urge the Premier to adopt the [three point youth crime prevention plan](#) put forward by a coalition of Aboriginal and legal organisations including the Aboriginal Legal Service (NSW/ACT):

1. Resources allocated for local communities to support after-school, evening and weekend activities that engage at-risk young people.
2. Intensive and targeted programs and responses for at-risk children with appropriate referral services.
3. Formal community partnerships between police and Aboriginal controlled services.

These measures can work quickly, without incarcerating young people. Government must listen to and work closely with Aboriginal Controlled Community Organisations to meet our shared goal for safer communities and thriving children and young people in them.

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336. Stephanie Fowler, Principal Solicitor, Fowler & Associates
337. Natalija Cavar, solicitor Legal Aid
338. Sue Higginson, Solicitor
339. Matthew Spicer, Solicitor, Legal Aid NSW
340. Maria Ivanovski, Solicitor
341. Callum Johnson, Solicitor, Johnson Defence Lawyers.
342. Alexandra White, Solicitor.
343. Susie Gidlow, Solicitor, Legal Aid NSW
344. Kate Bittar, Solicitor, Aboriginal Legal Service
345. Kefilina Faupula, Solicitor, Aboriginal Legal Service
346. Michael Large, Solicitor, AA Criminal Lawyers
347. Nicola Dabboussy, Solicitor, MacDougall & Hydes Lawyers
348. Georgina Davey, Solicitor, Aboriginal Legal Service (NSW/ACT)
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350. Claudia Cejas, Senior Solicitor, Children's Legal Service - Legal Aid NSW
351. Emma Hudson-Buhagiar, Senior Solicitor, Aboriginal Legal Service.
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353. Freya Cubis, Solicitor, Legal Aid
354. Shalini Perera, Solicitor, Legal Aid Nsw
355. Sophie Anderson, Barrister, Commercial Bank Chambers, Lismore NSW
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357. Anneliese Harris, Solicitor, Aboriginal Legal Service (NSW/ACT)
358. Heather Webb, Barrister, Forbes Chambers
359. Carrie Nicol, Solicitor, Karim and Nicol Lawyers.
360. Maer O'Donoghue, Solicitor, Legal Aid NSW
361. Chayana Miers, Solicitor, Miers Legal.
362. Gemma Ridley, Solicitor, Bannisters Lawyers.
363. Luke Noonan, Solicitor, Noonan Criminal Lawyers.
364. Jessica Caligiore, Solicitor, Legal Aid NSW.
365. Garrett Bithell, Trial Advocate, Aboriginal Legal Service.

366. Abdul Lazki, Solicitor, Legal Aid NSW.
367. Hannah Osborne, Solicitor, Legal Aid NSW.
368. Veronica Love, Solicitor
369. Haydn McDuff, Solicitor Advocate, Legal Aid NSW
370. Leanne Mellor, Solicitor, Legal Aid NSW
371. Helen Christinson, Solicitor, Hugo Law Group
372. Vickie Burkinshaw, concerned citizen
373. Sarah Ienna, Solicitor, Legal Aid NSW
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375. Maria Walz, Solicitor, Maria Walz Legal
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378. Georgia Walker, Solicitor, Aboriginal Legal Service (NSW/ACT)
379. Christina Nguyen, Administration Officer, Aboriginal Legal Service
380. Peter Guirguis, Principal Solicitor, Guirguis Legal
381. Samuel Cooper, Solicitor
382. Gaston Gratton, Solicitor
383. Rory Pettit, Barrister, Forbes Chambers
384. John Beach, DET teacher
385. Jacob Tate, Barrister, Hunter Street Chambers
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396. Brodie Purdon, Solicitor
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428. Grace Hartley, Solicitor, Aboriginal Legal Service
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431. Christina Vassiliou, Solicitor, Legal Aid
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433. Georgia Lewer, Barrister, Forbes Chambers
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444. Sophie Taylor, Solicitor, Legal Aid NSW
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460. Sophie Ogborne, Taylor Rose Australia
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468. Trudie Cameron, Practice Director, Taylor Rose
469. The Hon. Greg James AM KC, Barrister, 11 Garfield Barwick Chambers
470. Wael Skaf, Principal Solicitor, District Legal
471. Paul Hogan, Barrister, Samuel Griffith Chambers
472. Sheeza Naz, Solicitor, National Justice Project
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474. Timothy Power, Principal solicitor, Power Defence Lawyers
475. Angela Garigali, Solicitor, Legal Aid NSW
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480. Appurva Raaj, Solicitor, National Justice Project
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482. Erica Timmins, Solicitor, Legal Aid NSW
483. Sarah connaughton, psychologist
484. Barbara Ramjan NSW
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487. Penny Crofts, Professor, UTS
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491. Riley Brooke, Policy & Communications Coordinator, Community Legal Centres Australia
492. Emily Hamilton, Policy & Advocacy Manager, Community Legal Centres Australia
493. Imogen Brackin, Special Projects Officer, Community Legal Centres Australia
494. Hannah Bruce, Solicitor, Legal Aid
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502. Edita Grinbergs, Paralegal, knowmore Legal Services
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504. Philip Swaine, Barrister, Maurice Byers Chambers
505. Catriona Cotton, Solicitor Advocate, Justicia Advocacy
506. John Stratton, SC, Barrister
507. Samantha Barnsley, Community Restorative Centre
508. Jessica Abi-Khattar, Legal Aid NSW

509. Rose Raymond, Solicitor
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517. Suzanne Ellis, HR Admin Assistant, Community Restorative Centre
518. Jasmin Young, AOD Transition Worker, Community Restorative Centre
519. Michelle Bryant, Program Director, Community Restorative Centre
520. Nicole Foster, case worker Diversion, Community Restorative Centre- the Miranda Project.
521. Clancy King, Partner, DLA Piper
522. Nerita Waight, CEO, Victorian Aboriginal Legal Service (VIC)
523. Ariel Couchman, CEO, Youthlaw (VIC)
524. James Tresise, Principal Lawyer, Youthlaw (VIC)
525. Tammy Kamil, Senior Policy Officer, Youthlaw (VIC)
526. Damien Corbridge, Senior Transition Worker - Community Restorative Centre (NSW)
527. Kimberley Peckham, First Nations Strategy Coordinator, Gilbert + Tobin and Director at First Nations Response (NSW)
528. Debbie Simons, Senior Transition Worker - Community Restorative Centre (CRC) NSW
529. Siobhan Bryson, CEO Weave Youth & Community Services
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531. Bronte Owens, Administration Officer - Aboriginal Legal Service (NSW/ACT)
532. Kate Darby, Walama List Volunteer - Aboriginal Legal Service (NSW/ACT)
533. Tess Fernan, Pro Bono Solicitor, Clayton Utz
534. Aaron Roberts, Solicitor, Streeton Lawyers
535. Humairaa Haque, Senior Solicitor
536. Nabilah Reza, Senior Solicitor - RACS
537. Matilda Bogart, Solicitor, O'Brien Criminal and Civil Solicitors.
538. Emily Mayo, Campaign Coordinator, Raise the Age NSW
539. Sarah Aljassim, Lawyer, Clayton Utz
540. Annie Achie, Lawyer, Clayton Utz
541. Liam James, Barrister, Level 22 Chambers
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547. Yasmine Musharbash, Associate Professor, School of Archaeology & Anthropology, ANU
548. Virginia Brill, Transition case worker - Community Restorative Centre NSW
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550. Bria Hinder, Team Leader - Community Restorative Centre NSW
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553. Alanna Van der Veen, Associate-Lecturer, University of Newcastle, School of Law and Justice
554. Jarrod Ralley, Solicitor

555. Tristan Tipps-Webster, CEO, Reconciliation NSW
556. Dr Bree Carlton, Senior Lecturer Criminology, University of Melbourne.
557. Siobhan Ryan, Lecturer, UNSW Law & Justice.
558. Danny Gilbert, Chairman, Gilbert + Tobin
559. Richard White, Honorary Affiliate Associate Professor, History, University of Sydney
560. Sidar Demirbag, Solicitor