

## **Time for a fresh start: new suite of balanced 'anti-terror' laws needed**

Laws curtailing freedoms, expanding surveillance and reversing the 'innocent until proven guilty' principle have become so odious in Australia that there's a clear need to start again.

From a clean slate, we need to create reasonable laws around "terrorism" issues that better balance rights and freedoms with responsibilities and the legitimate (but not excessive) requirements of people responsible for crime and security.

New data retention law just enacted clearly demonstrate how balance has been lost. The laws presume all Australians are likely to be guilty, so the Big Brother apparatus keeps all identifying details across all e-communications for two years.

The latest excess comprises a thick veneer of surveillance over layers of laws covering from treason and sedition offences, through control and detention orders and mandatory financial reporting on you by banks, to anti-freedom of association, speech and movement laws contained in a myriad of bills passed over the past 14 years, since "9/11".

The legislative regime enables overweening surveillance so profound that your home can be invaded at any time, secretly. A device or software may be planted on the computer I'm typing on, and on your computer, phone and tablet, reporting every keystroke and finger-press...and we would never know.

Like waterboarding, the continuous cascade of anti-freedom laws in Australia since September 2001's plane crashes in America have eroded the sense of outrage we should feel with each new limit on liberty dreamed up by spooks and police. By special pleadings which have delivered new legislation for the past 14 years, these incompetent public servants declare themselves incapable of enforcing the entirely adequate and robust existing criminal laws and powers they have possessed for decades. Those existing laws have proven always, to date, sufficient to jail alleged terrorists and would-be terrorists in Australia.

### **NEW WEBMASTER SOUGHT**

Civil Liberties Australia is looking for a New Webmaster, preferably a volunteer from within our own CLA membership. If anyone would like to put their name forward, please email CEO Bill Rowlings on [secretary \[at\] cla.asn.au](mailto:secretary[at]cla.asn.au) with details of your skills and

Civil Liberties Australia does not support terrorists or extremist religious fanatics of any religion. We agree that police and security services need strong laws: but they had strong laws before 2001, and have barely used all the extreme laws since then in chasing down guilty parties.

The people who have suffered most from the laws passed since 2001 are ordinary Australians. We have become suspects rather than citizens. We bear the burden: in many cases, literally, in that the burden of proof has switched from the state proving us guilty to citizens having to prove they are innocent.

And the new data retention laws simply make the perilous situation obvious. Virtually everything you say and write in normal communication is now being recorded with a view to being used against you if the state chooses.

We are a long way from the Anzac freedoms hard fought for and won a century ago.

## **Politicians bear most of the blame**

The mishmash of 'terrible' laws, inflicted on Australians for a decade by frightened and cowardly politicians of both major parties have changed the nation for the worse.

We are a more spied on and inhibited society, imbued with an underlying fear maintained by regular injections of frightening rhetoric from MPs, usually flanked by "Men In Uniform". In this regard, we are far worse off than Americans, British, Canadians and New Zealanders, all who have extra protection from bills of rights.

The politicians' nadir is reflected in security guards, armed to the teeth, now patrolling behind one-way glass on the floor of the houses of parliament, and the Prime Minister's suite soon to be walled off by a security fence of Gaza-like proportions.

Politicians who disproportionately safeguard themselves are out of kilter with the courage of ordinary Australians. What Australians want is sensible security, without removing individual liberties and rights.

For example, no-one believes that mushrooming public-area CCTV through Australia's cities, suburbs and towns will prevent any terrorist act, indeed any crime. CCTV is useful after an event.

More than 95% of air travellers want a better system than the currently excessive inconvenience, not infrequently accompanied by equal rudeness, which greets every flyer at Australia's major airports. Meanwhile, the security "theatre" on the passenger side is not matched by equal diligence on the cargo side of the barrier, even though Alan Keesing warned the government a decade ago and the government has spent more than \$200m on beefing up "airside" security at airports, and similarly at ports.

The spend on "security" – throughout Australia as well as inside and around Parliament House – and the enacting of ever-more restrictive laws knows no bounds. As one commentator put it: "The crazies of the US are capturing the whole asylum (of Australia) bit by bit".

But the problem in Australia is that we have no equivalent to the US Bill of Rights to afford us individual citizen protection.

Can you imagine America without a Bill of Rights? If you live in Australia, you can.

## **'Security' largesse never ends; services to ordinary people face dramatic cuts**

As the Budget is handed down next month, pay attention to the spending on "security": it will inevitably be increased, as will associated staff, buildings and technology, while a host of social services will be slashed and burned through drastic funding and staffing cuts.

As you watch security continue to expand, remember that no Australian has died in Australia from a terrorist act for decades, certainly not in relation to the post '9/11' terrorist threat. However, police have shot people dead in alleged terrorism-related incidents in Australia.

Meanwhile Australian women are dying at a rate of about 3 to 4 a week across Australia in domestic violence incidents; Aboriginal children and adults are locked up in jails in

outrageously unfair percentages – they comprise half the people in jail in one major state. Spending on these national disgraces is minuscule by comparison with money spent on 'security'.

The police, security, legal, justice and societal system has lost its links to balance, and to the reality of what affects people in a day-to-day sense. The government has announced a \$30m boost to countering domestic violence...but spending on security increases by at least \$300m a year.

The responsibility for fixing the imbalance problem lies with politicians: they have created the out-of-kilter society.

It is often demanded of us that Civil Liberties Australia provides solutions to various issues if we criticise what is happening. Where we have positive suggestions to make, we make them.

But we don't get paid a large salary, nor are we provided with flash offices and fancy cars, free travel and numerous staff, like the people who have made the decisions that have put Australia out of whack.

If the MPs take the cash and the perks, they are responsible for providing the solutions. But parliamentary debate – and Question Time is a prime example – has become the theatre of the absurd, rather than of positive and progressive, future-oriented debate. Snide point-scoring replaces promoting a better national future.

Federal MPs, particularly of the major parties, virtually never won't take on their faction bosses, so nothing gets fixed.

### In US, at least they try...

Two US House of Representatives lawmakers want to completely repeal the Patriot Act and other legal provisions to dramatically rein in American spying.

Representatives Mark Pocan (photo, Democrat, Wisconsin) and Thomas Massie (Republican, Kentucky) last month unveiled their Surveillance State Repeal Act, which would overhaul American spying powers unlike any other effort to reform the National Security Agency.



"This isn't just tinkering around the edges," Pocan said during a Capitol Hill briefing on the legislation last month. "This is a meaningful overhaul of the system, getting rid of essentially all parameters of the Patriot Act."

Their bill would completely repeal the Patriot Act, the sweeping national security law passed in the days after 11 Sept, 2001, as well as the 2008 FISA Amendments Act, another spying law that the US National Security Agency has used to justify collecting vast swathes of people's communications through the Internet, as is happening in Australia.

It would also reform the secretive court that oversees the nation's spying powers, prevent the government from forcing tech companies to create "backdoors" into their devices and create additional protections for whistleblowers.

"Really, what we need are new whistleblower protections so that the next Edward Snowden doesn't have to go to Russia or Hong Kong or whatever the case may be just for disclosing this," Massie said.

The bill is unlikely to be adopted by leaders in Congress, who have been worried that even much milder reforms to the nation's spying laws would handicap the nation's ability to

## Annual general meeting ends

The Civil Liberties Australia electronic Annual General Meeting for 2015 has concluded. A report (the 'minutes' of the meeting), and declaration of the poll, is on the CLA website at: <http://tinyurl.com/nbebcfw>

In summary, more than 60% of members were able to vote, electronically and by post, recording a very positive endorsement of the Annual Report, Financial Statement and President's report (of the order of 98%). Forty-four members took the opportunity to comment on how CLA is going.

The eight members of the Board who stood who stood for re-election were returned. They are Frank Cassidy, Kristine Klugman, Noor Blumer, Phil Schubert, Richard Griggs, Tim Vines, Saskia Vervoorn and William Rowlings.

fight terrorists. A similar bill was introduced in 2013 but failed to gain any movement in the House.

Firm opposition to government spying is mounting, just as US lawmakers race to beat a 1 June 2015 deadline to re-authorise parts of the Patriot Act. <http://tinyurl.com/qh6mo5z>

Can you ever see a Liberal and Labor MP combining in federal parliament in Australia to seek to overturn the new data retention act? Why not? What is it that turns our major party MPs into mass-produced automatons?

## 2500 people control your data

Some 2500 bureaucrats in more than 20 agencies throughout Australia will be able to authorise access to your phone and internet records under the new data retention laws.

About 900, 400 and 300 of the 2500 will be police officers in NSW, Victoria and Queensland respectively.

The AFP have 190 officers who can authorise requests.

Other who can pry into your data include the new Border Force (customs and immigration, as was), the ATO, the Australian Crime Commission, the Australian Competition and Consumer Commission and the NSW Independent Commission Against Corruption.

"The absence of external checks is very concerning," said Prof George Williams in relation to the new data-prying system.

"Limiting metadata approval to more senior people within these organisations would be a start, but I do not think that would be sufficient. It is well accepted in other comparable areas that external checks and oversight is required in regard to the decision to access sensitive, private material." <http://tinyurl.com/ommvpc>

## How to show displeasure over data retention

A CLA member has suggested how to show individual and group displeasure over data retention laws: individually submit privacy complaints to the Office of the Australian Information Commissioner (OAIC) at the complaints page: <http://www.oaic.gov.au/privacy/privacy-complaints>

The complaint could be about the handling of one's private information by the government. Even if the OAIC has to issue boiler plate rebuttals, it would certainly be time consuming for

them. One million complaints would show people pushing back: unless people do, the lawmakers will maintain a relentless course, the CLA member says.

## The Dutch ditch data-snoop laws

The Abbott government's data retention laws would be illegal in The Netherlands and the EU.

A judge in the Netherlands last month struck down a Dutch law that forces local telcos to store customer internet and phone metadata, in a law similar to what is proposed for Australia.

In April 2014, the European Union's top court also over-ruled EU data collection legislation it deemed too broad and offering too few privacy safeguards. The Dutch judge said that the metadata retention law helped solve crimes, but it also breached the privacy of telephone and internet users. The Dutch Justice and Security Ministry said it was considering an appeal.

Under the Dutch law, telephone companies were required to store information about all fixed and mobile phone calls for a year. Internet providers had to store information on their clients' internet use for six months. <http://tinyurl.com/pjbbaoz>

## Press Council chair slams data retention proposals

The chair of the Australian Press Council, Professor David Weisbrot (photo), says the Abbott government's data retention bill is "far too intrusive" and will crush investigative journalism.



"I'm very strongly opposed to the current proposals and I strongly hope that they will change," Weisbrot told *Guardian Australia* last month as he took over the APC job, replacing Prof Julian Disney.

"I am opposed to it as a private citizen. It's far too intrusive and really changes the relationship between government, policing and the individual in a way that I don't think we've fully worked out as a society.

"It goes well beyond the traditional social contract. It may be that we are willing to give up rights and freedoms for the added protection but I haven't really been convinced yet the benefits will outweigh the obvious detriments."

Prof Weisbrot said he planned to lobby the government to come up with a "sensible media carve-out or judicial oversight". <http://tinyurl.com/pdvgtv3>

## Our greatest threat...

The greatest threat to values just now is from hysteria. It drives language to extremes. It encourages reckless responses and feeds the greed of the security industry. All sense of proportion vanishes as the politics of the scare grips every politician, every lobbyist, every media outlet. Half of these stories should never have made it into the news. The way to stamp out terror is to deny it the oxygen of publicity and glamour.

– Simon Jenkins, writing in *The Guardian*  
<http://tinyurl.com/mtqk9n>

## Article on Defence research ups hits

An article on the CLA website – *Defence pilloried by Senate test pilot* – has caused quite a spike in website viewing – 6255 page views in its first two days online.

Of that, 3127 have come from other websites who have picked it up and 2871 from direct entry – they had CLA's link for the article. Reddit.com and Slashdot.org are the two big websites that have caused a major referral, webmaster Lance Williamson reports.

The referrals have come largely from the research and academic community, who will suffer under the new law that severely curtails scientific collaboration, and threatens 10 years jail and \$400,000 fines just for exchanging information in an email, even in research which is not-Defence related because the penalties can apply to research on "dual use" (defence or civilian) products.

The Defence trade control regime is another area where security thinking has now become so dangerously entrenched and ridiculous that it will soon mean Australian researchers leave Australia to further their careers, and few academics will choose to move to Australia to work because of idiotic "security" clauses in legislation.

One reason for the large number of hits is that no mainstream media have been covering the story recently: nowadays the small number of reporters and commentators have been too entirely focused on data retention, while the Abbott government introduces bills in other areas that almost take your breath away (see report under 'Refugee Riot Act', below).

ARTICLE: <http://www.cla.asn.au/News/defence-pilloried-by-senate-test-pilot/>

## Defence ginger group wants contract reform

A group of people who have tried to deal with Defence science and purchasing enterprises is highly dissatisfied with how application and alleged misapplication of confidentiality and commercial clauses in contracts have seriously disadvantaged them.

One of the group, Brendan Jones, is mounting a petition against even more draconian provisions on Australian inventors, engineers and scientists that are due to apply from next month.

"The controversial *Defence Trade Controls Act* is due to come into full-force on 17 May 2015. This law covers not just military, but also civil 'dual use' technologies," Jones says. "It subjects scientists, engineers and high-tech businesses to red tape, massive fines, forfeiture of their research, and jail."

Jones says the Commonwealth Chief Scientist's steering group has published a misleading public communiqué claiming it has achieved "*broad stakeholder support*" for DTCA amendments, but without disclosing that stakeholders are still unsatisfied with the act, even as amended.

"Further, the steering group's claim of broad stakeholder consultation is not supported. And contrary to the steering group's claim they had '*paid close attention to issues raised in written submissions*,' the public communiqué omitted all reference to (and the problems raised by) at least four critical submissions," Jones says.

"The steering group is unrepresentative; it is stacked with vested interests, including the DSTO and CSIRO who stand to benefit by an oligopoly on military \*and\* dual-use research in Australia."

He is petitioning Defence Minister Kevin Andrews, Senator David Fawcett and the Joint Defence Subcommittee, the members of the Strengthened Export Controls Steering Group, the Defence Export Control Office, and Industry Minister Ian Macfarlane. The petition is online: <http://victimsofdsto.com/secsg/>

Jones believes there is a prima facie case of the deliberate provision of false and misleading information in what has been released around the DTCA changes.

– personal communication from B. Jones

## High Court reins in ‘illegal’ AFP funds grab

The High Court has reined in out-of-control Australian Federal Police, who have been trying to steal funds from people charged – but not convicted – under proceeds of crime laws.

The laws double penalise people: they are convicted criminally and usually sentenced to jail, then their assets can be seized by the state.

The court ruled unanimously that the AFP could not start civil proceedings to seize a man's property until his criminal trial was over. The judges said the police's civil claim risked prejudicing the man's criminal case because the offences and circumstances relevant to both were "substantially identical".

The AFP is crying poor because it will now have to wait on 43 other cases, involving up to \$300m, where it was trying to fleece people of money before they were convicted. The government will also lose, at least temporarily – it has been using proceeds of crime money as a 'brown paper bag' slush fund to pump largesse into local councils so they can instal almost useless CCTV systems, and to fund other "crime prevention" programs.

These include the very crime litigation unit itself: the more it raises, the more funding and staff it gets. *Fairfax* reported: "The largest grant ever awarded from proceeds of crime was more than \$11 million for additional resourcing over three years to the AFP's Criminal Assets Confiscation Taskforce, including 13 litigators and two forensic accountants".

For the government, it's a numbers game: provide the taskforce with more funds, and the taskforce generates even more funds in return.

The AFP's latest annual report says it seized \$76.1 million and restrained \$134 million in criminal assets in the past financial year...most not based on criminal convictions. <http://tinyurl.com/mupqhcZ>

## Border police to target ‘particular cohorts’

Australia's new border police will be able to use race and nationality – and any other personally-identifying characteristics they like – to target special groups of migrants and refugees.

The new power is contained in the *Migration Amendment (Strengthening Biometrics Integrity) Bill 2015*, tabled in parliament in March. It refers to "particular cohorts" in a cute attempt to disguise precisely who might be targeted:

*The purpose of new subsection 257A(1) is to provide a sound legislative basis for this collection, and to have the agility to target particular cohorts as risks become known.*

*...New subsection 257A(2) does not limit the purposes for which personal identifiers may be required...*

Legislation like this, for migrants, is in danger of filtering back into identifiers collected for Australian citizens in Australia. In other words, police and security services would be able to use any biometric information to target sections of Australian society for any purpose.

Such a law would be merely an extension of the data retention and surveillance regimes already in place.

In 2014, the government's *Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014* introduced measures that potentially allow a significant increase in the types of

biometric data collected at Australian airports. It also extended to Australian travellers data collection practices that have previously been confined to non-citizens. <http://tinyurl.com/pv856fs>

The explanatory memorandum to the 2015 migration legislation contains veiled but unspecified threats:

*...to the extent that the broad powers introduced could enable the implementation of policies that go beyond those currently envisaged, the intention is not to implement policies that are inconsistent with human rights, says Immigration Minister Peter Dutton. <http://tinyurl.com/p5o54my>*

NOTE: CLA is about to lodge a submission on the Migration Amendment (Maintaining the Good Order of Immigration Detention Facilities) Bill 2015. A better name for the bill would be the Refugee Riot Act, or Give Guards the Right to Maim and Kill (Solely in their Own Subjective Judgement) bill. It is a quite awful piece of proposed legislation, already roundly condemned by parliament's Human Rights Committee.

## ‘UN deserves respect’: special rapporteur

The United Nations special rapporteur on torture believe the UN deserves respect.

"I wish Prime Minister Abbott had taken my views on this more seriously and engaged with my rapporteurship more constructively. We try to treat all governments the same way and deal with specific obligations and standards in international law as objectively as we can," Juan Mendez 200 cases involving 68 different countries: four cases refer to Australia and each of those examines claims of torture or cruel or degrading treatment in immigration detention. Mr Abbott dismissed the report and attacked the UN.

The report said that escalating violence on Manus Island, and the "intimidation and ill-treatment of two asylum seekers" who gave statements about last year's violent clashes at the centre was in breach of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The report also found that recent changes to the Maritime Powers Act (to give the government the power to detain asylum seekers at sea and return them) violated the convention.

Mr Mendez (photo) became the UN special rapporteur on torture in 2010. Before that, he was a special advisor on crime prevention to the Prosecutor of the International Criminal Court and co-chair of the International Bar Association Human Rights Institute.

Mr Mendez is a human rights lawyer who survived torture under Argentina's military junta in the 1970s. In 1975 he was blindfolded and shoved in a car and taken for nearly three days of questioning by Argentinian intelligence officials. Interrogators gave him electric shocks and at one point put a gun in his mouth to try to force him to reveal information about his work and associates. <http://tinyurl.com/q9agodk>



## Politicians refuse to give what people want

Australians overwhelmingly support people's right to choose a dignified death.

A poll by the ABC in the lead-up to the NSW election revealed 72% of 34,000 people strongly agreed or agreed with the statement: "Terminally ill patients should be able to legally end

their own lives with medical assistance". Only 16% did not: 11% of people said they were neutral.

Party voting was: Greens voters 86%, Labor voters 75%, and Coalition voters 69%. Religiously, 68% of Protestants and Catholics supported euthanasia, while 20% of both faiths were opposed.

In the Queensland election in 2015, 75.9% of 70,000 respondents agreed with euthanasia. In the Victorian election in November 2014 77% agreed.

Even with such overwhelming public support, politicians throughout the nation refuse to give people what they want in the form of sensible and sensitive laws providing freedom of choice over assisted dying. <http://tinyurl.com/lkdt9n3>

## Government restores legal aid cuts...a little

The federal government last month reversed funding cuts to the legal assistance sector outlined in last year's Mid Year Economic and Fiscal Outlook.

This announcement follows a sustained campaign by a wide range of legal service organisations, the Greens and other organisations such as legal aid commissions, community legal centres and Indigenous legal services providers.

Changes to funding due to take effect on 1 July 2015 will now proceed; the \$25.5 million slashed will be restored over two years to 30 June 2017.

"Even after the restored funding, the sector remains chronically underfunded and many CLCs will still face hard choices about staffing and service delivery in coming months," Greens Senator Penny Wright said. "For example, this announcement does not address the additional cut to CLCs as part of the 2014-2015 Federal Budget of \$6 million, due to take effect in 2017-2018. Nor does it fully address the uncertainty surrounding the funding model that will apply after the expiry of the current National Partnership Agreement on 30 June 2015." – media release, Senator Wright, 25 March 2015

## Before restoration, NAAJA in dire straits

The North Australian Aboriginal Justice Agency (NAAJA), based in Darwin, would have had to stop taking new clients because next financial year's funding was in such serious doubt.

With a staff of more than 100 and 50-plus lawyers, NAAJA services more than 15,000 Aboriginal clients a year. But the 2014 Budget cut \$15 million from legal aid commissions and \$6 million from community legal centres as well as \$43 million from legal advocacy services throughout Australia

NAAJA chief executive Priscilla Collins said the organisation was on the brink of dramatically scaling back its services. "We can't be taking on civil and criminal matters and then six weeks before the end of the financial year saying to clients, 'Well, sorry, we can't continue, we don't have enough staff to continue your matters'."

Last month, all state and territory attorneys-general – across party lines – wrote to federal Attorney-General George Brandis, warning the Commonwealth's current funding plan for legal assistance would set the fight against domestic violence and Indigenous disadvantage back decades. <http://tinyurl.com/magcsxu>

## Looking a gift app in the mouth...

Details of driving gathered by insurance company AAMI could be given to police and used to charge people, and may also

lead to increased insurance premiums based on a driver's score.

AAMI is aiming the company's free Safe Driver software application at young drivers because of a claimed rise in illegal driving behaviour, including texting, phoning and speeding. The app records and rewards safe driving, but also logs speeding, accelerating, hard-braking and phone use.

When asked whether police could access the app's data, AAMI acknowledged that it "may supply driving data and personal information to the police... when legally compelled to do so". AAMI could obviously use the data to adjust premiums. <http://tinyurl.com/l668vkq>

## 8000 more public servants face 'instant sack'

More than 8000 Immigration Department public servants face unfair dismissal appeal rights when the government creates the Australian Border Force.

The ABF legislation allows the boss of the new department to summarily fire public servants for "serious misconduct", with no recourse to the industrial umpire.

The main workplace union says the legislation strips workers of legal rights: the department says a serious misconduct sacking could still be appealed in the courts. The "instant sack" provisions have operated in Customs for three years, originally to get rid of corrupt officers manning border posts.

For their sins, the rest of the public service will now pay. The rules are to be extended to Immigration's 8000 mostly deskbound public servants, who must also face mandatory drug, alcohol and psychological testing under the new regime. Some will have to prove their physical fitness too. <http://tinyurl.com/l7wv45z>

## \$6000 dispute: taxpayers pay \$0.5m legal fees

Taxpayers are now paying for seven lawyers to help the federal government keep details secret of a \$6000 child support dispute that has now cost taxpayers' more than \$565,000 in legal fees.

But despite its expensive taxpayer-funded legal team, the giant Department of Human Services could have its case thrown out because of a failure to properly fill in a simple form.

The Administrative Appeals Tribunal has been told that high-end law firm Clayton Utz, hired by the department, failed to properly complete the tribunal's application form, designed for ease of use by people with no legal training, according to reporter Noel Towell in the *Canberra Times*.

The legal firm is battling to overturn an order from the government information watchdog to the department to hand over documents to a father who has spent four years disputing a Child Support Agency order that he pay \$6000 to his ex-wife.

*Fairfax Media* revealed last year that Child Support Agency bosses had spent more than \$500,000 despite knowing, since August 2011, that their public servants broke the law in the man's case and were on shaky legal ground from the beginning of the dispute. <http://tinyurl.com/q32rgjp>

## State to release draft Right To Appeal law

Dr Vanessa Goodwin, Tasmania's Attorney-General, has confirmed that new Right to Appeal legislation for the state will be released for consultation within days: it was due by the end of March 2015.

The Hodgman government cabinet has already approved the bill in principle: it is also supported by the Labor shadow AG,

Lara Giddings, and the Greens' Nick McKim, both of whom have recently re-emphasised their support in communications with Civil Liberties Australia.

The draft bill will provide for a new Right to Appeal in circumstances where there is fresh and compelling evidence. This appeal will be to the Supreme Court of Tasmania.

Currently, once a convicted person's appeal rights before the courts have been exhausted, the only option that person has is to petition the Attorney-General and the Governor to exercise the royal prerogative of mercy.

"It is my view, and that of many in the community, that this is not the right process. Appeal decisions should be made by the courts, not executive government," Dr Goodwin said.

The current system of petitioning for the exercise of the royal prerogative of mercy has been criticised by legal commentators on a number of grounds, including the lack of formal process and transparency, and a perception that political rather than legal matters may be determinative.

"We have already discussed the proposal for this bill with interested parties, and we look forward to working with stakeholders and the community on this important piece of legislation.

"Given that the legislation we are preparing is similar to the model adopted by the South Australian Government, the government reviewed with interest the decision of the South Australian Full Court in the Keogh case. It was important to ensure that any issues presented in the South Australian legislation were dealt with. Given the outcome of the case, the Government feels confident in proceeding with this bill.

"We are confident that the model is appropriate for the Tasmanian jurisdiction and that, above all, it is in the interests of justice," she said.

Civil Liberties Australia met formally with Dr Goodwin's senior legal adviser, Andrew Mitchell, in Hobart last month to help progress the draft bill. We presented Mr Mitchell with the latest briefing documents which take into account the decision on 19 December 2014 in the Keogh case in SA.



*Photo: CLA's Rajan Venkataraman, President Kristine Klugman and Tasmanian AG's senior legal policy adviser, Andrew Mitchell, in Hobart in March 2015.*

It is expected that Sue Neill-Fraser, in her sixth year of a 23-year sentence for murdering her husband, will be the first to appeal in Tasmania under the new legislation when it comes in, rather than lodging a petition for mercy to the state's governor, which is the current path to review.

CLA believes Ms Fraser is the victim of a wrongful conviction in a case with no body, no weapon, no witnesses, no confession and no convincing motive. Note: Sue Neill-Fraser is a member of CLA.

## Greens Minister petitions for free vote

In a bid to kickstart debate about the ban on Australian territories legislating about euthanasia, Greens Minister in the Labor-Greens coalition government in the ACT, Shane Rattenbury, has launched a new petition seeking change from the Abbott government.

Mr Rattenbury said he expected thousands of people would sign to support the repeal of laws passed in 1997, known as the Andrews Bill, which stop the ACT and the NT from making laws related to voluntary euthanasia.

Greens volunteers began collecting signatures in Canberra last month.

Mr Rattenbury said ACT voters were being treated as "second-class citizens" by undemocratic laws that were made possible by the difference in state and territory powers included in the Australian Constitution. The petition calls on the federal government to re-establish the right of the ACT Legislative Assembly to legislate on euthanasia. <http://tinyurl.com/kdu9stl>

## Vics to put some more meat on charter bones

The Victorian government will strengthen the state's human rights law after reviewing the charter that sets out the basic freedoms of Victorians.

Michael Brett Young, former chief executive of the Law Institute of Victoria, will lead the review.

The Victorian charter sets out 20 fundamental human rights, such as equality before the law, freedom from torture and freedom of assembly and expression. The charter applies to all Victorian government departments and agencies, including Victoria police and local councils. It does not apply to federal agencies.

The Victorian government said it wanted to refresh the charter and to "embed the values of freedom, respect, equality and dignity in society". Martin Pakula, Victoria's attorney general, said: "The review is the first step in upholding and strengthening the human rights charter – ensuring its ongoing effectiveness in protecting the fundamental rights of Victorians.

The terms of reference for the review ask Young to consider "ways to enhance the effectiveness of the charter", as well as any desirable amendments to improve it. <http://tinyurl.com/mxml498>

## Schools get right to reject non-believers

The Tasmanian Government has moved to allow religious schools to reject students whose families do not share their faith.

An amendment to the Anti-Discrimination Act tabled in Parliament would exempt faith-based schools from certain provisions of the law. Attorney-General Vanessa Goodwin said the amendment would bring Tasmanian schools into line with other states.

"The Anti-Discrimination Amendment Bill will allow faith-based schools to give preference in their admissions to students who have religious beliefs, affiliations or activities consistent with those of the school," Dr Goodwin said. <http://tinyurl.com/mbijnrr>

## Greste delivers media lesson

The Australian Al Jazeera journalist freed from an Egyptian prison gave a lesson in media studies while addressing the National Press Club in Canberra last month.

When asked about the topic of asylum seekers, and the lack of access granted to media outlets to information and their conditions, Peter Greste was steely and direct, Lisa Davies reported.

"The public has a right to know, it's as simple as that. We hired the government, they work for us, not the other way around. And ... if we lose sight of that, if we lose sight of the public's need to know and to make decisions and to make democracy work, then again I think we - I think we run the risk of losing control." <http://tinyurl.com/nbrjpxd>

## Slow speaker plants seeds of doubt in Dr Boss



Canberra magistrate Dr Bernadette Boss (photo) wants hemp seeds tested to see if they could trigger drug-driving screening tests used by police.

Dr Boss asked for the tests as she declined to convict a local man who tested positive to driving with cannabis in his system.

When police pulled the man over for random testing in August 2014, he passed an alcohol screening test, but tested positive to THC, the chemical that gives cannabis its psychological effects. Police said he had watery, bloodshot eyes, and slow speech.

The man told the court that he had not used cannabis and claimed the positive result had been caused because he had been eating products that contained hemp seeds, including hemp protein, at the time of the test. The products are legally available for purchase from health food stores.

The man cited a previous ACT Magistrates Court case in which a 37-year-old Canberra woman's drug-drive case had been dismissed because she had been eating gluten-free muesli that contained the seeds.

Dr Boss was a member CLA before taking up her position as magistrate. <http://tinyurl.com/p9vj9wp>

## New burglary laws will jail more Aborigines

WA's new burglary laws will put more Aboriginal people behind bars, lawyers predict.

The criminal law (home burglary) act provisions introduce mandatory minimum penalties of up to 15 years for people who committed a serious crime, such as rape or murder, during an aggravated burglary.

It also doubles the mandatory penalty for repeat burglars under the state's "three strikes" laws to two years' jail and changes the rules so that a person does not have to go before a magistrate to get a "strike".

Under the "three strikes" law, which was introduced in 1996, "strikes" are accumulated on conviction for burglary offences. If several burglary offences are heard concurrently, they count as one strike.

The proposed changes would allow one or more burglary offences committed on one day to count as a strike, meaning that an adult who has never been before a court before but has committed three burglaries on three separate days would automatically be given two years in jail.

Juvenile offenders would still face the 12-month penalty.

Peter Collins, from the Aboriginal Legal Service of WA, said Aboriginal people were already disproportionately affected by the "three strikes" laws.

"Every single day of the week we deal with clients who are dealing with 'three strike' burglary offences," Collins said. "The

ratcheting up of the settings will be a daily reality for Aboriginal people in Western Australia."

In some communities, he said it was "not uncommon" to see juveniles charged with burglary for entering a relative's house through an unlocked door to get food, because they had been left to fend for themselves.

Seventy percent of Aboriginal men reoffend within two years of their release from prison. For Aboriginal boys in youth detention, the recidivism rate is 90%.

WA's Corrective Services Commissioner, James McMahon, told an estimates hearing in 2014 that the proposed legislation would put an extra 206 adults and 60 juveniles behind bars within four years, at a cost of about \$93m.

That cost was not included in the 2014-2015 budget. <http://tinyurl.com/pl9d7ya>

CLA and 11 other groups opposed the new law: <http://www.cla.asn.au/News/12-unite-against-youth-jailing/>

## New laws reverse onus, assume intent

Under new legislation in WA, if a protester intentionally or physically prevents a lawful activity, they can be imprisoned for up to a year, or face a \$12,000 fine.

If there are aggravated circumstances, a conviction can result in up to two years in jail or a fine of \$24,000.

The onus of proof is reversed, as police suspicion alone is enough to determine whether intent existed: it is up to the protester to disprove intent in court. The laws are designed to stop radical protests where people chain, lock or cement themselves and equipment into place to prevent company access, often in forest areas. <http://tinyurl.com/ms5mccgd>

## Hulls calls for 'flash' jailing

People who do not comply with family violence court orders should be jailed for 24 hours, former Victorian attorney-general Rob Hulls says.

Hulls, the director of RMIT's Centre for Innovative Justice, said perpetrators needed to be held responsible and that crime data for 2014 showed an 8% increase in family violence.

Mr Hulls said the idea of sending a perpetrator to jail for 24 hours known as "flash incarcerations" gave the courts more power to deal with offenders.

"It sends a message to the perpetrator that the more you escalate your breach of intervention order, the more likely you are to be dealt with very rapidly by the court," he said. <http://tinyurl.com/m7anngh>

## Ex-Police Commissioner under investigation

The recently-resigned NT Police Commissioner, John McRoberts, is being investigated by police brought in from interstate for possibly perverting the course of justice.

An investigation by the former Deputy Ombudsman of Victoria, John Taylor, and Caroline Norrington recommended the move,

They also inquired into the behaviour of Commander Richard Bryson: his conduct was not improper within the meaning of the Public Interest Disclosure Act, the report said....but still recommended disciplinary action be taken against him.

The embarrassing case arose around the ultimate arrest of a high profile female businesswoman in Darwin who was said to be a close friend of the former Commissioner. – Chief Minister's media release 1 March 2015

## State's justice system under stress

Queensland's justice system is under extreme stress after retiring Supreme Court justice Alan Wilson severely criticised the ability and performance of Chief Justice Tim Carmody in a retirement address last month.

The retiring judge alleged the Chief Justice had attempted to interfere with the appointment of another judge to oversee a potential dispute over the recent state election. Wilson said Carmody had lost "all respect" from his peers: Carmody had privately referred to his fellow judges as "snakes" and "scum". Wilson claimed Carmody had alienated other judges through hypocrisy, a lack of legal ability and by preferring public relations to court work. Carmody's appointment in July 2014 was an "experiment" doomed to fail, Wilson said, adding that outsiders "do not know of a number of things which stand behind that prediction". Carmody was promoted from the magistrates court by Queensland's Campbell Newman-led coalition government last year.

"Sadly the current experiment, involving a chief justice who frankly admits he lacks [legal] ability, and has signally failed to manifest those skills, is not working – and there is no reason to think that it ever will," Wilson said.

In another speech last month, top Queensland criminal lawyer, Peter Davis, told the Bar Association that "this crisis in the composition of the supreme court is not behind us and will not be for a long time". Davis said the current "serious problems" with the Supreme Court and the justice system was the result of a former government bent on "insidious attacks" on the law and the court. <http://tinyurl.com/q5e6ncx>

Carmody replied to Wilson's outburst: "I reject outright his attack on my integrity and performance as chief justice."

## Australian briefs

**Govt hunts child refugees whistleblowers:** Child protection whistleblowers who alerted the Australian Human Rights Commission (AHRC) to child sexual abuse, violence and self-harm on Nauru are being investigated by the Australian Federal Police. Ben Doherty in *The Guardian Australia* has reported that the AFP has been asked by the Department of Immigration and Border Protection to investigate Save the Children staff who anonymously wrote a submission to the commission's inquiry, outlining cases of sexual and physical abuse of children, and acts of self-harm. <http://tinyurl.com/lpcnae>

**ODD SPOT** Speaker Browyn Bishop boots out Labor MPs at a rate far higher than Coalition MPs — 63 times higher, in fact. Since she took the chair, the count is 319 to 5, according to *Herald* journalist Stephanie Peatling. If the MPs are not representing their constituents because they have been thrown out of the House, should their pay be docked? <http://tinyurl.com/np8r5o6>

**Anachronism alert – why do we bother?** Australia is passing a law so that a female who is a Catholic can be Queen of England. The *Succession to the Crown Bill of 2015* allows a female to rank in line for the throne above younger brothers...and she can now even be a Catholic, ending centuries of religious discrimination. Perhaps – though this is not in the Bill – Prime Minister Anthony John Abbott could make her a dame, or even a knight now that sex discrimination has ended.

## CLA Report...for April 2015

Voting closed on Monday 23 March 2015 for CLA 2015 eAGM: see report on web and in this CLArion.

Tasmania: The President and Secretary visited Tasmania as guests at the wedding of Kate and Richard Griggs. Richard is the Director - Tasmanian of Civil Liberties Australia. While there, they:

- met with Andrew Mitchell, advisor to Attorney-General Dr Vanessa Goodwin, re right to appeal legislation, providing updated briefing papers (with CLA member Rajan Venkataraman)
- visited Sue Neill-Fraser, in the Mary Hutchinson Womens Prison, at Risdon in Hobart
- held discussions with Sue's pro bono lawyer, Barbara Etter, about the future plans for appeals
- met with CLA members Rajan Venkataraman and Carol Hughes

Meetings with CLA members included:

- Pat Power re his visit to Sue Neill-Fraser in jail in February, and opportunities for education/training;
- Bill Stefaniak, co-President of the ACT Civil and Administrative Tribunal, ACAT;
- Darwin member Rob Wesley-Smith re East Timor;
- Margaret O'Callaghan re her research on mining in Zambia, and lessons for PNG and Timor Leste;
- There was a social gathering of ACT CLA members on 29 March.

### Forums:

Roundtable on citizenship and the Australian constitution, Parliament House;

Book launch, at the Centre for International and Public Law, ANU, of papers from conference, *Law and Democracy: Contemporary Questions*, launched by Commonwealth Ombudsman, Colin Neave, a CLA member (co-author is Prof Kim Rubeinstein, a CLA member);

Lecture/review by CLA member Ernst Willheim of *The Spy Catchers* by David Horner, a history of ASIO, at Manning Clark House

CLA members Noor and Mark Blumer visited Sue Neill-Fraser late last month to discuss the draft play, which tells Sue's story. Sue has now been in jail nearly six years. On her birthday on 3 March, her second grandchild was born, to her daughter Sarah and Mark Bowles.

CLA Perth member Brian Tennant was invested with an AM on 27 March. CLA (with some CLA members as referees) were one of the nominators for Brian to receive the award.

### Media:

- Background information - Data Retention (online journalist)
- Discussion with Fiona Patten, MLC Victoria, re abortion clinic exclusion zones, and other initiatives
- Interview with Tamworth ABC Radio over data retention laws
- Worse than the TPP? Defence pilloried: article on the Tasmanian Times online news magazine
- Defence pilloried by Senate test pilot: article on Reddit and Slashdot

**Citizenship workshop:** CLA attended the three-hour workshop run by the House of Representatives Social Policy and Legal Affairs Committee. We proposed a one- or two-year Citizen Consultation process, run by a panel or by MPs in their own electorates, to both educate Australians about their rights and responsibilities as citizens, as a prelude to laying down a definition of citizen which does not exist in Australian law.



*Photo: Chair of the Indigenous Lands Corporation, Dr Dawn Casey, and President of Civil Liberties Australia, Dr Kristine Klugman, at the citizenship workshop.*

## INTERNATIONAL

### Rights of the child lasts into 30s

Spanish parents are legally obliged to support their children financially until they can find a job, at least into their 30s.

Spain's Supreme Court has decided that even grown-up children must be supported by their families as youth unemployment hovers around 50%.

A divorced father from Galicia was last month ordered to pay \$560 a month to support his 31-year-old daughter until she earns enough to support herself. There have been several similar sentences recently involving parents and children of 30 years or more. <http://tinyurl.com/pydl3bc>

### South Korean law to get out of the bedroom

Adultery is no longer illegal in South Korea: the country's Constitutional Court has struck down a more than 60-year-old law.

Violators could previously be imprisoned for up to two years.

On this occasion, 7 of 9 justices on the bench determined the 1953 statute was unconstitutional.

"Public conceptions of individuals' rights in their sexual lives have undergone changes," presiding justice Park Han-Chul said.

The state formally arraigned almost 5500 people on adultery charges in the past six years, but prison terms have become rare, with 216 people jailed in 2004, but only 22 imprisoned since 2008. <http://tiny.cc/ozunux>

### US police kill double the published numbers

US local and state police kill about 545 more people every year than they have ever admitted to.

The first-ever attempt by US record-keepers to estimate the number of uncounted "law enforcement homicides" exposed previous official tallies as capturing less than half of the real picture.

The new estimate is of an average of 928 people killed by police annually over eight recent years, which compares to 383 in published FBI data.

US police statistics are based on voluntary submissions by local law enforcement agencies of paperwork known as supplementary homicide reports.

No law requires local agencies to fill out the reports, and some agencies do not, especially not for officer-involved homicides, according to experts who have studied the issue. <http://tinyurl.com/qduaecd>

### ODD SPOT: Cost-benefit is a better way to analyse terrorism response

Our risk and cost-benefit analyses have shown air marshals to be a waste of money, full-body scanners to be marginal at best, hardened cockpit doors to be extremely cost-effective, and hardening of most buildings and bridges becomes cost-effective only if the threat level is exceedingly high – Mark Stewart, John Mueller. <http://tinyurl.com/qetq2j2>

### Commons committee plumps for 'innocent until charged'

The UK House of Commons Home Affairs Select Committee believes media naming increases the potential for damaging the lives of people who may never face prosecution.

The media – and police, most of the time – should be banned from naming suspects unless and until they are charged with an offence, a committee of MPs has recommended. The committee says all suspects should have the same right to anonymity that already protects victims of alleged sexual offences, including rape.

The MPs say names of suspects should only be released "for policing reasons" and then in a formal way: "There needs to be zero tolerance on the police leaking information on a suspect in an unattributed way."

The rise of social media has the potential to "amplify the reputational damage done by naming a suspect", the committee said.

Keith Vaz, the committee chairman, highlighted "12 months of trauma" faced by Paul Gambacini, during which he was on police bail until being cleared. In the end, no further action was taken against the radio disc jockey, but not before he had lost more than \$380,000 in income and legal fees after being suspended by the BBC. <http://tinyurl.com/mrjumcz>

The same problem exists in Australia, Civil Liberties Australia says, where it is alleged police have used public identifying of uncharged people as a way of shaming them, or even of "getting even" by police thwarted in court cases.

### Senator Tom Cotton takes on Iran

...by Roger Fitch Esq

Forty-seven Republican senators have sent Iran a [brazen letter](#) attacking Mr Obama's foreign policy powers, essentially promising that a future Republican government will break any agreement the Democrat president makes to forestall the development of nuclear weapons in Iran.

The undiplomatic note, penned by Arkansas's notorious new senator, Tom Cotton, is bad law and seems to violate the *Logan Act's* prohibition of private correspondence with foreign governments.

Republicans have form when it comes to sedition. In 1968, they warned South Vietnam away from Lyndon Johnson's Paris peace talks, causing their collapse. In 1980, they persuaded the Iranians to hold on to the American hostages till Ronald Reagan had been elected, promising a better deal. But those plots were *secret*. With a Tea-Party Congress, it's another matter: they're out and proud.

The Republican revolutionaries will likely go unpunished, as [no one has been prosecuted under the Logan Act](#) since it was passed in 1799.

– Roger Fisq Esq, who writes on US legal and political affairs for the *Justinian* blog of Richard Ackland, generously provides his commentary to CLA also.

## Supreme Court strikes blow for free speech

The Indian Supreme Court has struck down a section of a law that allowed authorities to jail people for offensive online posts, in a judgment that was regarded as a landmark ruling on free speech in India.

The law stipulated that a person could be jailed for up to three years for any communication online that was, among other things, "grossly offensive", "menacing" or "false", and for the purpose of causing "annoyance", "inconvenience" or "injury".

The provisions, which led to highly publicised arrests in recent years, had been roundly criticised by legal experts, who called them vague and argued that they had been used in some cases to stifle dissent.

Calling the wording so vague that "virtually any opinion on any subject would be covered by it", the court said "if it is to withstand the test of constitutionality, the chilling effect on free speech would be total". <http://tinyurl.com/pnfr5vo>

## Wales bewails govt rights violation

Wikipedia co-founder and entrepreneur Jimmy Wales (photo) has slammed the Australian government's plan to make telcos store the metadata of every phone and internet user as a "human rights violation".



Mr Wales is co-chairman at The People's Operator (TPO), a mobile service provider in Britain that gives 10% of every customer's bill to the charity of their choice.

Mr Wales said he understood the need for data retention schemes in fighting crime, but law enforcement bodies should be forced to get warrants when seeking people's information.

"With proper judicial oversight, probable cause, warrants, judges and not just police overseeing it, the ability to get access to information is perfectly valid," he said. "Warrantless systems really bother me because I think there's a real danger of them being abused and misused against people who haven't committed a crime." <http://tinyurl.com/pu8cj8g>

## Top court says world's your DNA repository

The US Supreme Court last month let stand the conviction of a rapist whose prosecution rested on DNA swiped from the armrests of an interrogation-room chair.

Without comment, the justices refused to review a 4-3 decision from Maryland's top court that upheld the life sentence and conviction of Glenn Raynor. The dissent on the Maryland Court of Appeals said a probable-cause warrant was needed and painted a grim picture of the future.

The majority's approval of such police procedure means, in essence, that a person desiring to keep her DNA profile private, must conduct her public affairs in a hermetically sealed hazmat suit. A person can no longer vote, participate in a jury, or obtain a driver's license, without opening up his genetic material for state collection and codification. <http://tinyurl.com/ncggepc>

## Mass surveillance commonplace in UK

Britain's laws governing intelligence agencies and mass surveillance require a total overhaul to make them more transparent, comprehensible and up to date.

So says the UK parliament's intelligence and security committee (ISC) in a landmark report prompted by the revelations of Edward Snowden, the former US National Security Agency contractor.

After an 18-month inquiry, the ISC found that existing laws were not being broken by the agencies and said bulk collection of data by the government is not mass surveillance or a threat to individual privacy.

But it also says the legal framework is unnecessarily complicated and – crucially – almost impenetrable. The current laws could be construed as providing the agencies with a "blank cheque to carry out whatever activities they deem necessary", it says.

In the single most important revelation, the report reveals for the first time that the agencies have had the capability to trawl through personal records and form and examine "bulk personal datasets" without any statutory oversight.

In a heavily censored section of the report, the committee reveals these datasets containing personal information about a wide range of people vary in size from hundreds to millions of records, adding there is no legal constraint on storage, restraint, retention, sharing and destruction. Surveillance agencies do not require ministerial authorisation to access the information.

Its key recommendation is for all the current legislation governing the intrusive capabilities of the security and intelligence agencies to be replaced by a new, single act of parliament. <http://tinyurl.com/nbpl4q8>

## UK Parliament endorses online secrecy

A UK Parliament entity has concluded that it would be "not seen as acceptable" to ban online anonymity.

Commenting specifically about Tor, the parliamentary report says it would be "technologically infeasible" to block people from using the service in the UK.

The new report, prepared by the Parliamentary Office of Science and Technology, mentions terrorism briefly, but mostly focuses on how Tor and its extension, Hidden Services, allow for the creation of criminal markets (like Silk Road) and aid in whistleblowing, journalism, and circumvention of censorship.

The report says that even if the UK government wanted to ban online anonymity, it isn't clear how it would go about doing it. <http://tinyurl.com/npa3byd>

## Kiwis spy on Solomons' top people

NZ's eavesdropping agency used an Internet mass surveillance system to target government officials and an anti-corruption campaigner in the Solomons Islands, according to a top-secret document.

Analysts from NZ's Government Communications Security Bureau (GCSB) intercepted documents authored by the closest aides and confidants of the prime minister of the Solomons. The agency also entered keywords to intercept documents containing references to the Solomons' leading anti-corruption activist, known for publishing government leaks on his website.

XKEYSCORE is run by the National Security Agency, and is used to analyse billions of emails, Internet browsing sessions and online chats that are collected from some 150 different locations worldwide.

Most targets were prominent in the Solomon Islands government. Their roles around the time of January 2013 suggest GCSB was interested in collecting information sent among the prime minister's inner circle.

The targets included: Barnabas Anga, the permanent secretary of the Ministry of Foreign Affairs and External Trade; Robert Iroga, chief of staff to the prime minister; Dr Philip Tagini, special secretary to the prime minister; Fiona Indu (photo), senior foreign affairs official; James Remobatu, cabinet secretary; and Rose Qurusu, a Solomon Islands public servant.



The seventh person caught up in the GCSB's surveillance sweep is the leading anti-corruption campaigner in the Solomon Islands, Benjamin Afuga. <http://tinyurl.com/ktqwlac>

The reports also say NZ is spying on other Pacific island neighbours and sharing the intelligence with its Five Eyes surveillance allies Australia, Canada, UK and USA.

The papers, leaked by former US National Security Authority contractor Edward Snowden and dating back to 2009, claim NZ's spooks intercepted emails, mobile and fixed line phone calls as well as other social media messages and communications in small Pacific states including Fiji, Samoa and French Polynesia. <http://tinyurl.com/k6aluzd>

### Jails cut staff: deaths, harm, assaults rise

UK Justice Secretary Chris Grayling has been upbraided by cross-bench MPs for denying a link between prison staffing cuts and a sudden rise in self-inflicted deaths and violence inside English and Welsh jails.

After a year-long inquiry, the Commons justice select committee said the government has tried to play down publicly the significance of a 38% rise in prison deaths since 2012.

"It is not possible to avoid the conclusion" that changes in policy, including efficiency savings and staffing shortages, "have made a significant contribution to the deterioration in safety", the committee said.

The MPs warn that there is a "very real danger of unmanageable growth" in the prison population, which at more than 85,000 is already at record levels, unless there are significant changes in both the current "tough rhetoric" and policy on sentencing.

There has been a 28% reduction in the number of prison officers in publicly run prisons since 2010.

"Since 2012, there has been a 38% rise in self-inflicted deaths, a 9% rise in self-harm, a 7% rise in assaults and a 100% rise in incidents of concerted indiscipline," the committee says. <http://tinyurl.com/lcrm5vw>

### International briefs

**Scots bring in ID by stealth:** The Scottish government is introducing a new identity database which critics say is an ID card system by stealth. The government will expand a National Health Service register to cover all residents and

share access with more than 100 public bodies, including Her Majesty's Revenue and Customs. The UK information commissioner's office has formally warned Scottish ministers in a detailed letter that these plans risked personal privacy and civil liberties and had not been fully thought through.

<http://tinyurl.com/qzcc4pl>

**UN slams UK over Diego Garcia:** Britain acted illegally in how it has exercised territorial control over the Chagos Islands, a UN tribunal has ruled. In a withering judgment, the UK is accused of creating a marine protected area to suit its electoral timetable, snubbing the rights of its former colony Mauritius and cosyng up to the USA, which has a key military base – allegedly used for the rendition of terrorist suspects – on the largest island, Diego Garcia. The UK has promised to return the Chagos Islands to Mauritius when they are no longer needed for defence purposes. The ruling effectively throws into doubt the UK's assertion of absolute ownership, restricts the Americans' ability to expand their facility without Mauritian compliance and boosts the chances of exiled Chagossians being able to return to their homeland. <http://tinyurl.com/mx36lx2>

**Net becomes 'neutral':** US President Barack Obama and digital icons like Steve Wozniak and Tim Berners-Lee have welcomed a historic decision by the US communications authority to guarantee an open internet in line with the concept known as "net neutrality". The US Federal Communications Commission has voted so that broadband internet service will be regulated as a public utility, ensuring internet service providers cannot block access to certain websites, throttle or slow internet speeds, or give priority speeds or "fast lane" privileges to websites or companies which pay extra to deliver their content faster than others. <http://tinyurl.com/la43qmw>

**Parliament committee challenges TTIP claims:** A future British government must be allowed to expand the National Health System without facing legal challenge under a proposed new EU-US trade deal, according to a sharply critical report from an all-party Westminster committee of MPs last month. The Business, Innovation and Skills committee said the government needed stronger evidence to back up its claim that the Transatlantic Trade and Investment Partnership (TTIP) would bring a boost of \$190 billion a year to the UK. It also said the case had not been made for the highly controversial investor-state dispute settlement (ISDS), which allows private investors to sue governments for the loss of future profits caused by decisions made by national parliaments. TTIP is the North Atlantic equivalent of the Trans Pacific Partnership. <http://tinyurl.com/qfsgp7y>

**ODD SPOT: No right to bear e-arms:** Massachusetts' ban on the private possession of stun guns—an "electrical weapon" under the statute—does not violate the US Second Amendment right to bear arms, the state's top court has ruled. The decision says that the US Constitution's framers never envisioned the modern stun-gun device, first patented in 1972. The top court said stun guns are not suitable for military use, and that it did not matter whether state lawmakers have approved the possession of handguns outside the home. The court, ruling in the case of a Massachusetts woman caught with a stun gun, said the stun gun is a "thoroughly modern invention" not protected by the Second Amendment, although handguns are protected. <http://tinyurl.com/lndw5o>

**Licence data retention to be curbed:** Virginia is set to become the first state in America to impose a very short data retention limit on the use of automated license plate readers. Virginia cops will only be able to keep such data for seven days unless there is an active, ongoing criminal investigation. New Hampshire previously banned the devices outright, while Maine has imposed a 21-day limit. However, many US jurisdictions, from the New York State Police to the Oakland Police Department, have no formal data retention limit. That means the location data—often resulting in millions of records collected over years—is effectively kept forever. <http://tinyurl.com/n6ludz7>

**Licensed to snoop:** In response to a public records request, the *Ars Technica* online magazine has obtained the entire licence plate capture dataset of the Oakland Police Department in the USA, including more than 4.6 million reads of over 1.1 million unique licence plates from 33 automatic readers between 23 December 2010 and 31 May 2014. After analysing this data with a custom-built visualisation tool, *Ars* said it can frequently make educated guesses about a target's home or workplace, particularly when someone's movements are consistent (as with a regular commute). <http://tinyurl.com/ouokodf>

**Countries continue to execute people:** A total of 789 people were definitely executed around the world in 2014, with figures for China, North Korea and Yemen uncertain. Iran executed at least 494 people in 2014, Saudi Arabia 88, Iraq 46, China 39, the USA 35 and Palestine 20. In Indonesia, executions figures are believed to be: 2013 - 4; 2014 - 0; 2015 - 6 to the end of March. Execution in China is believed to be much reduced, by newly-ordained policy, than the thousands who used to be put to death annually. At least 22 women were among those executed in 2014. <http://tinyurl.com/ocyr7hu>

**State opts for police firing squad:** The US state of Utah has a new law resurrecting firing squads as an alternative method of executing condemned inmates. The law allows Utah to use a firing squad only if the lethal injection drugs are unavailable 30 days before an execution is scheduled. Reports say the firing squad members are chosen from police officer volunteers. <http://tinyurl.com/p9qbzgd>

**Poll ban on 'The Lady':** Myanmar (Burma as was) will go to polls in November 2015, with the end of April the deadline for political party registration. Aung San Suu Kyi is prevented from running for president under the 2008 constitution because she is the widow and mother of foreigners.

## DATES

**23 April, Canberra:** Models of judicial tenure: reconsidering life limits, age limits and term limits for judges: Prof Brian Opeskin of Macquarie U. ANU College of Law 1-2pm

**13 May, Canberra:** Roundtable at ANU: Why do lawyers do the ethical things they do? Prof James Moliterno, Washington and Lee U. Details: <http://tinyurl.com/jvlssup>

**18-19 May 2014, Waikiki Hawaii:** Pacific Rim Intntl Conf on Disability and Diversity. Details: <http://www.pacrim.hawaii.edu/>

**21 May, Brisbane:** Constitutional Law: What should we do with the States? David Jackson AM QC barrister, Banco Court, 415 George St, 5-6.30pm. <http://tinyurl.com/nqgm1ck>

June, England: 800th anniversary of Magna Carta

**4 June, Brisbane:** Health Law: Emerging infectious diseases and the law, Prof Belinda Bennett, Qld Uni of Technology, Banco Court, 415 George St, 5-6.30pm. <http://tinyurl.com/nqgm1ck>

**3-5 July, Washington DC USA:** Australian Bar Association conference. Trends in American Justice: Impacts for Australia (see 7-10 July also). Contact: [avaconference@nswbar.asn.au](mailto:avaconference@nswbar.asn.au)

**5-9 July, Perth:** 15th International Symposium of the World Society of Victimology, Perth Convention Centre. Details: <http://tinyurl.com/nu4aogr>

**7-10 July Boston Mass. USA:** Australian Bar Association conference. Survival of the Fittest: Challenges for Advocates in the 21st Century. (See 3-5 July also). Contact: [avaconference@nswbar.asn.au](mailto:avaconference@nswbar.asn.au)

**2-6 Aug, Coimbra, Portugal:** 21st annual World Assn for Medical Law conference, covering ageing and health law, IT and health, migrations, islamic bioethics. Details: <http://wafml.memberlodge.org/page-1638556>

**6 Aug, Brisbane:** Criminal Law: The limits of 'Mr Big' techniques and covert interviewing. Prof Simon Bronitt, U. Qld. <http://tinyurl.com/nqgm1ck>

**13 Aug, Brisbane:** Annual Sir Harry Gibbs law lecture. By Justice Hugh Fraser. Details: <http://tinyurl.com/kqev32m>

**13 Aug, Canberra:** Annual Kirby lecture on international law: Prof Gerry Simpson of U. Melbourne. Details: <http://tinyurl.com/q8zeq3n>

**29 Sept, Brisbane:** Qld Supreme Court oration. Speaker TBA. 5.30pm Banco Court, QEII courts. Details: <http://tinyurl.com/kfnclah>

**25-26 Nov, Canterbury NZ:** Pacific Regional Security Symposium: Re-thinking Regional Security: Research and Policy Nexus. Three broad themes for the conference are hard security, human security and environmental security. More info: Email: [Kirsty.ameriks@canterbury.ac.nz](mailto:Kirsty.ameriks@canterbury.ac.nz)

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

## 2016:

18-23 Sept, Auckland NZ: 23rd Intntl Symposium on Forensic Sciences. Details: [www.anzfss2016.org](http://www.anzfss2016.org)

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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)

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