

CLA to help mount decade-long campaign for 'Better Justice'

Better Justice, that's the catch cry for Civil Liberties Australia over the next decade.

CLA will work with legal bodies and other groups, like forensic scientists, social researchers and media/communications groups to mount a 10-year campaign to improve the quality of justice in Australia.

"There has been no fundamental overhaul of the legal system in Australia for at least half a century," CLA President Dr Kristine Klugman said. "Most other systems in society have been reviewed and improved several times over that period.

"But the legal system has no way of learning from its mistakes, and self-improving. Mistakes made in the Lindy Chamberlain dingo-stole-my-baby case 30 years ago are being repeated in the courts today."

The CLA Board decided at its November meeting to make the Better Justice campaign a cornerstone of CLA's efforts. The decision followed CLA's involvement with a Miscarriages of Justice symposium in Adelaide in early November 2014.

Attendees included senior legal academics from around the nation, barristers, forensic and social scientists, people who have spent years in jail wrongly, pro bono lawyers seeking to free those currently in jail wrongly, and communications and civil liberties experts.



Above: South Australian justice campaigner, legal academic and author Dr Bob Moles, wrongfully-convicted Gordon Wood of NSW who was eventually freed after spending three years in Goulburn Jail for murder, and Perth barrister and QC Tom Percy at the Adelaide Symposium on MoJ in Nov 2014.

They agreed to work together to try to improve justice in Australia. There will be particular emphasis on:

- validating and setting higher standards for expert forensic evidence in courts;
- learning and implementing lessons from police errors;
- identifying where and how prosecutorial mistakes and misinterpretations occur;
- evaluating how wrongful convictions fail to be caught at least at appeal stage by courts: and
- advocating federal/state inquiries, and/or creation of a Criminal Cases Review system.

Better Justice will mount a decade-long information and education campaign to convince legislators and the judiciary to lift legal fairness and equity to higher quality standards.

Overseas, the Criminal Cases Review Commission in England and Wales is helping to raise the standard of justice, while improved standards are also emerging in America with wrongfully-convicted prisoners being released through Innocence Projects catching mistakes in the US legal system.

"If there's a major stuff-up at a hospital, the medical system holds a sweeping review of procedures, and produces recommendations for better treatment to avoid the same mistakes," Dr Klugman said.

"If an aircraft crashes, there's months and months of safety board review, resulting in mandatory changes to equipment or systems throughout the aviation world.

"But when the Australian legal system makes a major mistake – which happens several times a year, at least – no systemic examination is undertaken, no lesson is learned, no improvement is put in place for the future.

"Learning the lessons, improving the legal system, is what Better Justice is about," she said.

Eastman to stand trial...again

The ACT Director of Public Prosecutions Jon White has decided to re-try David Eastman.

Eastman has already spent 19 years in jail. He was wrongfully convicted of murdering assistant commissioner of the Australian Federal Police, Colin Winchester, in Canberra in January 1989, as the umpteenth appeal/inquiry into the case ruled earlier this year.

Among the findings of the 2014 inquiry were that the Office of the DPP had not fully disclosed information to the Eastman defence, and that the AFP was incompetent in its investigation and failed to disclose the dubious qualifications and track record of its own forensic "expert", facts it knew about.

Writing in the *Canberra Times*, editor-at-large Jack Waterford said:

"The review was scathing about the quality and credibility of forensic evidence from a former forensic scientist seeming to link gunshot residue said to have been in Eastman's car to residue at the murder scene. Former Justice Brian Martin, who conducted the inquiry, was also highly critical of police investigators, harassment of Eastman and of the fact Eastman's team was not told of material that could have helped him."

No-one from the AFP or the ACT DPP, or now retired, has been charged with breaking the law, despite the formal findings that they did so by their behaviour in the original trial.

Instead, the man who has been found not to have broken the law is to face trial.

Those newly preparing and arguing the case against him will be the ones from the entities who are proven to have broken the law, and prepared and conducted a skewed case against him in the Supreme Court of the ACT.

Such is justice in Australia.

Liberty Tree thrives and grows

Australia's Liberty Tree is alive and well.

Two of the three people who planted it – former ACT Chief Minister Jon Stanhope and CLA President Dr Kristine Klugman – inspected its progress recently at the National Arboretum in Canberra.

The tree, an initiative of Civil Liberties Australia, appears to be thriving, despite a fierce and hot wind blowing on the day of inspection.



Right: Dr Kristine Klugman and Jon Stanhope in front of the Liberty Tree in the National Arboretum.

Committee sets new low for ‘consultation’

The Australian Parliament’s public “consultation” about terror laws has become so farcical that a committee is to hear evidence before receiving submissions.

The committee will hear evidence on 17 Dec 2014, but receive submissions until 19 Jan 2015.

This is a total about-face on normal procedure. It puts the cart many lengths ahead of the horse. Usually, submissions close, then one or a few weeks later – after committee members are meant to have read all the submissions – a committee hears oral evidence and quizzes the submitters.

“Parliamentary consultation” is becoming more of a sham, a charade staged to pretend to listen to the people, but in reality a rubber stamp for virtually whatever the government wants.

The Parliamentary Joint Committee on Intelligence and Security (PJCIS) is the body planning to hold hearings before all submissions are in.

The PJCIS is dominated by a security/military elite who bear no resemblance to the “common people” the parliament is meant to represent. Their decisions are inevitably skewed by their backgrounds and their insider, elite status. One member, Labor’s Senator John Faulkner is even suggesting their special “select” status be cemented in law, and they become a “super committee” with new, expanded powers.

The PJCIS adopts an approach that whatever the security and police agencies desire is considered the the putative de facto status quo: it is up to submitters, representing civil society, to argue against whatever powers the spooks and police want, and to justify why they should NOT have the powers they are demanding.

Of course, the reverse should apply: security and law enforcement agencies should be required to publicly justify why they need any new and extraordinary powers over citizens, particularly innocent civilians who have committed no crime, yet under proposed laws are to be monitored 24/730... that’s 24 hours a day for two the past two years, ongoing.

MP ganders go on holidays, geese toil away

As usual, MPs put their holidays and convenience before that of us commoners. The committee will last meet on 17 December, then not again until 28 January, allowing about six weeks for MPs to enjoy their holidays, frequently taken overseas by MPs at this time of year.

Meanwhile, the MPs expect civil society – us and groups like us – to beaver away throughout December and to 19 January, when submissions close.

In other words, the MP ganders get to go on their vacations, while we geese are expected to work through their holidays for the benefit of the ganders.

If this legislation was truly urgent, and required immediate attention, then the MPs would have given up their holidays for the good of the nation. As they didn’t, it’s fair to ask why the rush...and why this legislation could not be considered in the March-May period.

Cart before horse consultation concerns critical data retention law

The “terror law issue” in question (see items above) is extremely important: the committee is considering a dramatic change to how the state – the security apparatus, police and the government – could exert secretive control over our lives by their access to all emails, phone calls and other data collected and collated on us.

You would never know if, or when, you were being watched and under close surveillance.

The bill is the *Telecommunications (Interception and Access) Amendment (Data Retention) Bill 2014*.

Here is what the PJCIS announced on 27 Nov 2014:

“Public hearings will be held on 17 December 2014 and on Wednesday 28 and Thursday 29 January 2015. Submissions are requested...no later than Monday 19 January 2015”.

Even the last date allows just seven weeks – which include Christmas, New Year and the traditional holiday period – for individuals and community groups to prepare submissions.

The new law will create a mandatory telecommunications data retention regime. Telstra and other ISPs will be forced to retain data for two years, upping our costs as consumers as well as spying on us.

The explanatory memorandum to the bill states that data retention is necessary as:

- serious and organised criminals and persons seeking to harm Australia’s national security, routinely use telecommunications service providers and communications technology to plan and to carry out their activities, and
- agencies have publicly identified the lack of availability of data as a key and growing impediment to the ability to investigate and to prosecute serious offences.

Note that the concentration, the first mention, is on serious and organised criminals. In other words, beheading fear heightened by media beat-ups is being used by police in particular to expand their powers.

Police appear to have had no problem – under current laws – in being able to use existing intelligence to plan and mount 800-police raids in Sydney (arresting 15, charging one only with a major offence) and, on the one day, raiding 75 alleged bikie homes and businesses in Brisbane, presumably requiring at least 300-400 police.

Police listen in to client-lawyer calls...

Police surreptitiously listened in to a client-lawyer conversation after detaining a man recently under the never-before-used preventative detention order (PDO) regime.

The man was one of 15 initially held when the infamous 800-police raid in September 2014 created fear that the streets of Sydney might run with the blood of beheadings.

Instead, of the 15 initially held, one man has been charged with a “terrorism-related offence”: it is believed it may include owning a plastic sword.

Understandably, police are reluctant to reveal details of how ill-conceived were the oxymoronic raids, based on “police intelligence” and primed for maximum TV exposure. As usual, police monopolised video and photos, and supplied their version of events to media outlets.

Lawyer Nick Hanna, who represented one of the men eventually not charged, says his first phone contact with his client was secretly monitored by police without telling him. Had he spoken to his client in another language he — the lawyer — could have been charged with an offence, but he received no warning of that possible outcome.

It was only when he spoke to his client the second time that police admitted they were monitoring the calls, and warned him he must speak in English. Lawyers are up in arms that their conversations with clients are monitored, fracturing a centuries-old traditional civil liberty.

The Guardian reported that 36-hour PDOs were granted by a court the night before the early morning raids. Civil Liberties Australia believes the police papers presented to the court should be released publicly, so any wild claims made by police can be evaluated in public. <http://tinyurl.com/phgm9dw>

At the time, and after police briefing, Prime Minister Abbott said: “Police believe that this group that we have executed this operation on today had the intention and had started to carry out planning to commit violent acts here in Australia,” he said. “Those violent acts particularly related to random acts against members of the public.”

NSW Police Commissioner Andrew Scipione said the raids reflected “the reality of the threat we actually face”. “You know it is of serious concern that right at the heart of our communities we have people that are planning to conduct random attacks,” he said. “Today we work together to make sure that didn’t happen. We have disrupted that particular attack.”

Who needs courts when a Prime Minister and a Police Commissioner both say within hours of the raids that those raided were guilty? <http://tinyurl.com/kcm6ubl>

‘No show’ Brandis hides his metadata...or, at least, his COS does

Attorney-General George Henry Brandis wants you to show him yours, but he won’t show you his.

He is tabling bills in parliament to allow virtual open slather for police and spooks to pry into all your metadata, which is to be retained by Telstra and other ISPs for two years.

But the AG – sometimes called Pompus Arrogantus by Latin lovers – has refused to reveal the “metadata” of his mobile phone bill.

In six pages of tightly-reasoned argument replete with legal precedent, Paul O’Sullivan, who is Brandis’ Chief of Staff (POS, COS), has decided, as an “authorised FOI Act officer”, to refuse the FOI request for billing information contained in the Attorney-General’s mobile phone bill for July 2014.

Josh Taylor of *ZDNet*, who requested the information, must be mortified: he got 17 pages with all detail blanked out. As Ben Grubb pointed out on *Fairfax Digital*, the 17 pages of mobile phone bill for a month is possibly about four times the extent of many people’s mobile phone bills. That, of itself, is revealing.

Perhaps George Henry Brandis is trying to take over – from former Liberal Prime Minister Billy McMahon – the title of Tiberius on the Telephone (bestowed on the near-deaf, long dead Billy by the patrician Gough Whitlam, himself recently deceased).

POSCOS wins: ASIO agents break the law with impunity

POSCOS – Paul O’Sullivan, Chief Of Staff – the puppeteer for AG George Henry Brandis’ public performances, “accepted a role as political advisor for the Abbott Government in 2013”, according to his Wikipedia entry.

POSCOS (Paul O’Sullivan, Chief of Staff...he has won)



A year ago, in November 2013, he joined Brandis. Brandis has had an “annus horribilis” for gaffes in 2014 (the free speech bill debacle, not understanding the internet and metadata, his support of people being bigots, etc).

Apart from heading ASIO, ex-diplomat O’Sullivan had a “mini” knighthood (CNZM) bestowed on him by NZ, for unspecified “services to A-NZ relations” in 2012. The betting is O’Sullivan helped by using ASIO intelligence to “shop” Kim Dotcom, so the NZ Police could arrest the man who gave ‘legalised’ online piracy a larger-than-life, mega name. Dotcom’s court battles in NZ continue.

O’Sullivan certainly has “stand-out” advisor qualifications: read his Wikipedia entry – https://en.wikipedia.org/wiki/Paul_O%27Sullivan – to find out what someone who served with him in Cairo thinks of his ability to keep a secret, and how he advised the Australian Wheat Board to not (repeat, not) fully cooperate with a UN inquiry, according to evidence presented to the Cole Inquiry into the oil-for-food scandal.

When head of ASIO, O’Sullivan presided over “gross violation” of a person’s rights. NSW Supreme Court Judge Michael Adams said the behaviour of two of Mr O’Sullivan’s ASIO agents was probably criminal, and constituted false imprisonment and kidnapping under the law. O’Sullivan defended his ASIO agents’ illegal behaviour. <http://tinyurl.com/lhsmtyg>

Now, under a new law passed in Nov 2014, ASIO officers can break the law with impunity. O’Sullivan has won: the rule of law in Australia has been defeated.

With POS as COS to Brandis, we can expect a lengthy list of increasingly repressive laws trotted out in 2015, just as has happened at the end of 2014 with the “three tranches” of new anti-terror laws.

POS is the ultimate insider, one of the clubbiest members of the exclusive “spooks’ club” pulling the strings behind government in Australia. As the 17 blanked out pages of the Brandis mobile phone bill indicate, he is a bete noire of openness and transparency in government...or, as Pompus Arrogantus himself might say, the belua niger.

The eloquence of Australia’s AG?

If you would like to judge for yourself whether or not Australia’s barrister Attorney-General, Henry George Brandis is an eloquent advocate, please view this performance of his in parliament.

The debate is over an important matter, the anti-terrorism legislation he is responsible for steering through parliament. The Greens law and justice spokesperson, Senator Penny Wright, asks a polite question. Here’s what happens:

<https://www.youtube.com/watch?v=CBZyoUaWKzg>

Civil Liberties Australia is left with two basic questions: if a Minister refuses — sotto voce, in whispered conversation with the clerk of the Senate – to answer a question, should the Minister’s pay be docked, as he or she would not seem to be

'working' fully in parliament; and, is this non-answering of reasonable questions in parliament to become a general tactic of the government?

If so, it may appear to the electors of Australia to comprise contempt of parliament by the Coalition.

AG usurps charging decision over journalists

Attorney-General George Brandis said on 30 Oct 2014:

I have today decided to take advantage of the powers available to me under section 8 of the Commonwealth Director of Public Prosecutions Act to give a direction to the Commonwealth Director of Public Prosecutions that in the event that the director had a brief to consider the possibility of the prosecution of a journalist under section 35p or under either of the two analogous provisions I have mentioned, he is required to consult me and no such prosecution could occur without the consent of the Attorney-General of the day.

Civil Liberties Australia says that all the Brandis statement does is to ensure any decision to prosecute – or not – is a political decision, not an independent decision.

We can see how it advances Brandis' political ends, but not how it is any extra or comforting protection for journalists or the Australian people. In fact, cynics would think such a proviso could be used to threaten to launch a prosecution against a journalist to "encourage" them to reveal their source. <http://tinyurl.com/l53v4h9>

ALRC lays down principles to aid disabled

The Australian Law Reform Commission's report on *Equality, Capacity and Disability in Commonwealth Laws* (ALRC 124) makes 55 recommendations for reform so that people with disability receive equal recognition before the law.

The report, tabled in parliament last month, concentrates on their right to make decisions that affect their lives and to have those decisions respected.

The ALRC says national decision-making principles should guide reform at a national level. The principles would acknowledge the UN's Convention on the Rights of People with Disabilities concentration away from 'best interests' decision-making to a focus on 'wills, preferences and rights'.

The [report](http://www.alrc.gov.au/publications) and [summary report](http://www.alrc.gov.au/publications) are available free at <http://www.alrc.gov.au/publications>

Bring back old law, judge suggests

Acting Justice Peter W Young of the Supreme Court of NSW believes old laws could be new again to stop people taking disputes with Australia offshore to semi-legal tribunals.

Currently, several trade treaties allow malcontent non-Australian companies to take Australia to an ad hoc international 'tribunal': under the Trans Pacific Partnership deal, being negotiated in secret, the opportunity for second-chance litigation – if an offshore company loses in Australian courts – would expand.

"In the Middle Ages the Statute of Praemunire was passed to prevent people taking their disputes offshore for decision," he wrote in the Australian Law Journal in Nov 2014. "Extremely severe punishments were imposed for breach and not even the king could pardon the offence. The main aim of the statute was to prevent people having their disputes with the church decided in Rome."

Justice Young highlights the case of *JT International SA v Commonwealth* (2012) 250 Commonwealth Law Reports 1, in

which the High Court held that the cigarette packaging laws were valid.

"It would seem that, after this decision, an international tobacco [company] sought to neutralise this decision by bringing an arbitration in Asia alleging that the Australian laws breached an international treaty to which Australia is a signatory. This appears to be an attempt to outflank the decision of the highest court in our nation – a court established by our Constitution – by reference to some private arbitrators in a foreign country," he wrote.

"...there is nothing legally to prevent the States and the Commonwealth passing a new Praemunire Act penalising a company whose parent or associate seeks to outflank an Australian court decision by litigation or arbitration in a foreign country." – Australian Law Journal, vol 88, 11 Nov 2014, pp 764-5

Eureka! Bikies congregate seeking federal help

Thousands of bikies from as far away as Broome in WA and Burnie in Tasmania will descend on Canberra today (1 Dec) to protest controversial laws which ban meetings of bikie gang members.

Organisers expect 5000 riders to rally outside Parliament House to call on the federal government to override the state laws on the basis they are draconian and unfairly discriminate against social riders.

The "Last Stand Protest Ride" is being organised by state-based chapters of the Freedom Riders Association which says it will be the largest protest bike ride ever staged in Australia, and will be a modern day 'Eureka' protest.

The association's website declares it is time to "say no to all new anti-motorcycle and VLAD (Vicious Lawless Association Disestablishment) laws". Note: In Queensland, the words "Vicious Lawless" refer to the bikies, not to the state government.

In October 2014, the High Court threw out an appeal against Queensland's controversial laws which ban more than two gang members from meeting. <http://tinyurl.com/o65rlfo>

Liberty is temporary: draconian laws are forever

Former national security legislation monitor Bret Walker (right) believes new counter-terrorism laws are unlikely to ever be wound back.

"There's no history or reason to believe that this is an area where some brave government will propose removing these laws, particularly as they've been introduced under the banner of protecting us from things we would otherwise be unprotected from," Mr Walker told the ABC's 7.30.

"I don't see any reason to believe this is a temporary increase." <http://tinyurl.com/molwghm>



Gap for Aborigines becomes chasm: jailing up

The Abbott government will not introduce 'close the gap' justice targets – even after a landmark report revealed a 57% rise in imprisonment rates for indigenous Australians.

The relevant minister, Nigel Scullion, dismissed calls to restore funding levels: "throwing money" at the problem of indigenous disadvantage did not work, he said. Senator

Scullion said targets aimed at closing the gap on imprisonment levels would send "the wrong signal" that somehow indigenous offenders were different from others.

The Human Rights Commission's Mick Gooda led calls for the introduction of targets, saying: "If this report doesn't prompt a re-think on the attitude to targets, I don't know what will. The point of targets is that they ensure a strategic focus and that the issues are front of mind," Mr Gooda told *Fairfax Media*. <http://tinyurl.com/m4z25dq>

The report, *Overcoming Indigenous Disadvantage*, found progress in life expectancy, home ownership, year-12 completion and infant survival rates, but revealed alarming increases in incarceration, self-harm and psychological stress levels. <http://www.pc.gov.au/gsp/overcoming-indigenous-disadvantage>

Be very afraid of the fear-mongering FFF

Crikey's security and federal parliament playground watcher, Bernard Keane, is warning that Australians will soon be under further attack by their government.

"By the logic of surveillance, and given the government's enthusiasm for the agendas of security agencies and the copyright industry, an attack on privacy may be coming that will dwarf the government's current data retention proposal. Soon, internet anonymity and encryption may be in the firing line," Keane wrote last month.

The attack is already developing in the US and the UK, he believes, being created by the Forces For Fear, the FFF (our name for them, not Keane's).

"The mass surveillance systems the NSA and GCHQ created were an example of wild, do-it-because-we-can overreach, which led to massive abuse and then exposure by a brave whistleblower (Snowden). As is now a matter of public record, such mass surveillance was unnecessary for preventing terror attacks."

People have fought back, using encryption and anonymisation services, like ToR, Keane said.

"The push (by the NSA, FBI, GCHQ in the UK and their equivalents in Australia) is thus likely to grow stronger over time.

"...eventually, the same warnings of marauding sex predators and unsolved kidnappings and murders will be produced by police forces, the same dire warnings of coming terrorist attacks will be uttered by senior spies; the same mainstream media national security stenographers will run the same arguments as for data retention. And all for a problem created by security agencies themselves," Keane wrote.

If only we had a few more reporters as keen as Bernard to explain how the FFF operate, Civil Liberties Australia says. <http://www.crikey.com.au/author/bernardkeane/>

Human rights committee tries to save privacy

Australians should be notified about law-enforcement agencies trawling through their personal data and access should require a warrant from a court or independent tribunal, Ben Grubb reported last month.

The Parliamentary Joint Committee on Human Rights, which examines all legislation for compatibility with human rights, made the recommendation to the government.

The committee's November report considered the government's controversial "data retention" bill, which will force Australian internet and phone providers to store certain customer "metadata" for two years.

The committee's recommendations include that:

- access to metadata requires a warrant approved by a court or independent tribunal;
- individuals be told when their metadata is accessed, and be able to challenge that access;
- an explicit definition of metadata and content (data which would not be stored) be included in the data retention legislation;
- the proposed two-year retention of data period be re-examined;
- access to data be limited to investigations involving serious crimes; and
- an oversight mechanism be set up for the warrant approval process. <http://tinyurl.com/k4jqpcg>

CAT starts to focus on Australia over refugees

Australia's asylum policies are coming under the scrutiny of the UN Committee Against Torture.

The Refugee Council of Australia has made a submission to CAT and contributed to a joint non-government organisation (NGO) report.

NGOs believe that Australia's policies of turning back asylum boats, returning asylum seekers to Sri Lanka under "enhanced screening" and weakening safeguards in the Migration Act failed to protect asylum seekers from being returned to situations where they may face torture and other forms of cruel, inhuman or degrading treatment, forbidden under the torture convention treaty, which Australia endorses.

RCOA also said asylum seekers were being subjected to prolonged indefinite detention, offshore processing in harsh conditions and faced extended delays in the processing of refugee claims.

"The cumulative effect of these punitive measures, reserved exclusively for asylum seekers, is to inflict a level of suffering so severe that it can be considered a form of cruel, inhuman and degrading treatment," RCOA CEO Paul Power said in a statement: http://refugeecouncil.org.au/n/mr/141111_UNCATsub.pdf and RCOA's submission at <http://refugeecouncil.org.au/r/sub/1410-CAT.pdf>. The NGO report can be accessed at: http://hrlc.org.au/wp-content/uploads/2014/10/CAT_NGO_Report_Australia_2014.pdf

'Transgender court rulings should be tested'

Family Court Chief Justice Diana Bryant wants the court's jurisdiction tested in cases involving medical treatment for transgender children.

"I'd like to see the High Court have the opportunity to examine these kinds of cases, these gender identity cases and to decide whether or not the court has to be involved at all," she told the ABC's Four Corners program.

As it stands, a child wishing to change gender needs to apply to the Family Court for the second stage of treatment involving gender-changing hormones. For that to change, there would have to be a test case to the full bench of the Family Court, and then to the High Court. <http://tinyurl.com/pgv6kox>

More seizures raise the bar for police 'profit'

The Australian Federal Police seized \$134m in criminal assets in 2013-14, more than double the previous 12 months and the most for a decade.

They seized control of 54 bank accounts, \$56 million in cash, 45 motor vehicles, 54 buildings and one motor yacht under proceeds of crime legislation, the agency's annual report revealed., Megan Gorrey reported in the Canberra Times.

Last year dwarfed the \$62.5m a year earlier. It was also more than \$90m above the AFP's target, based on average value of assets taken over the previous five years, \$43.2m.

It was the highest value of seizures since the 2004-05 financial year, when federal police confiscated criminal assets worth \$158.3m. <http://tinyurl.com/kztwmfz>

Turning the AFP proceeds of crime area into a cash generator has the potential for abuse, Civil Liberties Australia warns.

With a new starting target likely to be more than \$75m a year as a base, seizing assets could become the main goal, rather than prosecuting crime.

Immigration: cruel one day, law-breaker next

The Immigration Department – which treats children inhumanely by locking them up, according to critics – broke the law this year when it published the private details of 9250 asylum seekers, including why each individual was deemed "unlawful".

Privacy Commissioner Tim Pilgrim ruled the department breached the Privacy Act by putting personal information about detainees online, including full names, sex, citizenship, dates of birth, period in detention, location and information about their journey to Australia by boat.

Immigration has since received more than 1600 complaints from asylum seekers affected by the breach. who may now be in a position to sue the department. <http://tinyurl.com/ln5t7en>

'We deliver'...your information to the spooks

Australia Post disclosed confidential information to law enforcement, security and other government agencies more than 10,000 times last financial year, 25% more than in the previous four years, even though postal volumes are declining rapidly.

AP said that "specially protected" information, including information about letters, parcels and other private client details, was provided to government agencies 5635 times, double the number of the previous four years.

Agencies accessing specially protected information include the Australian Federal Police, the Australian Crime Commission, the Department of Immigration and Border Protection, the Australian Customs Service, the Australian Taxation Office, Centrelink, Medicare and the Child Support Agency. Victorian and Queensland police as well as the NSW Crime Commission and the Western Australian Corruption and Crime Commission also received private information.

AP disclosed postal information not "specially protected", including names and addresses on the outside of letters and parcels, on another 4367 occasions. <http://tinyurl.com/kpb4mrp>

Complaints body investigates arrest

The SA Police Complaints Authority is investigating a charge by independent state MP John Darley (right) that police racially profiled an Aboriginal couple when arresting them in relation to a robbery.



Virginia Umala, who was about eight months pregnant at the time, and her husband Johnno Tunkin were arrested at the Findon Hotel in Adelaide's west in late May, after a robbery 4km away at Seaton. They were held overnight.

Mr Darley said when released on bail the next morning their belongings, including Mr Tunkin's clothes and the money he had won on poker machines, were held as evidence and police drove him home in his underwear.

He said the charges were withdrawn less than a month later and before the matter went to court, but it took more than month for them to get their clothes and money back. <http://tinyurl.com/l4ptdhd>

Sentencing report signature forged

Corrections officer Leslie Owen Brien, 54, forged a string of reports used to sentence Canberra criminals, including a notorious double murderer.

Brien faked his boss' signature on a report on Scott Alexander McDougall who killed two people with a meat cleaver before burning down the house in which their bodies lay. The forged report was used by Justice Malcolm Gray in condemning the killer, Scott McDougall, to two life sentences in 2011.

Brien handed in reports with a forged signature in 13 separate cases between March 2011 and February 2012 to get his assessments of criminals before magistrates, judges, and the Sentence Administration Board.

With no previous criminal record, he pleaded guilty in the ACT Magistrates Court, and will be sentenced in February 2015... after a pre-sentence report is prepared on him! <http://tinyurl.com/qc8xxln>

Civil Liberties Australia says this case should cause the ACT legal system to analyse all aspects of cases where supervisory signatures are needed: in the police force, Department of Public Prosecutions, psychiatric assessments, etc. But it won't...because bureaucrats and politicians show no interest in improving the justice system in Australia.

NOTE: CLA is co-partner in a national campaign for Better Justice, being launched in 2015.

Shutters closing on pervy photography

The ACT Legislative Assembly is closing the shutters on up-skirting and down-blousing.

Attorney-General Simon Corbell said new criminal laws would provide greater protection. "The offences introduced by the bill, to protect the privacy of individuals, will ensure that the law can appropriately deal with people who indecently engage in behaviour sometimes referred to as up-skirting and down-blousing without the consent of the person being observed, filmed or photographed," he said.

Previously indecent behaviour using cameras could be prosecuted as an act of indecency in the courts.

The two new pieces of legislation will protect victims from an invasion of privacy in places where they could legitimately expect privacy as well as being filmed in more public places.

Both laws carry the potential sentence of two years' imprisonment. <http://tinyurl.com/kocw5av>

Police rule, OK? 'Tasmanians must suffer'

The Tasmanian government rejects the recommendation of a parliamentary report calling for immediately decriminalising medicinal cannabis.

A joint upper house committee report tabled last month said the law should change on compassionate grounds so people with a legitimate medical need could use cannabis without facing prosecution.

Health Minister Michael Ferguson said Tasmania would not change legislation alone: it would continue to work with other states to consider an Australia-wide change. "Advice from Tasmania Police is it's not necessary and could potentially create a new set of problems, including opening up the risk that people would self-medicate, with no licensing or limit to quantity," he said in a statement.

The committee inquiry, chaired by independent MLC Ruth Forrest, found that current Tasmanian laws did not reflect the reality that cannabis was already widely used as a form of pain relief, as an antiemetic and as a means to control medical conditions including rare forms of epilepsy. The report found support among Labor and the Greens. <http://tinyurl.com/ngwgpxm>

Civil Liberties Australia asks the Tasmanian government when TasPol became so expert in medical knowledge that they could determine "it's not necessary", meaning that it wasn't necessary to change the law to help people suffering pain and anguish. TasPol also appear to have become experts in people's behaviour re medication: CLA wonders what TasPol's qualifications as experts are.

DPP Ellis fate decided on 3 Dec

Current (but on suspension from his job, and still being paid) Tasmanian DPP Tim Ellis will find out his fate when his appeal against conviction for negligent driving causing death is decided in the Supreme Court of Tasmania on 3 December.



On 24 March 2013 a Mercedes driven by Mr Ellis, which had crossed a double white dividing line to the wrong side of the road rounding a sweeping bend on the Midland Highway, crashed front-on into a Toyota driven by Natalia Pearn (left), 27. She was killed.

Mr Ellis claims he fell asleep at the wheel, and – asleep – navigated his car around the bend

before running into Ms Pearn's car. Mr Ellis has a medical history of sleep apnea.

Charged and convicted in the magistrates court, Mr Ellis's sentencing was also suspended pending the appeal.

Legal observers say that, because he was charged in the magistrate's court, and not before a jury in the Supreme Court, which was an option open to the Office of the DPP, the maximum penalty Mr Ellis faces is a year in jail and/or a \$1300 fine.

It is not known why the Tasmanian government – under both Labor/Green and Liberal rule, as the case has run across a change of power – has decided to continue to pay Mr Ellis while he is unable to work.

It is customary for pay to be continued in circumstances where an office-holder is defending a charge related to their office (such as if Mr Ellis as DPP was accused of criminal misbehaviour in a murder trial for example) but not when the criminal charge relates to apparently non-work-related activity. Under the Tasmanian Director of Public Prosecutions Act, Mr Ellis can be removed from office if he becomes incapable of performing the duties of his office, is guilty of misbehaviour, or becomes bankrupt.

With an annual salary plus benefits of around \$500,000, Mr Ellis's car crash has been an expensive exercise for the taxpayers of Tasmania...as well as costing a young woman her life.

Questions are being asked as to whether a Tasmanian public service clerk also on the public payroll would receive similar consideration, and whether the Ellis situation has created an interesting precedent for any public servant charged with a criminal offence in future.

Sue Neill-Fraser: lodging of petition imminent

It is expected the petition for mercy to the governor of Tasmania in the Sue Neill-Fraser case will be lodged this month.

Pro bono lawyer Barbara Etter has sought input from a who's who of volunteering national legal experts to help finalise the extensive document. The names of these supporters, some very high profile, are likely to be revealed in the new year.

While the Tasmanian Attorney-General, Dr Vanessa Goodwin, has indicated she will introduce a new 'Right to Appeal' law, like that passed in South Australia in 2013, the only available appeal procedure at the moment is the petition for mercy process. It may be 6-9 months before a consultation process around the Tasmanian Right to Appeal law, and the passing of legislation, concludes.

Civil Liberties Australia is a major supporter of Sue Neill-Fraser: we believe she is entitled to a fairer hearing than the Tasmanian legal system has so far provided her.

NSW: where the principal industry is inquiries i

If anyone tries to tell you the governance of NSW is adequate, please tell them that we now have a parliamentary committee inquiring into the NSW Ombudsman's handling of a two-year-old inquiry into all the police secret squirrel bodies in the state.

The Ombudsman was soiled on to the case by a complaint made by an inspector of one of those agencies, the Police Integrity Commission.

Two years so far, and no outcome, of the NSW Ombudsman's inquiry into behaviour dating back 12 to 16 years. Here's what the Ombudsman's website says:

"In October 2012 the NSW government announced that the Ombudsman would investigate allegations concerning the conduct of officers of the NSW Police Force, the NSW Crime Commission and the Police Integrity Commission in relation to a number of investigations which occurred between 1998 and 2002.

"These investigations include Operations Mascot and Florida, and were mostly joint-agency investigations. The allegations are about a wide range of serious misconduct occurring over a significant period of time."

The Ombudsman describes part of the scope of the investigation: "During 2013, the focus of the investigation shifted to the analysis, assessment and investigation of the vast amounts of materials received. The material includes 146,000 documents containing what can only be estimated to be millions of pages of information." <http://www.ombo.nsw.gov.au/what-we-do/our-work/operation-prospect>

Does anyone know what the original problem is/was, which has resulted in an inquiry into the inquiry into the inquiries made over a five-year period by spooky officers in the three police bodies? – *NSW Parl Committees announcement 14 Nov 2014*

'Children jailed for life refused human rights'

The UN has decided Australia has breached its human rights obligations by imprisoning two teenagers for life in 1988 without the possibility of genuine parole.

The UN Human Rights Committee issued its findings in response to a complaint filed by two men who have been in jail for 26 years. The UN said the pair, now aged in their 40s, should have the possibility of parole and sentencing children to life without possibility of release was "cruel and inhuman".

The men were convicted in 1988 for the rape and murder of 20-year-old Janine Balding when they were aged 14 and 16. Ms Balding was abducted by five street youths at knife-point from the carpark of a train station. She was later raped and dumped in a lake. <http://tinyurl.com/pfaevbs>

Drone bares all in neighbourly sales bid

Victoria's Privacy Commissioner David Watts said the state's drone laws had to be overhauled after a "for sale" sign showed a woman sunbaking topless in the backyard of her own next-door home.

The image, captured by a real estate agency using a remote controlled drone, appeared on a for sale sign of a Mount Martha home on Victoria's Mornington Peninsula. Neighbour Mandy Lingard was snapped sunbaking topless in the privacy of her own home. The sign was quickly pulled down when the story broke.

The Victorian Surveillance Devices Act dates from 1999, meaning drones are not governed by clear privacy protections. Mr Watts said it was clear the laws needed a new look. <http://tinyurl.com/lpag6ln>

State plans closing services to Aborigines

Aborigines are aghast at plans by the WA government to close more than 100 remote Indigenous communities.

"This is the biggest threat to our people since the shocking events of the 1960s", traditional owners and native title holders of the Fitzroy Valley have said in a joint statement by groups representing people in Fitzroy Crossing and 35 surrounding communities.

The statement said they were "appalled" by the premier, Colin Barnett's, announcement that 100 to 150 of the state's 274 remote communities face closure. More than 1300 Aboriginal people live in 174 of the smallest communities, according to the ABC.

Premier Barnett believes there is no option but closure of the communities, described as "unviable". He cited "high rates of suicide, poor education, poor health [and] no jobs".

"The smaller remote communities are not viable and the social outcomes, the abuse and neglect of young children, is a disgrace to this state ... This is the biggest social issue this state faces," he said.

Federal indigenous affairs minister Nigel Scullion said the future of remote communities was "largely a matter for the WA government. Providing essential and municipal services in towns and cities across Australia has always been the responsibility of state and local governments and it should be no different in Indigenous communities," he said. <http://tinyurl.com/kuuq3hs>

Police arrested: woman being saving was shot

Police in WA have been threatening to strike over four officers arrested after the fatal shooting of a man who stabbed a suburban delicatessen worker.

Brendan Lindsay, 38, was shot dead by police outside The Lunch Club after he took shop assistant Sheila Tran hostage last month. Ms Tran was shot twice by police accidentally.

WA Police Union boss George Tilbury said his incensed members were threatening to "down tools" over the way the officers were treated. "There is no justification for arresting the officers," Mr Tilbury said. "To go down the path of arresting them is unprecedented in Australia." <http://tinyurl.com/k326cye>

Election hastens backtracking over sex by AG

Queensland's Attorney-General Jarrod Bleijie has backtracked on comments that he wouldn't expunge the criminal records of 450 people convicted under old state laws that made homosexual acts illegal.

Last month, he said changing the law to right an historic wrong wasn't needed. But, with an election predicted for early 2015, the AG decided to consult with the states' gay community on the issue.

He met with the president of the Brisbane Pride Festival, board member of the Queensland AIDS Council and Queensland University of Technology senior law lecturer, Peter Black (right).



Gay and rights groups will prepare a discussion paper for release early in 2015, as a prelude to a possible legal change – but after an election, which is tipped for the first quarter.

Other states have already taken action to expunge the records of men convicted of having sex with men: no cases of female homosexual sex are known to have been prosecuted in Queensland in the 95 years the old laws existed. <http://tinyurl.com/ot5dkoj>

Aboriginal prisoner denied right to breastfeed

A newborn Aboriginal boy was denied access to his mother's milk in jail, according to the activist group, Sisters Inside.

The Queensland baby was taken from his mother, who was in prison, just days after his birth and placed in care, the organisation's CEO, Debbie Kilroy OAM, wrote in *Crikey* on 26 Nov 2014. His mother was returned to prison, and both were denied the right to spend the vital early weeks in purpose-built cells for mothers and babies.

Instead, the prison system and child authorities facilitated the removal of this little boy, and he was placed in foster care. His mother was given a mattress on the floor of a cell, due to overcrowding. The jail refused to accept a breast pump for the mother from Sisters Inside.

Police want access to mental health records

Queensland police answering calls to disturbances would have instant access to records of mental illness under a plan to address an unusual spike in police shootings in the state... despite the root cause(s) of the shootings not yet being identified.

A top-of-the-head reaction by police commissioner, Ian Stewart, would see police able to check names or addresses on their tablet computers to see if mental health histories are flagged. Queensland Mental Health Commissioner, Lesley van Schoubroeck, is reported to support the idea, believing "limited access to health records would address privacy

concerns". Nothing is more certain that "limited access" would soon escalate into wholesale access by police of medical records, Civil Liberties Australia says.

Over the past 20 years 42% of police shooting victims in Australia had mental health issues, an Australian Institute of Criminology report found last year. There have been 15 police shootings in Queensland in the past three years, including six this year – three of them resulting in deaths last month.

The best way to reduce police shootings is more and better training for police, CLA believes. <http://tinyurl.com/lpovmxb>

NT to lock in care for children until age 18

The NT government plans to establish a long-term care option for children in out-of-home care.

"The Permanent Care Order will be in effect until the child is 18 years and will allow them to develop a strong connection to their carer family while still retaining links to their birth parent," Children's Minister John Elferink said.

The move will also alleviate caseloads for Department of Children and Families staff, freeing resources to help the most vulnerable children requiring more intensive service. There are more than 900 children in out-of-home care in the NT, according to the 2013-14 Children's Commissioner's Annual Report released last month. Of these, around 45% will be in care until they are 18 years of age.

The *Care and Protection of Children Act* will be debated in the NT Parliament early in 2015 – media release, 26 Nov 2014

Paperless arrests come into play

NT police can now make "paperless arrests".

A new law allows police to immediately remove a person causing a public nuisance and put them into custody for four hours, before issuing them with an infringement notice, charging them or releasing them on bail.

If someone is drunk when taken into custody, they can be held until police believe they are no longer intoxicated - media release, NT Chief Minister and Attorney-General, 26 Nov 2014

Woman dies under mandatory treatment

An Aboriginal woman has died while taking part in the NT's highly contentious mandatory alcohol rehabilitation program.

It is the first death in the scheme introduced by the NT government in July 2013. Under the Alcohol Mandatory Treatment program, anyone picked up for being drunk three times in two months is forced into alcohol treatment. Legal and health groups say the program targets Indigenous people and cost millions while doing little to treat addiction.

The woman died last month in the Central Australian Aboriginal Alcohol Programmes Unit (CAAAPU) treatment centre in Alice Springs. Her family is now asking questions about the care she was given and how she died.

The woman's sister, Elizabeth Raggette Naparula, speaking from her remote central Australian community of Papunya, said she had been worried about her sister's health and was willing to give the treatment a chance. <http://tinyurl.com/mqg7b8x>

Australian briefs

Police seize 20% more drugs: The AFP confiscated 7739kg of illicit drugs and ingredients in 2013-14, up 1275kg – or 20% – more than the year before, despite 1940 fewer drug seizures. The amphetamine haul was 4094kg, up 818kg. The 1423kg of precursor chemicals was up 803kg. The 150 kg of

heroin was down from 508kg in 2012-13, indicating a marked switch to use of "ice". Police acknowledge that soaring seizures of drugs usually means vastly more quantities are slipping through the net and into Australia. <http://tinyurl.com/kztwmfz>

Law prof will be new governor: Prof Kate Warner, the first female law dean of the University of Tasmania and director of the state's Law Reform Institute, has been appointed the first female governor of Tasmania. She says she is passionate about improving Tasmania's education system, and is a keen bushwalker "passionately interested in Tasmanian national parks". She will be sworn in on 10 December 2014, replacing former barrier Peter Underwood, who died in office in July this year.

Pro bono lawyer honoured: The pro bono lawyer for Sue Neill-Fraser, Barbara Etter, was inducted into the Australian Business Women's Network Hall of Fame last month. Etter, a qualified pharmacist, lawyer with a Law Masters degree and MBA graduate, is a former Assistant Commissioner of WA Police (awarded the Australian Police Medal) and winner of the WA Business Woman of the Year. She was the first CEO of the Integrity Commission in Tasmania, where the state government has recently paid her nearly \$200,000 settlement partly as compensation for how she was treated in that role. Neill-Fraser is in the sixth year of an 18-year sentence for a crime she did not commit, CLA believes. Etter is a member of CLA.



Don't blow whistle on ATO...but dob in your mates: Public servants being sacked by the Australian Taxation Office have been warned that loose talk about their time at the agency might cost them two years in jail. Tax bosses want the ex-workers to spill the beans on crime or misconduct they have witnessed in their years at the ATO. The thousands of public servants are also being reminded that they should not take anything that does not belong to them when they leave. <http://tinyurl.com/o8v4dqs>

Cyber security to be reviewed: The Australian government is to mount another cyber security review, starting now and concluding by mid-2015. The reviewers will be the chief executive of the Business Council of Australia, Jennifer Westacott; chief security and trust officer at Cisco Systems in the USA, John Stewart; Mike Burgess, chief information security officer at Telstra, and Dr Tobias Feakin, director of the international Cyber Policy Centre at the Australian Strategic Policy Institute. <http://tinyurl.com/npf4z2f>

Police training failing, it is alleged: Serious allegations have been raised that training of officers at the NSW Police Academy in Goulburn is inadequate, and takes place amid a culture of bullying. One firearms trainer revealed that a class, toward the end of their training course, showed up for "Tactical Options Scenario" weapons instruction without any knowledge of the legal requirements for using guns or stun guns. NSW Police commanders deny any problems at the academy: they say any issues with the teaching program at Goulburn were resolved months ago. <http://tinyurl.com/q99zxzm>

CLA report for November:

Best wishes for a happy and safe holiday season to all our members and readers.

Adelaide conference: President Dr Kristine Klugman and CEO Bill Rowlings attended the Symposium on Miscarriages of Justice in Adelaide from 6-8 Nov 2014, and were the final speakers on the program.

While in Adelaide, the President and CEO held meetings with CLA members, as well as undertaking research and conducting several interviews for the history of civil liberties in Australia.

Those interviewed included:

- Former federal MP Chris Hurford
- Former SA AG Chris Sumner (*right, with Kristine Klugman*)
- Former Spastic Centres chief and Guardianship head, Judith Worrall
- SA Council for Civil Liberties President, Claire O'Connor



They also met with a number of members, including Raffaele Piccolo, Rebecca Butler, Quoc Vo, Giau Vo, Sarah Moulds, Frances Lockhart, Stephen Humble, Barbara Etter, Eve Ash.

Board Meeting - November:

On-going projects: Sue Neill-Fraser case, Right to Appeal,

Major new projects: Better Justice, new federal Gene Patent law

Reports President/CEO, Treasurer, Webmaster, Media spokesperson, Tasmanian director.

General business: Existing logo confirmed for the near-term, options for longer term to be explored.

Campaigns

R2A, letter to Tasmanian AG Vanessa Goodwin re consultation around upcoming legislation

Gene patents: Tim Vines drafting legislation, in cooperation with Hon Melissa Parke MP

Articles:

'*Just one freedom law, please*' – appeal by Civil Liberties Australia for the Australian Parliament to pass a law which enhances, rather than detracts from, the civil liberties and human rights enjoyed by Australians: <http://www.cla.asn.au/News/just-one-freedom-law-please/>

Media:

CLA VP and National Media Spokesperson Tim Vines joined the ACT Human Rights and Discrimination Commissioner, Dr Helen Watchirs to discuss the complex and polarising realities of Australia's refugee program after viewing the film 'A World Not Ours' at the Arc Cinema in Canberra in November 2-14.

* Right to be forgotten - written comment for *Canberra Times* article.

* Anti-terrorism laws - background comments to Sabra Lane (*ABC*)

* *ABC Radio, Drive* Alice Springs - Nova Peris emails and Privacy in the Digital Era

* ACT Policing, stun-guns, mental health - Interviews for *ABC Radio* and *Canberra Times*

* Anti-terrorism Legislation no. 2 - Radio Interview with *ABC*.

* Anti-terrorism laws no. 1 (free speech for journos) - comments to Curtin Uni media student.

Other:

* Appeared (by teleconference) before NSW Parliament HCCC Committee inquiry into misleading health practices (for example, vaccination)

* Meeting with Renai LeMay (advisory to Senator Ludlam)

* Represented CLA at Data Retention Forum organised by Senators Ludlam, Xenophon and Leyonhjelm.

* Assisted with CLA article on STOP program, officious pharmacists and hay fever sufferers.

Tasmanian media:

- Vigilantes out for sex offenders: <http://www.examiner.com.au/story/2607884/vigilantism-warning/?cs=95>
- A Tas smoke free generation: <http://www.themercury.com.au/lifestyle/the-worlds-eyes-are-on-us-over-push-to-ban-smoking-for-those-born-after-2000/story-fnj64o6u-1227086900396>
- 22 organisations signed CLA initiated joint statement against anti-protest laws: <http://tasmaniantimes.com/index.php?/article/reject-the-bill/>

Meetings and networking:

Australian Privacy Foundation Prof Roger Clarke and Bruce Arnold, international privacy campaigner, blogger and journalist Wendy Grossman,

Information Commissioner John McMillan

Greens Xmas function at Parliament House: Senator Penny Wright, Senator Rachel Siewert, Renai Le Mai, Gabrielle Chan (The Guardian Australia). Labor: Senator John Faulkner



Left: Gabrielle Chan, Dr Kristine Klugman and Senator Penny Wright.

Jon Stanhope, ex Chief Minister ACT and Administrator Christmas Island

Vintage Reds general meeting with speaker reporting on workers' rights in China

CLA members Lynne Bliss, Keith McEwan, Phylli Ives and Rhys Michie

INTERNATIONAL

Genetic mum unable to register twins as hers

The Supreme Court of Ireland – the nation's top court – has ruled that the genetic mother of twins born to a surrogate cannot be included as the children's mother on their birth certificates, saying that it is for the Irish Parliament to legislate in this area.

The twins were conceived using the intended mother's eggs and her husband's sperm, but were born to the genetic mother's sister acting as a surrogate. The children will be brought up by their genetic parents but the registrar refused to amend the birth certificates to include the intended and genetic mother, despite the birth mother consenting to the alteration.

The couple challenged this decision and the High Court (a "lower" court in the Irish system) ruled against the government, saying that the genetic mother could be named as the legal parent by birth registration. The court emphasised the genetic connection between mother and child, and the parties' intentions.

The Irish government appealed the decision, arguing that under Irish law the birth mother is always considered to be the legal mother, unless there has been adoption. The Supreme Court agreed that such complex surrogacy and parenthood issues must be addressed by new legislation of the Irish Parliament, the Oireachtas, rather than through "creative" interpretation of existing law. <http://tinyurl.com/jvub2tw>

ODD SPOT: Science sooth-sayers reprieved, but bureaucrat remains guilty

An appeals court has overturned the 2012 manslaughter convictions of six Italian scientists in the wake of a 2009 earthquake that killed 309 people in the town of L'Aquila, *Ars Technica* reports.

Each scientist had been sentenced to six years in prison along with a government official. The official has not been acquitted, but had his sentence reduced to two years.

Amidst a swarm of small earthquakes (and false predictions of major earthquakes by a technician at the nearby National Institute of Nuclear Physics) near the town of L'Aquila in early 2009, the Civil Protection Department convened a meeting of the six scientists. Some public statements resulting from that meeting—specifically statements by Civil Protection Department official Benardo De Bernardinis—were seen to have gone too far, assuring the public that risk of a dangerous earthquake was very low.

When a magnitude 6.3 earthquake just six days later killed 309, those statements were blamed for some of the deaths as some people apparently failed to leave their homes, which then collapsed. The families of earthquake victims plan to appeal the latest decision in Italy's highest appeals court, so the outcome may change yet again. <http://tinyurl.com/otnvffh>

Britain to render its citizens stateless

British jihadists who fight for daesha (ISIL) in Syria and Iraq will be barred from returning to their own country for at least two years to prevent terror attacks.

British PM David Cameron announced the new measures last month, including powers to strip teenage jihadists of their passports and to bar airlines from landing in Britain if they fail to provide passenger information. The announcement came in an address to the Australian Parliament.

More than 500 Britons have travelled to Iraq and Syria to take up arms with the Islamic State, and about half are thought to have returned to Britain. More than 200 people have been arrested over alleged terror threats in the past year.

Under new "temporary exclusion orders", the fighters in Syria and Iraq will effectively be rendered stateless. They will be put on a "no fly list" and allowed to return to Britain only at the end of the two years and only if they submit to strict conditions which could include a curfew and surveillance. The orders

barring them can also be renewed after two years. Those who attempt to return in secret will face a five-year jail term under a new criminal offence. <http://tinyurl.com/p4gyduy>

Police numbers will drop by 16%

England and Wales are to lose about 34,000 police jobs – one in six of the total – as part of deep public spending cuts after the next general election, senior officers have warned.

Sir Hugh Orde (right), president of the Association of Chief Police Officers, says official projections show that a further 20% cut in funding would mean serious implications for the statutory responsibilities of the police and for their role in safeguarding the most vulnerable in society.



ACPO's estimate that 34,000 jobs out of a total police workforce of 205,000 could disappear within three years may yet prove to be too cautious. <http://tinyurl.com/kv9db8u>

Brazil police kill six people each day

Brazilian police killed more than 11,000 people between 2009 and 2013, averaging six killings a day.

A study by the Sao Paulo-based non-governmental organisation, the Brazilian Forum on Public Safety, says police killed 11,197 people over the five years: law enforcement agents in the US were responsible for the deaths of 11,090 people over the past 30 years, it said.

"The empirical evidence shows that Brazilian police make abusive use of lethal force to respond to crime and violence," the report says. There were 416 people killed in 2013 in Rio de Janeiro state. The study also says 50,806 people were killed in all homicides last year, about one every 10 minutes. Nearly 70% of the homicide victims were black and more than half were aged 15 to 29, it said. <http://tinyurl.com/opbzety>

ODD SPOT: Attacking US soldiers on a battlefield is a crime?

It's a bizarre world, writes Our Man in Washington, Roger Fitch Esq. Despite the Geneva Conventions and centuries of history, the US government continues its strange quest to punish combatants who, without using treachery or unlawful weapons, injure US military personnel or property on battlefields.

At Guantánamo, the Bush Administration, and then Obama, attempted to try ordinary war combatants from Afghanistan for the "war crime" of attacking American troops, using Congressionally-invented charges such as "material support for terrorism" that American courts found to be invalid offences under the law of war. (That was the non-charge David Hicks pleaded guilty to, to escape Guantanamo).

MST, however, is a valid crime under the domestic laws of the US, and so the US government has now brought a Taliban soldier, held in military detention at Bagram for years, to the US for trial (more [here](#)).

His offence remains the same, of course: attacking American soldiers on a battlefield.

(We share 'Our Man' with Justinian, the Richard Ackland legal blog, which has first dibs).

Exonerated after 39 years in prison for murder

A man who spent 39 years in jail for murder, making him the longest-held US prisoner to be exonerated, was released from jail last month due to the work of an Ohio Innocence Project.

Ricky Jackson, 57, was convicted along with two others for the 1975 murder of Harold Franks, a money order salesman, after 12-year-old Eddie Vernon testified he saw the attack, according to court documents.

Mr Vernon, now 53, recanted his testimony and told authorities he had never actually witnessed the crime. There was no other evidence linking Mr Jackson to the killing.

The two others, Ronnie and Wiley Bridgeman, will also be exonerated. <http://tinyurl.com/q482on3>

Police monitoring borders on comedy

Six members of the UK's National Union of Journalists are suing London's Metropolitan Police after discovering that their daily activities were being monitored and recorded.

The tracking is being done by National Domestic Extremists and Disorder Intelligence Unit, a task force led by the Metropolitan Police that tracks political and religious groups in the UK and monitors protests.

The surveillance was discovered through information uncovered by a request under the UK's Data Protection Act, a type of FOI law. "The police are gathering information under the domestic extremist list about journalist and NUJ members," comedian and journalist Mark Thomas said. "And we know this because six of us have applied to the police using the Data Protection Act to get some of the information the police are holding on us on these lists. And what they are doing is monitoring journalists' activities and putting them under surveillance and creating databases about them."

Writing on the *ars technics* site, Sean Gallagher said Thomas has used the Data Protection Act in the name of both journalism and comedy. <http://tinyurl.com/m2hvnv8>

Brits bring in massive new restrictions

The British government will give police the power to seize the passports of British and foreign citizens suspected of traveling to take part in terrorism-related activities.

They will also remove restrictions on tracking suspects online, and make it illegal for British insurance companies to reimburse anyone providing ransom payments to free hostages.

Home Secretary Theresa May claimed that Britain had foiled 44 serious terrorist plots nationwide since 2005, when suicide bombers attacked London. She said that 138 people were currently serving sentences for terrorism-related offences: 84 "hate preachers" had been barred from entering Britain, and another 133 people had been barred on national security grounds because their presence in the country was "not conducive to the public good." <http://tinyurl.com/lmk33q7>

International briefs

Illegal detention prison still open: Guantánamo Bay detention centre will still hold more than 140 people even after 74 inmates are transferred to other prisons or allowed to return home. President Obama came to office in the USA promising to close down Gbay: he has failed.

Will Texas kill an insane man this month? The USA has an estimated 350,000 prison inmates around the country with mental illness – 10 times the number of people in US

psychiatric hospitals. The figure came to light in a *New York Times* Editorial Board opinion piece questioning whether, on 3 Dec 2014, Texas will execute an insane man. Scott Panetti was convicted in 1995 of killing his in-laws, but his trial – in which he was allowed to represent himself – has been described as a judicial farce. <http://tinyurl.com/lx2b4xx>

DATES

4-6 Dec, Washington USA: 'Advancing UNiversal Human Rights Culture', American U. Convenor is Prof Claudio Grossman, chair of the UN Committee Against Torture. Organiser: Dr Sev Ozdowski (left), U. Western Sydney. Info: s.ozdowski@uws.edu.au

10 Dec, World: International Human Rights Day

10 Dec, Hobart: ANZ Forensic Science Society talk by Det-Insp Gary Jubelin of NSW Police on the life of a working detective. \$10 for members of the public. RSVP to kate.cashman@utas.edu.au

11-12 Dec, Adelaide: 6th Intntl Illicit Networks workshop: analysis of organised crime. Details <http://tinyurl.com/mckaaq6>

15-16 Dec, Singapore: 'Researching State and Personhood: Law and Society in Southeast Asia', Centre for Asian Legal Studies, U. Singapore, focusing on research located in one or more of the following: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar (Burma), Philippines, Singapore, Thailand, Timor Leste and Vietnam. Details: lynettechua@nus.edu.sg

2015:

1-3 Feb, Melbourne: Corporate Law: local and global dimensions, the 2015 Corporate Law Teachers Association annual conference, Melbourne Law School. Keynote speaker: Prof Robert Thompson of Georgetown U. Info: <http://tinyurl.com/ma98uo3>

5-6 Feb, Canberra: National Wellness for Law Forum 2015, addressing high levels of psychological stress experienced by those in the profession. ANU. Details: <http://law.anu.edu.au/conferences/wellness-law>

14-15 Feb, Canberra: National Judicial College of Australia conference, ANU. Details: <http://njca.com.au/program/anu-njca-conference/>

17-20 March, Brisbane: 7th Australian drug and alcohol conference, hosted by Queensland Police and Australian Federal Police. Brisbane Convention Centre. Details: <http://event.icebergevents.com.au/adasc-2015/>

25-27 Nov Adelaide: 28th A&NZ Society of Criminology, Flinders U. Details – willem.delint@flinders.edu.au

June, England: 800th anniversary of Magna Carta

Date, Place TBC: 2nd Global Domestic Violence Conference

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:mailto:secretary[at]cla.asn.au)

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