



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: CLC:JWrg091221

9 December 2021

The Hon Mark Speakman MP
Attorney General
GPO Box 5341
SYDNEY NSW 2001

Dear Attorney,

Bail Act Monitoring Group

As you are aware, the Law Society is very concerned that recent comments made by the Minister for Police in relation to a number of bail decisions have the potential to unnecessarily undermine public confidence in our justice system.

Following these comments, we note that you referred a number of specific cases to the Bail Act Monitoring Group for review, to determine whether “*any legislative, operational or procedural reforms*” are required.

We would expect that any evidence-based review of bail legislation would involve a sample of decisions taken by the NSW Bureau of Crime Statistics and Research. Clearly, a review based on five or six identified “contentious” decisions would not be representative and may lead to reform options that have unintended consequences.

As you know, processes exist to ensure that all judicial decisions are subject to proper scrutiny and the justice system has its own checks and balances to ensure that justice is done. Personal attacks on judicial officers, and the perception of bureaucratic reviews of individual bail applications, have the potential to undermine the integrity of the judiciary.

We note that the Department of Communities and Justice, NSW Police, Office of the Director of Public Prosecutions, NSW Legal Aid Commission, Department of Premier and Cabinet, Aboriginal Legal Service and Bureau of Crime Statistics and Research are all represented on the Bail Act Monitoring Group. Given the potential for the current review to recommend significant reforms to the bail system, we request that the Law Society and Bar Association be given the opportunity to nominate representatives to participate on the Bail Act Monitoring Group as a matter of urgency, to provide a broader practitioner perspective on the operation of the current system.

I would be happy to discuss this further with you, and look forward to hearing from you at your earliest convenience.

Yours sincerely,

Juliana Warner
President

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