



Have Your Say
Department of Justice
Office of the Secretary
GPO Box 825
HOBART TAS 7001

24 July 2020

Dear Secretary

RE: CORRECTIONS AMENDMENT (ELECTRONIC MONITORING) BILL 2020

Thank you for inviting Civil Liberties Australia (CLA) to comment on the consultation version of the above Bill.

In principle, CLA supports the proposed amendment.

CLA supports initiatives that expand the scope for non-custodial options where this does not compromise the safety of the community. Electronic monitoring should, in theory, allow greater scope for prisoners to serve part of their sentence in the community. This would reduce the impacts on families and dependants of prisoners, it would reduce the cost to the taxpayer, and it could improve the reintegration outcomes for the prisoners themselves. These benefits have been suggested in various studies including, most recently, in the Queensland Productivity Commission's Inquiry into Imprisonment and Recidivism.

If it achieves these outcomes, electronic monitoring will also go some way to addressing the large prison population in Australia which has grown substantially in the last few decades and now places Australia among the developed nations with the highest rates of incarceration. As a result, budgets for prison services have outstripped other areas of government services and new and larger prisons are being built (including in Tasmania) at considerable cost.

Apart from the above comments, we find it hard to make further detailed comment at this stage in the absence of a clear statement from the Government about the objectives of the amendments. Simply put, it is hard for us to offer an informed comment as to whether the proposed amendments are the best way to achieve the desired outcomes without a clear understanding about what the Government's desired outcomes are.

With this in mind, **we recommend** that in articulating its objectives (for example, in ministerial statements and explanatory materials that accompany the introduction of the Bill), the Government make clear that the objectives include:

- Reducing the numbers of imprisoned people by providing the Parole Board greater scope to grant parole with parole orders that ensure the safety of the community;

- Assisting parolees to comply with the terms and conditions of parole orders – that is, the primary objective should not be to target parolees and catch them out for violations;
- Reducing recidivism rates by increasing reintegration opportunities and by ensuring electronic monitoring complements prisoner reintegration services in the community.

And we recommend that the Government also make clear that:

- Electronic monitoring will be used only to assist parolees to comply with other parole orders (e.g. orders to not go near a former victim or a former criminal associate). It should not be a tool for 24/7 surveillance or control when the parolee is complying fully with their parole orders (see the related point below about the handling, privacy and use of any data or information created through the use of electronic monitoring).

We also recommend that, in introducing the Bill, the Government undertake to evaluate the extent to which the amendments achieve these intended outcomes – say, every two years – and report back to the Tasmanian public. The report should also evaluate any unintended outcomes from the amendments.

In addition to the above points, **we have concerns** about the collection, storage, privacy and use of data created as a result of the use of electronic monitoring. Again, it is difficult for us to provide detailed comment at this stage with no knowledge of the type of technology that will be used or the manner in which it will be used. For example, if the person goes somewhere he or she is perfectly entitled to visit under their parole orders, will that be visible to the authorities monitoring the device? Will it create an electronic record? In both cases, how will that information be handled? Will that data be able to be used for any other purpose apart from monitoring compliance with parole orders? Could such data be subject to court orders or other procedure for matters unrelated to the compliance with parole orders?

Related to this, **we also have concerns** about the length of time that a parolee may be subject to electronic monitoring under parole orders. In some cases, this could be many years. This could create a “honey pot” of information about everything from whether the parolee exceeded the limit in a parking space to whether they had interaction with a journalist.

We believe strict controls need to apply to the collection, handling, storage and use of any data created through electronic monitoring. **We suggest** these issues need to be made clear and – if necessary – safeguards for data privacy and security need to be built into this legislation and/or in other relevant legislation and regulation.

Thank you for your consideration of this submission.

Yours sincerely

Rajan Venkataraman
Vice-President