



Human
Rights
Law
Centre



29 March 2021

The Hon James Merlino
Acting Premier
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Dear Acting Premier

Joint open letter on ongoing and arbitrary use of 14 day quarantine in prisons

The undersigned organisations write to express concerns regarding the ongoing and arbitrary use of 14 day quarantine in Victorian prisons.

At a time when there is no community transmission of COVID-19 in the Victorian community, it is arbitrary and inappropriate for every person entering prison to be subject to 14 days in 'quarantine' regardless of COVID-19 risk. 'Quarantine' in prisons is too often code for solitary confinement, which is a destructive practice known to inflict long term, irreversible harm.

Yet in recent weeks, the Victorian Government passed the *Justice Legislation Amendment (System Enhancements and Other Matters) Bill 2021*, which gives them the power to subject people in prisons to mandatory quarantine for another 12 months.

There have been reports of men only having 15 minutes out of their cell a day, and women only having 40 minutes. This is alarming, given the well-documented harm that can be caused by solitary confinement. It also raises concerns about Victoria's compliance with its human rights obligations, given such practices can amount to cruel and degrading treatment.

Solitary confinement has a particularly detrimental impact on Aboriginal and Torres Strait Islander people, with the Royal Commission into Aboriginal Deaths in Custody noting that it is "undesirable in the highest degree that an Aboriginal prisoner should be placed in segregation or isolated detention."

No person should ever be placed in solitary confinement. Instead of putting people at risk of being subjected to such a practice, the Victorian Government should be reducing the number of people being funnelled into prisons in the first place.

While the Victorian Government has said that their quarantine policy in prisons is "following the advice of health experts", a recently obtained Freedom of Information request has revealed an alarming absence of robust, concrete health advice and minimal consideration of the mental health impacts of isolation. Instead, it showed a handful of emails that consider whether the 14 day 'quarantine' period for people in prison could be reduced.

Consistent with the advice of United Nations experts, any use of quarantine must be necessary, proportionate, guided by medical advice, regularly reviewed and human rights compliant. Arbitrary quarantine of everyone entering prisons, regardless of COVID-19 risk, is not a proportionate response.

As a matter of priority, the Victorian Government must adopt a proportionate, human rights-compliant response to COVID-19 in prisons, which should include consideration of less restrictive measures that do not amount to cruel or degrading treatment and are consistent with robust health advice.

For example, if the Victorian Government keeps subjecting people in prison to 14 days 'quarantine' when there is no community transmission of COVID-19 in the Victorian community, they must make individual assessments based on people's actual risk factors, obtain adequate health advice on an ongoing basis and consider shorter periods of quarantine where appropriate. Health advice must not just look at the risk of a COVID-19 outbreak in prisons, but must also consider the impact of restrictive measures on people's mental health and wellbeing.

Yours sincerely

Law Institute of Victoria

Federation of Community Legal Centres

Criminal Bar Association

Victorian Aboriginal Legal Service

Human Rights Law Centre

Fitzroy Legal Service

Mental Health Legal Centre

Law and Advocacy Centre for Women

Liberty Victoria