

## **It's official! Police run the federal government, tell Minister what to do**

Transcript, ABC Radio, 25 May 2012: Minister for Justice Jason Clare is speaking:

*"Well my job is to listen to the police and that's what I'm doing here.*

*"What I've said today is I'm going to give police the power, extra power, to remove people from working on the wharf, if we've got compelling criminal intelligence that they're involved in working with organised crime.*

*"Police have told me that by giving them these extra powers – to rip people off the wharf or out of companies if we think that they're up to no good ... that will help us to tackle organised crime..."*

No, Minister. It is your job to manage, to supervise, the police. You tell them what to do...not the other way around. Surely someone briefed you when you were appointed Minister?

You actually represent the people, the citizens of Australia...not the police of Australia.

Also, it is your job as Minister for "Justice", to ensure that people are convicted of a crime before being punished by having their work and livelihood barred to them. You have said you will remove people from the wharf if there is "compelling criminal intelligence".

CLA proposes that, if there is "compelling criminal intelligence", then you order your police to charge the people and bring them before the courts, where they can be tried and, if convicted, punished.

That's how Australian law is supposed to work, and you are responsible for Australian law.

Certainly it is not your role to trash the rule of law in Australia. That is what you are doing.

## **Colonel Boss joins the bench**



Dr Bernadette Boss becomes an ACT magistrate from 11 June. She has a PhD in international humanitarian law and human rights law, is a colonel in the Army reserve and a long-standing member of CLA. Bee (pictured left) has mentored numerous students on CLA's behalf for their internship essay process at ANU. She has been at the bar in Canberra for about a decade, after undertaking early legal studies in London, practising mainly in family law, military law, administrative law and children's court matters. <http://tiny.cc/htz0dw>

## **Spinspeak: Review, but only to make laws worse**

The government has announced a review of Australia's draconian laws so "our national security capability can evolve to meet emerging threats...while also delivering the right checks and balances for a civil society", according to a media release.

Bunkum, says CLA.

The government simply wants to write newer, nastier laws that will boost spook powers, allow further invasion of personal and online privacy, and also curtail recalcitrant Internet Service Providers (ISPs) and force them to do in and censor their customers, as well as retaining copies of your communications for years.

The *SMH* reported it this way: "The government is pursuing a significant expansion of the Australian intelligence agencies' powers, including the creation of ASIO super warrants, extending search warrants to six months and forcing upon private industry a powerful data retention scheme." (Richard Willingham, 4 May 2012)

The AG said the Parliamentary Joint Committee on Intelligence and Security would hold public hearings and report by 31 July. This means two things:

- there's just a few weeks to consider major reform in detail, including taking and hearing submissions from civil society, and reporting at length and, in a further enormous constraint,

- reporting before the Independent National Security Legislation Monitor's 2011-12 annual report can be tabled (probably about October), in which Brett Walker has flagged he will answer a myriad of questions posed in his first report last year about what security laws need changing.

Attorney-General Nicola Roxon is proposing reforms to the Telecommunications (Interception and Access) Act 1979, the Telecommunications Act 1997, the Australian Security Intelligence Organisation Act 1979 and the Intelligence Services Act 2001. But these are just a handful of the 50-plus new laws passed since 9/11 which repress civil society without achieving their supposed aim of protecting Australians from terrorists.

Much of the law-making, done in haste and panic after the Twin Towers aircraft attacks in New York and subsequent offshore bombings, is excessive and should be wound back.

The AG says: "Lawful access to telecommunications will be reviewed to ensure that vital investigative tools are not lost as telecommunications providers change their business practices and begin to delete data more regularly. Strengthening safeguards and privacy protections within national security legislation will also be considered, including clarifying the roles of the Commonwealth and state ombudsmen in overseeing telecommunications interception by law enforcement agencies."

She wants security risks on the telecommunications sector boosted, and new obligations on "the Australian telecommunications industry" – decoded, that means ISPs – to protect their networks from "unauthorised" interference. Decoded, that means stopping you and me doing what we want to do online without surveillance by the state.

Welcome to Roxonworld, where words mean what she wants them to mean, and new laws mean we keep on losing more traditional rights and freedoms.

– info from an AG media release 4 May 2012, and other sources:

## What the government really wants

In *Crikey* online magazine, Bernard Keane said the real agenda (see story above) was this:

- Simplifying and extending communications intercept powers
- Overhauling the way ASIO agents have immunity from prosecution for their actions
- "Expanding the basis of interception activities"
- Make it easier for ASIO to break into people's computers and to do so by using third party premises or equipment
- Require industry to help in decrypting information
- Making it easier for anyone who names an ASIO officer to be prosecuted
- Requiring telecommunications providers to harden the security of their networks.

"Most significantly," he wrote, the plan was to introduce 'tailored data retention periods for up to 2 years for parts of a data set, with specific timeframes taking into account agency priorities, and privacy and cost impacts' – *i.e.* data retention, in which your entire communications history, including your internet history, is recorded by your ISP so that the government can examine it, which the government has been mulling in secret for two years."

## Govt bowls PR spin, not reform commitment, CLA Director says

CLA supports a review of Australia's wiretapping laws (stories above), but questions the government's commitment to wind back the current, invasive laws, CLA's Media Director told newspapers in response to requests for opinion on the above announcement.

"Australia already has the most draconian anti-terrorism laws in the Western world and our wiretapping laws are incredibly invasive. Over 10 'interception' warrants are issued every day with little or no independent oversight," he said.

"The Attorney-General has said national security laws should be suitable for a 'civil' society. We want our laws to be suitable for a free society."

CLA believes no further extension to interception warrants should be made until the Government holds a genuine inquiry into the corrosive anti-terrorism laws passed since 2001.

"Whenever ASIO or the AFP have asked for a new power, however weak the justification, the Parliament has rolled over and given it to them. Sadly this current review seems a smokescreen for yet more laws that will undermine the right to privacy and freedom from unreasonable search."

## Two new Directors join CLA Board

Board President Dr Kristine Klugman has appointed two new Directors to the CLA Board under the rules for interim appointments.

They are Rex Widerstrom from WA and Saskia Vervoorn from the ACT.



Rex (left) has a background in senior media and political activities, and is a strong campaigner on prison reform. He runs his own consultancy business, advising clients in Perth and particularly throughout the boom mining areas in the north of the state.

Saskia (right) also has experience as a political staffer, but has worked with the federal Public Service for some years. Her particular area of expertise is in regional development issues and in education and immigration portfolios. *Fuller details on CLA website: see 'CLA*



*Board'*

## Scrutiny Committee wants to crack down on rubber stamping

Federal parliament's Scrutiny of Bills (SoB) Committee wants extra power to curb the mushrooming trend for bureaucrats and unelected bodies to decide on legislation through pseudo-parliamentary processes (like COAG, SLUDGE, etc\*), then see it rubber stamped by backbench parliamentarians.

This is a fundamental, structural problem which CLA – alone – has been highlighting for some years.

Under recommendation 11 of its report on its own future, the SoB wants to be given the early chance to consider any proposal for uniform legislation, amendments to uniform legislation or delegated legislation.

This would happen if "the nature of the proposal means that the ability of the Senate and its committees to effectively scrutinise and amend the relevant proposal is limited." In so saying, the Senate SoB is acknowledging that backbenchers are being taken for granted, as CLA has long claimed.

In such cases as outlined above, "exposure drafts should be provided as soon as practicable to this committee, the relevant legislative and general purpose standing committee, and the Senate Regulations and Ordinances Committee if the proposal includes delegated legislation. All relevant information about the proposal, including any formal agreements or correspondence should also be provided to the committees to assist in their consideration of the exposure drafts. the SoB's report says.

\* COAG: Council of Australian Governments

\* SLUDGE = SCLJ: Standing Council on Law and Justice, a sub-committee of COAG

## KiddieComm gets legal go-ahead

The new National Children's Commissioner bill was referred to the Senate Legal and Constitutional Affairs Committee on 23 May with a closing date for submissions just nine days later on 1 June and final reporting to parliament on 18 June.

The new law will create a Children's Commissioner to add to the President and six other commissioners comprising the Australian Human Rights Commission. The others are Aboriginal and Torres Strait Islander, Age, Disability, Human Rights, Race, and Sex.

The KiddieComm role is basically to be guardian of Australia's response to the Convention of the Rights of the Child, at a cost of about \$900,000 a year. <http://tiny.cc/74ewew>

## Backbencher Parke goes into bat for all our genes

Labor backbencher Melissa Parke is proposing a private member's bill to ban patents on all genetic material, including human genes.

Parliament recently passed the *Raising The Bar* bill, which was designed to protect cancer researchers who want access to genetic material that has been patented by private and public corporations.

Everyone's genetic make-up includes 23,000 genes which determine everything about a person, including their susceptibility to disease. Some 4,000 genes, or 20% of the humane genome, have been patented by organisations hoping to profit through exclusive research on them.

But Melissa Parke, the Member for Fremantle WA, says the government's bill does not go far enough and is lobbying for her new private member's bill.



CLA strongly supports her approach, and is actively looking for ways of helping her campaign. Director and Media Spokesperson Tim Vines is considering making gene therapy law the subject of his PhD thesis. (*Photo shows Ms Parke and Mr Vines discussing his PhD options in May 2012*).

"There were some very positive changes to the IP [intellectual property] system in the Raising The Bar Bill, but the problem with it is it did not address the issue of patentable subject matter," she said. "It did not cover gene patents. It is an omission that needs to be rectified."

This could be the second time a bill is introduced to the Parliament to ban patents on genes. In November 2010, Senator Bill Heffernan (Liberal, NSW) and other cross-party supporters introduced the first private member's bill that would have banned patents on genetic and biological material. <http://tiny.cc/m5ceew>

## Refugees seek relief from ASIO limbo of doubt

Indefinite detention of 51 refugees who ASIO say are threats to national security is being challenged in the High Court.

The case will test whether ASIO must tell refugees why they are considered security threats, possibly allowing such decisions to be independently reviewed.

Both the ALP national conference and a parliamentary inquiry have come down on the side of refugees being informed of the reasons for refusal, but the government has not yet changed the relevant law. Proponents believe refugees left in ASIO-limbo are being denied procedural fairness and natural justice.

Lawyers will argue that the High Court is not bound by the precedent of a landmark 2004 ruling (the Al-Kateb case), in which the government's right to hold asylum seekers indefinitely was upheld 4-3.

They will argue that the case, brought by a stateless Palestinian, did not involve someone found to be a refugee and consequently owed protection under Australia's treaty obligations.

They will also assert that the ruling, made in what is known as the al-Kateb case, was wrongly decided and should be overturned. <http://tiny.cc/7ds3ew>

## Privacy law beefed up

The government has tabled changes to the *Privacy Act*, created in 1988.

Key changes include:

- tighter regulation of using personal information for direct marketing;
- extending privacy protections to unsolicited information;
- making it easier for consumers to access and correct information;
- tightening the rules on sending personal information outside Australia;

- better protection for “sensitive information”, including health-related information, and DNA and biometric data; and
- more power to the Privacy Commissioner to resolve complaints, investigate and promote privacy compliance.

Further information: [www.ag.gov.au/Privacy/Pages/Privacy-Reforms.aspx](http://www.ag.gov.au/Privacy/Pages/Privacy-Reforms.aspx)

## Get ready for legal aid cuts

Attorney-General Nicola Roxon is paying Allen Consulting Group to review Australia’s Commonwealth-funded legal assistance services.

“This review will help to ensure we continue to deliver the most cost-effective Commonwealth-funded legal assistance services to those most in need,” she said, explaining that \$1.3 billion is spent of legal aid.

The problem is that “review” inevitably means “funding cuts” eventually, probably in the 2014 Budget. Review reporting date is 30 June 2013: [www.ag.gov.au/ReviewofNPAonLegalAssistance](http://www.ag.gov.au/ReviewofNPAonLegalAssistance)

The programs under review are Legal Aid Commissions, Community Legal Centres, Aboriginal and Torres Strait Islander legal services, and family violence prevention legal services – AG media release, 4 May 12.

## Government signs up to four more US Homeland Security programs

AG Roxon and US Secretary of Homeland Security Janet Napolitano signed four joint statements last month at Parliament House in Canberra:

*Joint Statement on Countering Transnational Crime, Terrorism and Violent Extremism:* sharing law enforcement data and expanding information sharing about extremism.

*Joint Statement on Supply Chain Security:* working bilaterally and through international forums to strengthen security of international cargo.

*Joint Statement on Collaborative Targeting:* working more closely with the US on information and intelligence sharing on transnational organised crime, including terrorism.

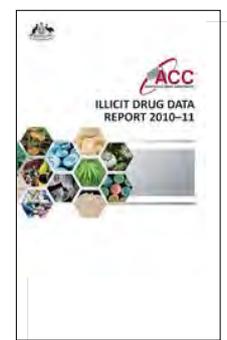
*Joint Statement on Frequent Traveller Facilitation:* linking the US Global Entry Program with the Australian SmartGate program. – media release, 4 May 12.

## Drug seizures up...but solving problem no closer

The Australian Crime Commission’s Illicit Drug Data Report for 2010-11 has revealed a record number of illicit drug seizures in 2010-11.

The report shows:

- record illicit drug seizures in Australia: 69,595, the highest in a decade;
- more than 9.3 tonnes of illicit drugs were seized nationally – 19% up;
- more than 84,700 illicit drug arrests – the second highest in a decade;
- about 70% of all drug-related arrests are for cannabis;
- amphetamine-type stimulants account for about 15% of all drug arrests;
- national steroid seizures and arrests are the highest in the past decade;
- ecstasy use down for the first time since 1995 but still the second most-used illicit drug in Australia;
- upward trend in domestic production of illicit substances continues, with 703 clandestine laboratories detected, most in residential areas;
- cocaine-related arrests less than 1.5% of all drug related arrests in the past decade; and
- heroin use and arrests remaining stable.



The full report can be found at <http://www.crimecommission.gov.au/publications/illicit-drug-data-report/illicit-drug-data-report-2010-11>.

As CLA points out every time there is a new record haul, the more drugs detected by police, the very high likelihood that there has been a corresponding increase of drugs imported or manufactured here. Claims that police, customs, etc are “winning the war” on drugs are a furphy. Only some form of legalising and taxing, coupled with treating addicts’ health problems, will move society towards a better solution to the drug problem, CLA says.

## **AFP get new forensic lab...but cost is a secret**

The Australian Federal Police are getting a new forensic facility, with the cost kept secret.

The new facility will include:

- firearms testing facilities and bullet tracking technology;
- expanded explosives analysis capability;
- new DNA technologies for identification;
- large, enclosed crime scene reconstruction spaces;
- allowing the AFP to get into the forensic research business; and
- enable more exchanges of information and people.

“The cost of the new facility remains subject to commercial negotiations,” the media release said. (In other words, it is being kept secret) – media release, Roxon/Clare, 8 May 12.

## **Do judges need special protection from the law?**

There’s an ongoing bunfight in Victoria over special treatment for judges – as public sector officials – in a new series of anti-corruption commission bills being passed by the Baillieu government.

Lawyer-based entities like Liberty Victoria are supporting judges: “The independence of the judiciary is absolutely central to the way we are governed,” said group president Spencer Zifcak. Even the judges are reportedly advocating for themselves strongly behind the scenes: Chief Justice Marilyn Warren has highlighted that “there had never been a corrupt judge in Victoria.”

But the Accountability Round Table – which advocates transparency in government – disagrees: “There should be no basis for treating judges differently from other public officials,” said ART’s spokesman David Yencken. The Police Association agrees: Greg Davis said it was unfair to give judges protection from open reporting in parliament when the bills actually had special, extra-penal clauses relating to police officers.

CLA wonders why judges – with a record as blameless as Victoria’s CJ claims – would even consider asking for special protection. One would think they would be the first to say they should be treated equally, in the same way they are meant to treat the people appearing before them.

<http://tiny.cc/09vwew>

## **CLA will make submission on sexting**

CLA will make a submission, authored by Rhys Michie, to the Victorian Parliament’s Law Reform Committee inquiry into sexting.

The LRC is considering sexting – sending sexual explicit images and text to others, predominantly done by children – and whether measures to educate children and youths about the repercussions of sexting are adequate.

The committee is also investigating how well existing sexting laws work and whether any proposed changes should be made retrospective in relation to the sex offender register.

Several cases have come to light where juveniles put on the sex offender register for childhood misdemeanours have had registry listing rebound on them four or more decades later.

<http://tinyurl.com/7vjmm4t>

## **Law Reform wants burden on juveniles cut back**

WA’s Law Reform Commission wants changes to registering and reporting of juveniles charged with child sex offences.

The LRCWA says laws which require children convicted of such crimes to be put on a state register are too strict on low risk offenders. It wants a separate system for juveniles, and also to give them the chance to apply for a review of their status as a reportable offender.

It has also suggested changes to prosecution guidelines so that senior police are required to oversee the decision on whether to charge juveniles with such offences. <http://tiny.cc/hy1ydw>

## **Spy drones likely to fly over Aussie cities**

Victoria Police is considering introducing unmanned drone aircraft, following US authorities who are using them for surveillance, searches and car chases.

VP has confirmed it is assessing so-called unmanned aerial systems (UAS) for "potential operational use". A VP spokeswoman did not spell out what kind of operations. Nor did she reveal how far police plans had advanced.

It is, however, the most explicit statement so far on Victoria Police's interest in acquiring high-tech, remote-controlled drones that can be fitted with high-definition cameras and sensors. In larger versions, they can carry weapons.

Other agencies, including Queensland police and the Australian Federal Police, are also interested in acquiring drones. <http://tiny.cc/14v8dw>

## **Police 'protest' rebounds in boosted march publicity**

A police legal bid to curtail a pro-Palestinian protest march has backfired...ensuring hugely more publicity for the event and therefore a bigger turnout.

The NSW Supreme Court last month rejected a police application to stop a pro-Palestinian march through central Sydney between 5 and 7pm. Protesters marched down George Street, Market Street, Pitt Street and King Street. Police had sought an injunction on the grounds the march would cause traffic and safety problems, but the application was dismissed.

A spokesman for the protest's organisers, Patrick Langosch, told *ABC Radio* the police challenge backfired.

"This case has been around in the media, it's gotten some international media attention as well," he said. "I think that had police not taken this action the rally would have been much smaller."  
<http://tiny.cc/10ieew>

## **Do you have a tall story about flying?**

CLA was asked last month about the issues tall passengers face on planes.

"Legroom appears to be shrinking and many people are unable to fit into standard economy seats, or have been hurt trying to. Airlines just tell these people to buy extra legroom seats but there aren't many and often frequent fliers/shorter people book them quickly. Also many are asking why should tall people have to pay more to fly - is it discrimination?" asked Kate Schneider, deputy Travel Editor of *News.com.au*

Here's how CLA replied:

"All transport operators have an obligation to treat everyone fairly, whether tall or short, big or small," said Civil Liberties Australia Director Tim Vines

"While CLA recognises that being naturally tall isn't a disability, and so wouldn't come under the Disability Discrimination Act, aircraft operators should avoid pursuing profits at the cost of treating members of the public unfairly.

"Ultimately following this policy could cost the airline more money than it is worth, if tall passengers (and their families) choose more accommodating airlines.

"For many people getting into a cattle-class seat requires Houdini-like skill. If a tall person were injured squeezing into a tiny seat then the airline might face a law suit," Mr Vines said.

## **Australia claims massive ocean territory**

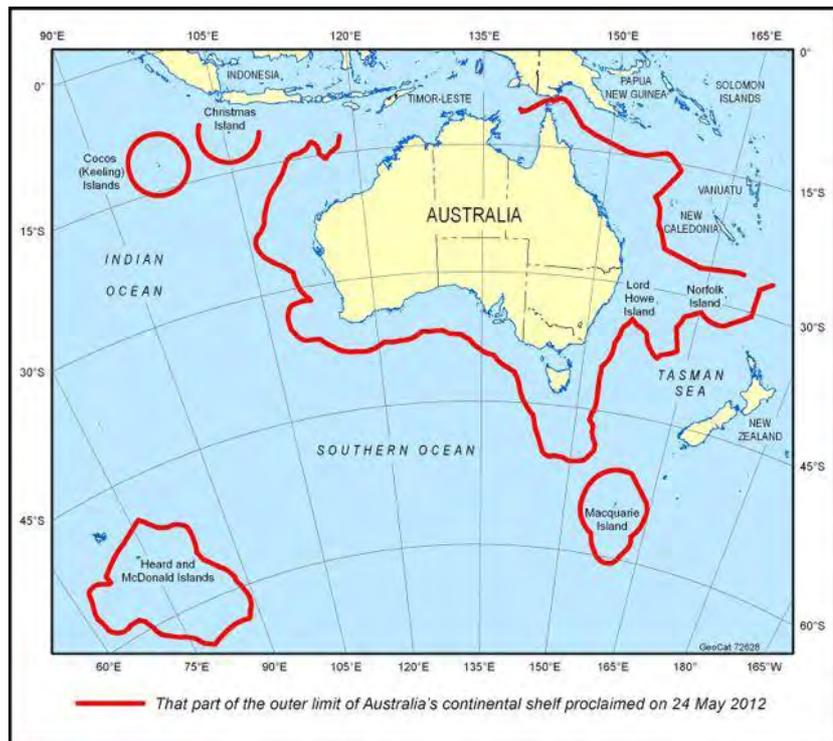
Australia has claimed 11 million sq km of continental shelf, aiming for legal certainty over areas where Australia asserts exclusive rights.

The government has made the *Seas and Submerged Lands (Limits of Continental Shelf) Proclamation 2012*, which defines an area larger than the Australian mainland.

The move claims the exclusive right to explore and utilise resources of the seabed within the delineated continental shelf area, including oil, gas, minerals and biological resources. ANU Professor Don Rothwell says Australia may face diplomatic complaints about claims over parts of the Southern Ocean.

See the map at:

<http://www.attorneygeneral.gov.au/Media-releases/PublishingImages/ECSmap.jpg>



## Fears NSW will renege on bail review plans

NSW Law Society president, Justin Dowd, said last month that the NSW Premier appeared to be "reassessing its position on bail and the law and order position generally".

Barry O'Farrell recently said bail should not have been granted to a biker accused of torching a police car, saying this was "another reason why the state's bail laws need the review we are subjecting them to".

Since Labor toughened the Bail Act in 2007, the number of bail refusals has skyrocketed, leading to a large number of juveniles and adults, who were never sentenced to a prison term, spending time in prison.

"The remarks attributed to the Premier were concerning to us, particularly in the context of bail," Mr Dowd said. "Bail is about a person appearing at court. It is not about punishment of someone who has not yet been tried or convicted.

"People are entitled to that presumption of innocence and that presumption should not be reversed when bail is considered. We acknowledge police do a very difficult job and they do deserve support but that support does not and should not infringe long-standing principles."

The Department of Corrective Services says that there has been a 254% increase in the total remand population since 1994 compared with an increase of 55% in the full-time custody population.

The NSW Council for Civil Liberties, part of the Bail Reform Alliance in that state, has notified CLA of a forum on Wednesday, 6 June, 5.30-7.15pm at the Teachers Federation Auditorium, 22 Mary St Surry Hills. <http://tiny.cc/m8m6dw>

## Rau says: straight to jail, do not pass bail

The South Australian Government is proposing new guns laws which will see some offenders sent straight to jail.

Under proposed laws, some people charged with a serious firearms offence would not be granted bail, apart from in exceptional circumstances, SA Attorney-General John Rau said.

The new category will include anyone who commits an offence against the Firearms Act or the Criminal Law Consolidation Act with firearm use:

- if on parole, home detention, bail or a suspended sentence, or released on licence, if a condition of liberty is being prohibited from possessing firearms or ammunition.
- when subject to a control order under the Serious and Organised Crime (Control) Act.
- that involves a prohibited firearm.
- that involves a fully-automatic firearm.
- that involves an unlicensed person using an unregistered hand gun.
- that is in breach of a firearms prohibition order.
- if the offence is committed in connection with a serious drug offence. <http://tiny.cc/uiifew>

### **‘Delia’s Drinkers’ now make up 1% of Territorians**

In the NT, 1 in 100 people are now banned from buying takeaway alcohol, Alcohol Minister Delia Lawrie has revealed.

The report into the first nine months of "Enough is Enough" legislation shows there are now more than 2,300 people on the banned drinkers register...but no politicians, yet, apparently.

Ms Lawrie told parliament that more than 12,000 alcohol sales had been prevented because of the Banned Drinkers Register and grog-related assaults were down 2.1%. But Opposition Leader Terry Mills claims the figures are "cherry-picked" and do not reflect the effectiveness of the policy.

New laws passed last month mean people will be fined \$70 for drinking in public within 2km of any licensed venue in the NT. Anyone copping three such fines in 12 months will be added to the infamous register. <http://tiny.cc/t41ydw>

### **Police numbers cut**

Tasmania Police will cut 25 positions in 2012-13, reducing numbers to about 1150.

The force faces a budget cut of \$4m on top of \$8m in 2011-12.

Police Commissioner Darren Hine outlined the changes in an internal memo last month. He said the police force would also be restructured as part of a Department of Police and Emergency Management cost reduction strategy. The staff cuts would involve moving frontline police to back office positions, he said.

There were reports that Victoria, Queensland and the NT are all hiring police, so that the planned natural attrition in Tasmania appears likely to easily cover the staff reductions.

<http://tiny.cc/m2quew>

### **Total ban on knives at school seems likely**

Queensland Education Minister John-Paul Langbroek looks set to include independent schools in the state system’s zero tolerance approach to students carrying knives.

His move follows a stabbing at a Catholic school at Caboolture where a 16-year-old boy has been charged with the attempted murder of a 14-year-old fellow student.

Mr Langbroek says state school students are banned from taking knives to school, but the ban does not apply to independent schools.

"It's important from a legislative perspective to make sure that we make laws that make sense and that can be enforced and that we have to have a modicum of individual responsibility in the community," he said. "People who understand that not everyone carrying a knife of any sort is going to do something bad, but we have to have practical applications in schools.

"We've said in the state system, you can't bring a knife to school - no reasons, no excuse - no matter what." <http://tiny.cc/sphfew>

### **Mandatory sentencing gets another thumbs down**

Local civil libertarians have slammed plans to introduce mandatory sentencing in Queensland, *ABC Radio* has reported.

Premier Campbell Newman says he will introduce a minimum one-year jail term for possession of an illegal firearm and five years for trafficking weapons

Queensland Council for Civil Liberties spokesman Terry O'Gorman says it is a knee-jerk reaction to Saturday's shooting at a Gold Coast shopping centre. He says it also contradicts recent advice from five judges.

"Mandatory minimum sentencing forces judges to sentence according to what Parliament says and forces judges to ignore individual circumstances in each of the various circumstances that come before courts," Mr O'Gorman said. <http://tiny.cc/w8mmdw>

## Mosquito anti-loiter device may breach discrimination law

The irritating Mosquito sound alarm – which has been described as a screech machine – has set WA's Commissioner for Children and Young People's teeth on edge.

Commissioner Michele Scott has warned the introduction of the device, which is used to deter young people from loitering in public areas, could breach the state's discrimination laws. The alarm emits a high-frequency noise audible to children and teenagers only. Businesses in Kununurra and Geraldton have started using it to try to reduce theft and vandalism.

She says she has written to the Police Commissioner demanding police withdraw support for the technology. "They won't be effective in reducing juvenile offending, (are) potentially unlawful and could give rise to a complaint under the Equal Opportunity Act," she said. <http://tiny.cc/0t6vew>



## Australian briefs

**Govt could opt for 'stronger integrity':** "There is a path that the Government can take to reassure its critics that it wants *Stronger Futures* legislation to comply with human rights standards...putting it up for review by the Parliamentary Joint Committee on Human Rights would be a strong signal," says UN Human Rights Office Regional Representative in the Pacific, Matilda Bogner, on current Australian legislation which seeks to continue the NT intervention. Info: OHCHR Fiji, Jacob Quinn at + (679) 331 0465 / [jacob.quinn@one.un.org](mailto:jacob.quinn@one.un.org) (See article on CLA website).

**Big Brother trudges ever closer:** Soon there will be one central database – the National Document Verification Service – with access to everyone's documents open to all government entities and the entire private sector. The government is opening the NDVS to the private sector from 2013-14 at a cost of \$7.5m, charging \$6.9m a year in fees. The federal government wants States and Territories to extend verification of driver's licences and birth certificates to business – release AG Roxon, 8 May 12.

**Groups unite against bad 'bikie' law:** Bikies, union officials and social justice groups have met in WA to oppose a State Government bill which makes it illegal for people in declared criminal organisations to associate with each other. The United Motorcycle Council of WA organized the meeting, attended by 25 groups opposed to the proposed Criminal Organisation Control bill. CLA believes the bill attacks everyone's human rights, not just those of bikies. It makes criminals of relatives and friends. While supposedly aimed at bikie criminals, it could be used against any group any government did not like. <http://tiny.cc/aoaqdw>

**Court fees to rise:** Federal courts and tribunals will charge more from January next year. "Changes to court fees will reflect the capacity of regular court users, such as big corporations, to contribute more to the cost of courts. The changes will also reflect the resource intensive nature of some matters," AG Nicola Roxon said. – AG release, 8 May 12.

**R U a flasher?** A Florida court has ruled that it's OK to flash oncoming drivers to warn them about a speed camera. Judge Alan Dickey ruled using car lights to communicate with other road users is "engaging in behaviour (*basically free speech - ed.*) protected by the US Constitution". In Australia, with no Bill of Rights, we have no such protection against flashing high beam...but turning your lights on to warn an oncoming driver may be legal. <http://tiny.cc/bd3uew>

**Journos say secrecy is stifling freedom:** The Media Entertainment and Arts Alliance's annual review says press freedom is being stifled by a raft of unnecessary secrecy laws. It says there have been some welcome reforms in recent years both to Freedom of Information and journalist shield laws. But it points out there are more than 500 secrecy provisions which criminalise making government information public, ABC Radio reports. <http://tiny.cc/8w3ydw>  
MEAA Report: <http://tiny.cc/c13ydw>

**Change of leadership needed in WA, CLA says:** WA Police Minister Rob Johnson has urged his colleagues to stop leaking information against him, warning it will not help their political careers, ABC Radio reported last month. "Some Liberals are unhappy with his performance and are campaigning for him to be stood down," the news outlet claimed. CLA believes the entire police/prisons/parole system in WA needs overhaul, including the appointment of new, enlightened people to lead aspects of it. <http://tiny.cc/84gfew>



**Pair reappointed:** The government has reappointed Sex Discrimination Commissioner Elizabeth Broderick and Disability Discrimination Commissioner Graeme Innes (*pictured*) to the Australian Human Rights Commission for two years. Ms Broderick has been Sex Discrimination Commissioner since 2007; she also chairs the Review into the Treatment of Women in the Australian Defence Force and has completed the Review into the Treatment of Women at the ADF Academy. Mr Innes, Disability Discrimination Commissioner since 2005, has also served as Race

Discrimination Commissioner and Human Rights Commissioner.

**All is revealed, up in the air:** Before you fly – or while you're in the air – all your personal information can be swapped with the European Union. Parliament's Treaties Committee last month endorsed an agreement between the EU and Australia on swapping Passenger Name Record (PNR) data. We have a similar deal with the USA. Committee Chair Kelvin Thomson said analysis of this and other data plays a critical role in identifying possible persons of interest in the context of combating transnational crimes - media release, Treaties Committee 10 May 12.

### **CLA's main activities for May:**

#### **Administrative:**

- CLA board meeting: two new directors appointed
- Possible High Court case where CLA may take up an 'amicus' brief
- Radio ads; videos for website being investigated
- Analysis web visitation data
- Policy on sex offenders register
- Revision of business plan

#### **Meetings with members:**

Colin Groves ANU, Skeptics and liberties

Chris Michaelsen, international terrorism laws, laws re children in cars

Webmaster Lance Williamson re renewal membership, web design

Lynne Bliss, consumer issues

Margaret O'Callaghan, African conference on mining/human rights

Melissa Parke MP re gene patent legislation

#### **Seminars/conferences:**

- Independent National Security Legislation Monitor: Mr Bret Walker (right), speaking at ANU
- National Police Accountability Network hook-up



#### **Brisbane:** meetings with

- Romey and John Stubbs: disability support
- Simon Bronitt: Centre for Excellence in Policing and Security: (historic anniversary conference April 2013, papers on police ethics, anti-corruption, international policing, security, technology, indigenous, disabilities: call for papers Sept)
- Prof Duncan Chappell, criminologist
- Gary Abbott, gay rights

#### **Networking:**

Buderim: Queensland Buddy group - for refugees (freedom songs, choral protest)

## **INTERNATIONAL**

### **US admits killing on suspicion**

John Brennan (right), President Obama's top counterterrorism advisor has gone on the record, admitting targeted robot killing is official US policy.

The statement, part of a broad speech on the ethics and "transparency" of America's drone program, included this one crucial line: "The United States government conducts targeted strikes against specific al-Qaeda terrorists".

Australia also has drones and drone operators in Afghanistan, but reportedly for observation rather than killing. <http://tiny.cc/zicqdw>



### **2000 inmates exonerated in 23 years**

More than 2,000 inmates and ex-cons have been exonerated since 1989, according to the database that aims to track all wrongful convictions in the USA.

More than 100 of them had been sentenced to death.

"This is a beginning," said University of Michigan Law School professor Samuel Gross, one of the database's creators. "One of my great hopes is that this will lead us to learn more about exonerations."

The database, which was developed with members of [Northwestern University's Center on Wrongful Conviction](http://www.northwestern.edu/center-on-wrongful-conviction/), focused on 873 individual cases. The researchers also identified 13 major police scandals that falsely netted 1,170 other people, although these are not included in the database because they are the results of a collective exoneration based on problems in individual agencies. <http://tiny.cc/8uowew>

### **Supreme Court to rule if journalists can sue over warrantless phone taps**

The US Supreme Court has agreed to consider whether a coalition of human rights groups and journalists has standing to challenge the 2008 FISA Amendments Act.

The Obama administration has argued that because none of the plaintiffs can prove that their communications were intercepted by any of the US government's secret surveillance programs, they lack standing to challenge the legislation that authorizes them.

The FISA Amendments Act prohibits intelligence agencies from "targeting" US citizens without a warrant, Timothy Lee wrote on the *Ars Technica* site. But the amendment allows group surveillance – like monitoring all phone calls and email in/out of Los Angeles, for example – which makes the individual citizen prohibition a nonsense.

The US Supreme Court will not rule on the plaintiffs' argument that the FAA violates the Fourth Amendment of the US Constitution. Rather, it will decide the threshold question of whether the plaintiffs are entitled to bring the suit at all. If the court decides the plaintiffs have standing, then the case will return to the lower courts for consideration on the merits. <http://tiny.cc/ijsoew>

CLA says the case highlights the fact that non-US citizens have absolutely no protections whatsoever: you should act as if all communication to/from the US is being monitored by US spy agencies...and it probably is, at the very least by computer robots doing keyword searches in close to real time.

## **Mandatory Census? Compulsion may be reviewed in the UK**

The British Government's prosecution of Census objectors is in jeopardy after the grant of a judicial review to challenge the legality of the act that makes it an offence not to complete the survey, which occurs every 10 years.

Privacy campaigner Nigel Simons, who did not fill out the 2011 Census, argues that s8 of the 1920 Census Act conflicts with his right to privacy under the European Convention on Human Rights.

News of a judicial review came just after two Census objectors saw their prosecutions unexpectedly dropped by the Crown Prosecution Service. One of them, John Marjoram, who is mayor of the Cotswolds town of Stroud, said he thought the CPS had dropped his case rather than face the prospect of having the issues around privacy aired in a public trial.

The High Court judicial review will embarrass the Office of National Statistics, which runs the Census, and the CPS, which has prosecuted 252 people for failing to complete the Census.

Of those, 198 have been given fines of up to \$1600, while more than 50 have filled out the form. Should the judicial review be successful, the convictions could be appealed.

Objections over the 2011 UK Census focus on three issues: perceived intrusiveness of some questions, lack of safeguards to protect data gathered, and the role of the UK subsidiary of the US defence contractor Lockheed Martin in processing Census data. <http://tiny.cc/k3xyew>

## **Long arm of the law now reaches inside your mobile phone**

London Metropolitan Police in 16 stations are extracting mobile phone data from suspects held in custody...and keeping the information for good when people are released, even without charge.

The data includes call history, texts and contacts.

Until now, officers had to send mobiles off for forensic examination in order to gather and store data, a process which took several weeks. Under the new system, content will be extracted using purpose-built terminals in police stations.

Officers can connect a suspect's mobile and produce a print out of data from the device, as well as saving digital records of the content.

A Met Police spokesman told the BBC that when a suspect was released, "data received from the handsets is retained and handled in accordance with other data held by police" - regardless of whether charges had been brought. <http://tiny.cc/f6qhew>

## **Irish journos claim state monitors their calls**

Irish journalists have raised fears about the country's draconian gagging orders on police officers talking to the media, including allegations that the state is monitoring their mobile phone calls to try to reveal sources.

Dublin-based reporters, some of whom are under death threats from armed criminal gangs, say that the Irish police force, Garda Síochána, has questioned them about police contacts, threatened them with arrest and checked their mobile calls to suspected sources.

Ian Mallon, the deputy editor of Dublin's *Evening Herald* newspaper, said the gardaí appeared more interested in who was the source of his stories than in acting against a crime boss who put a \$25,000 bounty on the head of his colleague Mick McCaffrey. Mallon described the Garda's ongoing pursuit of journalists' sources in the Republic as "Stasi-like".

The human rights organisation Index on Censorship said the Irish Republic's 2005 Garda Síochána Act, especially clause 62 of the legislation outlawing most rank and file police contact with the media, was "not the behaviour of a European democracy". Under the act, Irish police officers who speak to journalists without authorisation from their superiors can face fines of up to \$100,000, dismissal from the force or even seven years in prison. <http://tiny.cc/elb5dw>

## **South Africa may prosecute Zimbabwe over torture**

The High Court in South Africa handed down a historic judgment last month, ordering SAf authorities to investigate and prosecute members of Robert Mugabe's Zimbabwe government who had tortured their political opponents.

Under SAf law, the police are obliged to investigate evidence of a crime against humanity, wherever it occurs, if the rule of law does not exist there, as is the case in Zimbabwe.

The ruling has profound implications. It could cement SAf's commitment to protecting human rights and broaden the application of universal jurisdiction, which is the ability of countries to prosecute people who committed certain egregious crimes outside its borders. But SAf authorities appear to want to sidestep it and are reportedly preparing an appeal to the Supreme Court of Appeal.

Overturning the ruling would be a disastrous setback, and all those who care about human rights in Africa should pressure President Jacob Zuma of SAf to let the decision stand, Peter Godwin wrote in the *NYT*. <http://tiny.cc/xjceew>

## **UK moves towards secret spook hearings**

The UK Government is accelerating plans for secret hearings in civil courts.

Rather than preparing a white paper for public debate, a justice and security bill will be put through parliament in the near future.

MI5 and MI6 wants secret hearings after it came out in court that the security and intelligence agencies had been involved in the brutal treatment, and knew of the torture, of UK residents and citizens detained by the CIA.

Closed material procedures (CMPs) in the UK would allow sensitive evidence to be given in court but not seen by all the participants. Defendants or claimants and their courtroom representatives would be barred from the closed part of a hearing.

British human rights groups and many lawyers, including those vetted to represent alleged victims of wrongful behaviour by MI5 and MI6, are alarmed at the proposals, warning that evidence that cannot be challenged or tested in court may be unreliable and could lead to miscarriages of justice.

Ken Clarke, the British Justice Secretary, claims the powers are needed to reassure the United States that they can continue to share intelligence without fear of it being exposed in British courts, *The Guardian* reported. <http://tiny.cc/2lg3dw>

## **Physiology expert claims stun guns are potentially lethal**

Dr Douglas Zipes, an electrophysiologist at Indiana University, claims in the US Heart Association journal, *Circulation*, that stun guns are potentially lethal weapons.

In a peer-reviewed article in the 30 April 2012 edition, he wrote that a review of "animal and clinical data" showed that Taser strikes to the chest can "cause cardiac electrical capture", which can trigger a heart attack.

The best-known stun gun, the Taser, is used by about 16,000 law enforcement agencies around the world, and is heavily marketed as a way to subdue an individual without causing substantial injury or death.

In one part of his study, Dr Zipes says that even well-designed tests “may not be able to replicate the clinical scenario of a frightened/fleeing/fighting individual”...which the circumstances in which most stun gun discharges by police and security people take place.

Since 2001, more than 500 people have died following use of stun guns, according to Amnesty International, which said in February that stricter guidelines for its use were "imperative".

<http://tiny.cc/wdf8dw>

## **Manning trial more secret than Al Qaeda trials: claim**

The US military trial of the WikiLeaks suspect Bradley Manning is being conducted amid far more secrecy than even the prosecution of the alleged 9/11 Al Qaeda plotters in Guantanamo, a coalition of lawyers and media outlets claim.

Led by the New York-based Center for Constitutional Rights, the coalition has petitioned the Army Court of Criminal Appeals calling for the court-martial against Manning to be opened up to the press and public.



The group complains that the way the trial is being handled by the trial judge Colonel Denise Lind (left) is a violation of the First Amendment of the constitution that requires public access unless the government can specifically demonstrate the need for secrecy.

Manning faces 22 charges related to the leaking of a vast trove of US state secrets to the whistleblower website WikiLeaks. He was arrested in May 2010 at a military base outside Baghdad, where he was working as an intelligence analyst, on suspicion of passing hundreds of thousands of US diplomatic cables as well as war logs from Iraq and Afghanistan to WikiLeaks.

<http://tiny.cc/806vew>

## **Pentagon creates new spy body, posing as business people**

The Pentagon is to create a new spy service ‘to focus on global strategic threats and challenges posed by countries including Iran, North Korea and China’.

The move will bring to 17 the total number of intelligence organisations in the US.

The Defense Clandestine Service is supposed to work closely with its counterpart in the CIA, the National Clandestine Service, recruiting spies from the ranks of the Pentagon's Defense Intelligence Agency (DIA) and deploying them globally to boost the flow of intelligence on perceived long-term threats to US national interests.

US military news website *Insidedefense* said the Defense Department had asked Congress for authority for spies to work undercover posing as businessmen when conducting covert operations abroad.

The move by the Defense Secretary, Leon Panetta, emerged in briefings to US journalists. The new service will be relatively small, increasing in numbers "from several hundred to several more hundred" over the next few years, according to officials.

The US already has 16 intelligence organisations scattered around the defence, state, justice, homeland security and energy departments, as well as the armed services. <http://tiny.cc/vvv9cw>

## **Australian police may return to Vanuatu, but without apologies (comment)**

The Australian Federal Police will return to Vanuatu but an apology from Canberra for the alleged diplomatic blunder involved in the arrest of a convicted fraudster who was part of Prime Minister Sato Kilman's "delegation" at Sydney airport is unlikely.

The AFP will return for the obvious reason that Vanuatu is desperate for the Aussie dollar to support its recently passed Vt20 Billion national budget. And it is in Australia's interest to keep Vanuatu as a "satellite" state for Canberra, pumping huge AusAID money into beefing up the Vanuatu Police Force and reportedly paying the salaries of the new police graduates that had not been budgeted for last year.

Australia needs Vanuatu just as Vanuatu needs Australia. Australia's aid to Vanuatu has increased in recent years, and will amount to \$70.1 million (Vt7 billion) in 2011-12. There are indications however that Australian foreign aid will be cut by almost \$3 million.

And Vanuatu's import from Australia alone in 2010-2011 is \$73.4 million (Vt7.4 billion) which makes some commentators say Vanuatu importers also contribute to Aussie taxpayer money.

– by Ricky Binihi, *Vanuatu Daily Post*, 17 May 2012 <http://tiny.cc/z5mwew>

## International briefs

**Will Australia host nuclear weapons?** The US would redeploy tactical nuclear weapons to the Asia-Pacific and ask regional allies to host nuclear weapons in plans added to the draft Pentagon budget, Harley Dennett reports in *Crikey*. Nuclear weapons would be positioned on US and voluntary allied bases as a deterrent against North Korea, Iran and reassure allies against any belligerent or rogue nation in the Asia-Pacific. If the measure survives all administrative process, and is not vetoed by President Barack Obama, then formal plans and costings will be drafted by the Pentagon for consideration after the 2012 election. <http://tiny.cc/i0hfew>

**Rotten police corrode public trust:** The UK police watchdog has revealed how more than 8,500 complaints about corruption have been recorded by forces in England and Wales in three years – but only 13 police officers have been prosecuted and found guilty. Calling for additional powers and resources to tackle police corruption linked to the private sector, the Independent Police Complaints Commission (IPCC) warned that although corruption in the police is not deemed to be "widespread", it has a "corrosive" impact on public trust. <http://tiny.cc/otctew>

**Al Jazeera runs foul of mandarins:** Foreign correspondent, Melissa Chan, has been expelled from China because authorities did not like what TV broadcaster *Al Jazeera English* ran. Not renewing her credentials means she has been forced to leave the country. Chinese officials were unhappy with a documentary – which she was not involved with – on prisons. They also said they did not like the general tone of stories on China run by the broadcaster on controversial issues like so-called black jails, which illegally hold people for questioning. *Al Jazeera* says it is closing down its English language bureau in the Chinese capital. <http://tiny.cc/gjfaew>

**Death steals upon us silently:** Research for the [Dying Matters Coalition](http://tiny.cc/s8jeew) reveals that death remains a taboo subject in the UK. Fewer than a third of the public have asked a family member about their end-of-life wishes, or talked about their own. Just 37% of the public have written a will, 31% have registered to become an organ donor and only 8% have written down their end-of-life wishes. This risks people not getting the care they want, or leaving a mess for those close to them, the organisations say. <http://tiny.cc/s8jeew>

**Beware where your contracts are based:** Privacy and liberties advocates are criticising the new 'cloud' service, Google Drive, because the terms of service said that anyone storing data on Google Drive was subject to the law of California. But most similar services, such as PayPal, are similar: the e-pay organization applies the law of Singapore and the USA to its contracts and disputes. E-buyer beware is good advice. <http://tiny.cc/aubqdw>

## DATES

**6 June, Sydney:** Bail Reform Forum, Teachers Fedn auditorium, 22 Mary St, Surry Hills, 5.30-7.15pm. Details: [email@nswcccl.org.au](mailto:email@nswcccl.org.au) or phone: 02 8090 2952

**13–14 June, Sydney:** Anthropology – Culture and Rights: scepticism, hostility, mutuality: exploring the relationship between the concept of culture and the concept of human rights, U. Sydney. Info: <http://sydney.edu.au/news/arts/2247.html?eventid=9138>

**14-15 June, Sydney:** Crime prevention and communities: Social and environmental strategies for safer neighbourhoods – Sydney Convention & Exhibition Centre. <http://tiny.cc/j1xa8>

**15 June, Melbourne:** Annual Dinner, HRLC/PILCH: keynote speaker Les Malezer, Co-Chair of the National Congress of Australia's First Peoples. Further details: [rightsagenda@hrlc.org.au](mailto:rightsagenda@hrlc.org.au)

**18 June, Canberra:** Prison System: Mass Incarceration and Prospects for Policy Reform in the US. Prof Bruce Western, Harvard Kennedy School, 5.30-6.30pm, Molonglo Theatre, JG Crawford Bldg. Details: [events.coombs.forum@anu.edu.au](mailto:events.coombs.forum@anu.edu.au)

**12-13 July, Hobart:** The ANZ Critical Criminology Conference 2012, Faculty of Arts, Sandy Bay Campus, U. Tas. Email: [R.D.White@utas.edu.au](mailto:R.D.White@utas.edu.au); Telephone: 03 6226 2877

**20 July, Melbourne:** Annual Castan Centre human rights law conference, speakers include Gareth Evans, Susan Ryan. Spring St conference Centre, 1 Spring St. Info: [castan.centre@monash.edu](mailto:castan.centre@monash.edu)

**6-8 Aug, Canberra:** CIPL Workshop, ANU: Connecting International Law with Public Law, Engendering governance: from the local to the global. Info: [Katharine.Young@anu.edu.au](mailto:Katharine.Young@anu.edu.au)

**11 Aug, Melbourne:** Stop Aboriginal Deaths in Custody: 2012 Winter Action, 11am-1pm, Old GPO, cnr Burke & Elizabeth Sts. <http://www.isja-msg.com/> E: Alison Thorne at [alison.thorne@ozemail.com.au](mailto:alison.thorne@ozemail.com.au)

**23-25 Aug, Brisbane:** 'Doing Justice for Young People in Australia and New Zealand', 23-25 August 2012, Sebel Citigate Hotel. Info: <http://www.aija.org.au/Youth%20Justice%202012/Programme.pdf>

**27-31 Aug, Rarotonga (Cook Is):** 43rd Pacific Islands Forum. <http://tiny.cc/t24en>

**28 Aug, Adelaide:** National Police Accountability Network meeting (see item below)

**29-31 Aug, Adelaide:** National Community Legal Centres conference 'Weathermakers...Creating a Climate of Change' conference. Web: <http://tiny.cc/sk87bw> Ph: 07 5580 8 677  
Email: [naclc2012@conferenceonline.com.au](mailto:naclc2012@conferenceonline.com.au)

**6 Sept, Sydney:** Corruption Prevention Network 2012 forum. <http://tiny.cc/1515bw>

**20-22 Sept, Canberra:** Public Law Weekend (including International Law Day) at ANU: Law's Challenge to Democracy – Democracy's Challenge to Law. Details: [cipl@law.anu.edu.au](mailto:cipl@law.anu.edu.au)

**20 Sept, Canberra:** Annual Kirby Lecture on International Law at ANU to be presented by former International Court of Justice Judge Christopher Weeramantry, now at Monash U.

**21 Sept, Canberra:** 15th Geoffrey Sawer lecture at ANU: to be presented by Professor Adrienne Stone, University of Melbourne, constitutional law expert currently engaged on a four-year project researching "Freedom of Expression in Democratic States".

**13-14 December, Sydney:** international workshop on '[States of Surveillance – Counter-Terrorism and Comparative Constitutionalism](#)'. Gilbert and Tobin Centre, UNSW. Info: [f.davis@unsw.edu.au](mailto:f.davis@unsw.edu.au)

**2013:**

**12-14 Mar, Brisbane:** NatStats Conference, "A better informed Australia: the role of statistics in building the nation". <http://blog.abs.gov.au/Blog/natstats.NSF/>

**2015:**

**June, England:** 800th anniversary of Magna Carta

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CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. Responsibility for election comment in CLArion is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in CLArion, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: [mailto:secretary\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au)