

Blue paper for police and spooks

The problem: knee-jerk, reactive laws promoted by police and security security whenever any oddball or mentally disturbed person perpetrates anything that could remotely be labelled 'terrorism'.

The law is then enacted in a thoughtless rush by politicians who think that crazed citizens, or non-citizens, intent on murder or mayhem will take any notice.

How do we stop the downward spiral of ill-considered laws that have come at the rate of about seven a year – better than 1 every 2 months – since the 2001 aircraft attacks in the US?

The answer: create a new parliamentary evaluation system, a blue paper. It would be modelled on the well-understood white and green paper system for proposing major policy change and having it reviewed thoroughly before parliament acts. Similarly, any 'terror' law change wanted by anyone – police, security agencies, civil liberties bodies, etc – would be obliged to go through a blue paper round: be proposed publicly with a strong rationale provided for change, argued in public; be subject to critique and review; involve a second and possibly third stage process; finally, be put forward as a bill before the parliament.

CLA's blue paper proposal would remove the rash rush to legislate which does not drive at the root causes and problems of what is ailing society, but is merely a 'power palliative' for people who are terrified that a major terrorist attack will happen "on my watch", as they say.

CLA is discussing the initiative with progressive politicians who want to ensure Australian society does not lose its traditional liberties and rights any more any further. We hope that the blue paper concept will also eventually lead to a separate breakthrough in national governance, a system of parliamentary debate and vote to confirm any Australian decision to go to war (or engage in warlike endeavours).

Rolling Royal Commission...let's get it moving

In every state and territory of Australia, and federally, there's a compelling case to be made for a fresh inquiry – a Royal Commission – into the police force.

The recurrence and similarity of problems in policing and with police-associated entities throughout Australia calls for a national approach. It is time to consider a rolling Royal Commission (RRC).

This permanent body would examine the sins and omissions of the police force in one state in one year. The next year, it examines another state. The next, perhaps a territory. The next, it draws a fine tooth comb through the practices and behaviours of the federal police.

And so on around the nation until, after a decade, it is time to start again by re-examining the first force investigated. History says that police forces fall back into bad practices after a handful of years of not facing close external scrutiny.

The RRC would be a commission of 8-10 people say, with half turning over when the RRC crossed a border into new territory. The cost? \$3.5-4m a year. The savings? At least that amount, and probably 5-10 times as much in eliminating corruption, wrongful imprisonment, bad attitudes, bullying and intimidatory behaviour, incompetence and inefficiency.

Further ideas welcome.

Can legal system become more like banking?

While we're on a reformist mission, how about the legal system self-examines to produce the quantum of change internally that the banking system has achieved in the past 30 years.

Remember when you did your banking with a passbook and a teller, who wrote in and initialled your deposit or withdrawal, and the new total? The bank was a big, grand building, solid, imposing, with massive doors.

Now you likely bank online from your phone or your home computer. In 30 years, banking is unrecognisable by comparison with how it was.

The legal system? Barely a movement in the direction of e-technology. So, you can get your court documents up on screen in court, and someone can 'appear' by video from another location. Big deal.

How about e-charges issued by the police? A response online from the person charged? An 'automatic' sentence pulled from a range of sentences for similar offences handed down over the past decade?

If you don't like the e-sentence that flashes up on screen, you can go to court to challenge it. If you like it, just press 'Yes' and that's your day in court over with.

You haven't had to get out your one suit, and polish the shoes. You haven't spent hours in a lawyer's office. The police haven't filed masses of paperwork; the DPP has flicked through those to be charged and OK'd yours for a e-court hearing.

Time saved? At least 1 human day per case, in total. Costs saved? Probably about \$5-10,000 per case.

Why is the legal/justice system not heading in this direction?

'Right to Appeal' law after 2 1/2 years lobbying

Tasmania last month became the second jurisdiction in Australia, after SA in June 2013, to have a 'right to appeal' (R2A) clause in its criminal law.

Civil Liberties Australia was the first body to begin campaigning for the R2A law in Tasmania. We began our lobbying in April 2013, even before the SA law had passed that state's parliament. We briefed the then-Labor/Greens government leaders (as well as the Liberal shadow police minister), and thought we had agreement for the legislation to be passed by December 2013. However, that did not happen.



Fortunately, in August 2013 we briefed the then-shadow attorney-general, Dr Vanessa Goodwin (photo), who thought the principle of the legislation had merit.

She gave no firm commitment but said she would look at the possibility of enacting the legislation if the Liberals gained government.

In early 2014, they did, and Dr Goodwin was true to her word, introducing a consultation process around the proposed law in early 2015 and finally shepherding passage of the bill through the House of Assembly in October 2015

It is expected to be signed into law by mid-November 2015.

The new Tasmanian law enables Sue Neill-Fraser to appeal what CLA believes is a wrongful conviction.

Civil Liberties Australia is now ramping up campaigns for the law to be mirrored in Victoria and WA. In Victoria, we expect Australian Sex Party Member of the Legislative Council, Fiona Patten (a CLA member) to lead the debate for the new law.

Priority list of what needs fixing

We asked for feedback from members on what needs addressing, now there's a new Prime Minister.

We received some excellent idea, including these:

1. The 'anti terror' laws have rendered us a police state. They must be revoked. In the early days I had hoped the High Court would strike them all down but cases such as Thomas etc etc have led me to despair. Perhaps the question should be firmly put to the government that they should demonstrate how these laws have protected the community in a scale to justify the draconian nature of them and how the laws already on the books failed.
2. The data laws are a real worry. I see no reason why such info should only be collected on a court warrant based on reasonable suspicion.
3. The Queensland government is reviewing the 'anti bokie' laws. Obviously they should be encouraged to repeal them. The recent incident involving charges arising out of purchase of ice creams in Queensland, which were dropped, might help the politics of the situation.
4. The article about AFP seizure of property is a real worry. It will be interesting to see what the High Court says in due course. If the court's interpretation of the 'Just Terms' provision in the Constitution colours their analysis of the statute I would not expect much from that quarter.

In the end we need a bill of rights. A well drafted bill of rights might protect us from the inexorable march of government authoritarianism.

First chapter of civil liberties book launched

The first chapter – on Tasmania – of the history of civil liberties in Australia was launched at a gathering of CLA members in Hobart late last month.

Held at the home of Tasmanian State Director of CLA, Richard Griggs, and his wife Kate, a dozen CLA members gathered for the chapter launch by the authors, CLA President Dr Kristine Klugman and CEO Bill Rowlings. Others present included Eva Cripps, Alan Whykes, Mai Lien and Bob Findlay, CLA Director and Tasmanian State CLA spokesperson Rajan Venkataraman, and CLA Treasurer Phil Schubert.



Photo: Rajan Venkataraman, Eva and Zac Cripps, Kristine Klugman and Richard Griggs.

The meeting also discussed Civil Liberties Australia's strategic plans, nationally and for Tasmania, and offered suggestions and fresh ideas.

Two days later, the authors deposited a formal first copy of the Tasmanian chapter of the book with Caroline Homer, the manager of the Tasmanian Information Research Service within the Tasmanian State Library.

Photo: CLA President Dr Kristine Klugman (left) and Caroline Homer.



The library was very helpful in making files available, which helped the research in relation to the first civil liberties group formed in the island state.

It's official – you can selfie your ballot paper!

The parliament and the Australian Electoral Commission have confirmed that it's OK to take photos of your ballot paper, and share the photos with friends or post them online to prove how you voted.

Civil Liberties Australia decided to check the rules after the question was raised in the United States. There, they decided ballot paper selfies were OK.

In more formal words, they're OK here too: "On behalf of the Joint Standing Committee on Electoral Matters I am following up on a matter you raised with the Committee regarding 'selfies of marked ballot papers' dated 17-08-15," committee secretary Rebecca Gordon wrote.

"The Committee received advice from the AEC and can confirm the following: There is no provision in the Electoral Act that makes it unlawful for an elector to photograph their own ballot paper and to post an image of that marked ballot paper online."

So, federal polling places could be all lit up with flashes in the next election as folk prove how they made their mark. With people able to post the image online, mini-polls of pre-poll voting can be more accurate.

Watch this space. The situation may not last.

Passport-free travel to land of the long cloud?

Australia is soon expected to trial passport-less travel with NZ in a move which may go global.

A cloud passport would store a traveller's identity and biometrics information in the 'cloud' – the virtual 'glodabase' where digital data lives, so a passenger would not need a hard-copy passport: DFAT says 38,718 passports disappeared, lost or stolen, in 2014-15.

Worldwide, the home country could hold the data, with the destination country receiving a "Yes – ID confirmed" result or the opposite.

The main problem will be how to handle a situation where you are rejected by the cloud computer. <http://tinyurl.com/qh6cer3>

ODD SPOT: Parliament to accept e-petitions

The Australian Parliament is planning to accept electronic petitions on its website from early in 2016. Trouble is, it is to be run by the same people who run the existing appalling parliament website. That almost certainly guarantees the new e-petition system will be a. late, b. not work, c. cost about double what was allocated and d. eventually require an entire revamp of the parliament's online presence.

StraliaNet surveillance coming to your face

The Australian government is [developing a system](#) that will comprise 'big brother' surveillance of Australians, wherever you live, work, play and drive.

It will pool birth, home, banking, and online records with state and territory facial recognition technologies.

Driver's licence photos, passport photos, and even stills from CCTV footage could be watched by the Australian Federal Police, spy agencies, Customs and Border Protection and other law enforcement agencies.

The Attorney-General's Department has allocated \$12.6 million to fund the 'StraliaNet', Josh Taylor reported in *Crikey*: the name is a play on the StasiNet surveillance regime of the old East Germany. An extra \$5.8 million is set aside for the states and territories to connect to the hub.

The AG's department admits there are more than 100 million facial images held by government agencies that are responsible for issuing ID documents.

Auxiliary Bishop Emeritus Pat Power, who headed the Catholic church in the Canberra-Goulburn diocese from 1986 until retiring in 2012, says he is "absolutely astounded" and "appalled" that Mr Abbott would use the Bible to preach his "narrow-minded" and "hard-hearted" message.

Bishop pillories Abbott re un-Christian speech

"I'm ashamed that a former Australian PM would be putting out a message like this," retired Bishop Pat Power, a member of Civil Liberties Australia, told *Fairfax Media*.

Referring to the former PM's call in London last month for Europe to shut its borders to refugees, Bishop Power said: "People will make their own judgements but that's completely at odds with what's at the heart of Christianity. I'm certainly offended," he added.

Similarly, human rights lawyer and Jesuit priest Father Frank Brennan shared the sentiments: "The appalling thing is that ex-PM Abbott has no right to preach to the world because having stopped the boats, he insisted on maintaining the facilities at Nauru and PNG,"

Father Brennan also told *Fairfax Media*.said. "They are not are just harsh but cruel and they don't deter asylum seekers because we've now locked the front door," he said. <http://tinyurl.com/oghbydn>

ODD SPOT: Thrust and Parry...and the table comes tumbling down

Senate President Stephen Parry blamed the cleaners for revealing a broken marble coffee table smashed during high jinks as former Prime Minister Tony Abbott partied on the night of his demise.

The cleaners had broken a "duty of confidentiality" by reporting what they saw in ministerial offices.

Senator Parry, ex-mortician, ex-policeman, is obviously an expert on keeping secrets.

But it was only the airing in a Senate estimates hearing of Affair of the Smashed Table (or "Seriously Damaged", which was the Parry description) that brought forth the offer of Mr Abbott MP to pay the \$1000-odd in repairs.

Labor's Senator Penny Wong said of the Parry comment: "So it's the cleaners' fault for telling people that ministers have been souveniring bits of marble? Are you going to go after the cleaners? Are you seriously telling the committee, Mr President, that your primary concern is the cleaners' conduct in this?"

(It is not true that she said Tony had lost his marbles).



Senator Parry: "No, I'm not saying that Senator Wong. What I'm saying is how can we rely on evidence, anecdotal evidence when it would be the duty of cleaners not to report matters that they sight on ministers' desks."

Wong: "I will place on record that I think it is an extraordinary thing that a presiding officer is concerned about what the cleaners have done here and not about the fact that Commonwealth property has been treated in this way."

In the good old days, things sighted on Ministers' desks included, allegedly, a Minister's wife's knickers left in the ashtray of a Minister. But parliament is much duller, now it's no longer painted brown. <http://tinyurl.com/navj895>

Nauru closes down communications

The Nauruan police force last month seized phones and laptops from Save the Children staff and other contractors to close down leaks to journalists' sources from the Australian-run detention centre.

Nauruan police executed a weekend search warrant raid and took personal electronic items from detention staff. Some of the electronic items seized belonged to Save the Children staff, others were the property of contracted staff working at the detention centre.

The Nauruan government was reportedly angered by a *Guardian Australia* report that disclosed an email from the Nauru operations manager, Berilyn Jeremiah, about allowing local journalists into the detention centre.

A spokeswoman for Australia's immigration department said it had no role in the raids, and referred questions to the Nauru police force. <http://tinyurl.com/orrappv>

Robertson pleads for ex-president's release

High profile lawyers, the Australian barrister and *Hypothetical* master of ceremonies Geoffrey Robertson and UK barrister (and wife of actor George) Amal Clooney plan to put the hard word on Australia this month to support jailed "terrorist" Mohamed Nasheed.

Their approach will be made at CHOGM, the commonwealth heads of government biennial talk-junket, this year in Malta from 27-29 Nov.

Nasheed is the former president of the Republic of Maldives, the glistening 1000-island chain south-west of India and Sri Lanka. It is the world's divorce capital and lowest-lying country.

Known for campaigns for climate change – the Maldives averages about 1.5m above sea level – and human rights, Nasheed was ousted in a confused 'coup-resignation' in February 2012.

He was convicted in March 2015 for the "terrorism offence" of ordering the arrest of a judge during his time in power. He is serving 13 years.

Nasheed is a special friend of Australia: he was even thinking of buying a large tract of real estate here, using a 'Save the Maldives Nation' fund, for all Maldivians to escape to when their country slides under the waves, expected before 2100 if climate change forecasts are correct. – <http://tinyurl.com/pgmuc2u> and other sources.

Secret deal leaves a lot to be revealed

The announcement of a secret 'in principle' TPP deal without publication of the text may hide shameful trade-offs on issues like medicines and corporate rights to sue governments, according to Dr Pat Ranald, coordinator of the Australian Fair Trade and Investment Network.

"These (issues) should be decided through open democratic parliamentary processes, not secretly traded away for token access to sugar or dairy markets," she said.

"The lack of access to details in the text means governments can put a positive spin on the deal, but the devil is in the detail, and we won't have the detail for at least another month. This secret and undemocratic process was slammed by a recent Senate Inquiry report aptly titled Blind Agreement." Source: media release, AFTINET. Report: <http://tinyurl.com/qxv3b2l>

TPP is 'new form of corporate colonialism'

Federal Member for Kennedy, the independent Bob Katter, called the signing of the TPP agreement the greatest blow to Australian democracy in 300 years.

He said it was a new form of "corporate colonialism": "This agreement is not about trade, it's about sovereignty," Mr Katter said. "Governments will now be stripped of their power to regulate the behaviour of overseas companies.

"Companies will be able to come here under certain terms and conditions and no Government will be able to change those without fairly horrific consequences, if at all. It takes away our sovereignty and hands it over to the giant foreign owned corporations." – media release, Bob Katter, 151007

ODD SPOT: Selfless vigilante seeking lust and lasciviousness?

From *Crikey* comes alarming news of a new crackdown on freedom of access to DVDs of your choosing, possibly by a lone vigilante prowling the sex shops of Australia in a selfless search for lust and lasciviousness.

WA-based website Absolutely Adult recently received notices asking for the pages advertising nine DVDs to be taken down, with owner Mark Coleman believing it was because the covers were more explicit than others on his site. He had never received such a notice before.

While the eSafety Commissioner's main remit is to protect children online, it also handles complaints related to the Broadcasting Services Act, which were previously handled by the Australian Communications and Media Authority. The office said that between July 1 and September 30 this year it received 1182 complaints about prohibited offensive and illegal content, 325 of which were about adult content, and 830 about child sexual abuse material. <http://tinyurl.com/otjpxbt>

Jail: where Aborigines made to feel at home

The number of offending teenagers in Canberra has dropped to its lowest level in five years, from 2950.8 per 100,000 people to 1755.4 per 100,000 in the 2013-14 year...but over-representation of indigenous children in the youth justice system is a black mark on all Australians.

Of 174 young men and women aged 10 to 17 under youth justice supervision, 53% were of Aboriginal and Torres Strait Islander (ATSI) descent, the Picture of ACT's Children and Young People report said.

"When compared to the rate of non-Aboriginal and Torres Strait Islander young people in detention, the decline of ATSI young people is much slower and the over-representation of ATSI young people continues to be a challenge for the ACT and nationally," the report stated.

The number of young people under community-based supervision in the ACT has also dropped from 183 in 2011-12 to 132 in 2013-2014. Again, indigenous youths were over-represented at 55%.

Similarly, the number of young people detained in Bimberi Youth Justice Centre almost halved, falling to 75 including 66 young men. ATSI adolescents made up 52%.

If ATSI over-representation in detention can't be fixed in the ACT, where virtually nowhere is more than 50km from Australia's Parliament House, how can it be fixed in remote and rural Australia, CLA asks?

New law may ban revenge porn in Oz

Legislation aimed at punishing people who share intimate sexual imagery without consent – revenge porn – may receive bipartisan support in the Australian parliament.

Liberal backbencher Karen McNamara is planning to support the draft law, introduced by Labor MPs Tim Watts and Terri Butler in October.

The draft law would mean anyone sharing private sexual videos or imagery without the consent of those involved would be liable for up to three years in jail. People running websites or social media pages dedicated to the practice could face five years in jail.

McNamara said that the taking of intimate sexual pictures was a private issue between consenting adults which should not be used to humiliate, revenge or harass.

There is currently no Australian law criminalising revenge porn, but Victoria has state laws banning the practice. <http://tinyurl.com/ptdvy42>

Justice comes but slowly for some Aussies

The family of murdered Adelaide school teacher Anthea Bradshaw-Hall has waited 20 years for justice.

Thanks to new legislation tabled in parliament last month, they may soon get it.

The bill will allow police to investigate and prosecute the murder of an Australian carried out overseas and for which

there has been no trial in the country where the crime has been committed.

It extends retrospective prosecutions to before 2002 which was the starting year for the original legislation that followed the Bali bombings.

It means police can investigate the person suspected of murdering Ms Bradshaw-Hall while she was visiting in Brunei two decades ago.

The suspect still lives overseas.

In a rare move, Attorney-General George Brandis and independent Senator Nick Xenophon co-drafted the bill, which is expected to clear parliament before Christmas.

It also has the backing of cabinet minister Christopher Pyne, whose electorate of Sturt is home to the Bradshaw-Hall family. <http://tinyurl.com/oznfx3m>

Legal help is just a keyboard away

A "legal chat" service for people to consult a lawyer free online began on the South Australian Legal Services Commission's website last month.

The commission's Chris Boundy said the "chat-window", where people could type back and forth, was a direct response to growing public demand for legal help, accessing free legal advice discreetly without waiting on the phone. 80,000 people made phone calls to the SA LSC last year. <http://ab.co/1FRhzdF>

ODD SPOT: Once a great innovator...

In 1881 the University of Adelaide became the first Australian university to admit women. About 140 years later, it is time it became a champion of law reform: it is being outstripped by the much younger Flinders U in spreading the gospel of the 'Right To Appeal' law, under the excellent but unfunded program run by senior lecturer Bibi Sangha and her husband, Dr Bob Moles.

Developer still banned from political donations

Developer and former Newcastle lord mayor, Jeff McCloy, has lost a High Court case seeking to overturn a law banning developers from making political donations.

The NSW law also applies to gambling and tobacco interests.

Mr McCloy went to the High Court after he was brought before the Independent Commission Against Corruption over donations he made of more than \$30,000 during the 2011 election campaign. His lawyers argued the ban was at odds with the implied freedom of communication in the constitution and does nothing to prevent corruption, but that was rejected by the court.

In June, lawyers for the NSW Government and the ICAC said political communication was not impeded by the law which only targets the source of funds from a group with a great deal to gain from influencing political decisions. <http://tinyurl.com/p3n2ve7>

Wilson handed double crime gig

The head of the Queensland Government's bikie laws taskforce will also undertake a separate statutory review of the Criminal Organisation Act 2009.

Attorney General Yvette D'Ath said the statutory review would help the Palaszczuk Government decide whether the Criminal Organisation Act 2009 should expire on 15 April 2017 or continue in current or amended form.

Mrs D'Ath said the statutory review would occur under former Supreme Court Justice Alan Wilson, complementing his work as the chairman of the taskforce into organised crime legislation.

She said that the closing date for both examinations would now be 31 March 2016 so that Mr Wilson could undertake the statutory review and have that work inform the final report. <http://tinyurl.com/p9wzj3v>

VLAD...SAD, BAD and DEAD?

Queensland police have dropped the case against the first three men charged under the state's controversial anti-association laws.

Prosecutors offered no evidence against alleged Mongols bikies James Cleave, Leslie Markham and Bradley Baker last month. They had been arrested in November 2013 for gathering in a group of three at the Palazzo Versace hotel on the Gold Coast.

"They were lawfully there, they spent the night in the accommodation – which was lawful," their solicitor, Michael Gatenby, told *ABC Radio*. "When they attempted to pay the bill, regrettably, the third person came over to check the bill and that's when [the prosecutors claimed] their conduct became unlawful."

The Vicious Lawless Association Disestablishment Act – VLAD – was introduced in 2013 by the former Newman government in response to a brawl outside a Surfers Paradise restaurant. The laws made it illegal for bikies to wear club insignia in public, use clubhouses and gather in a group of three or more. <http://tinyurl.com/o4blgn6>

Abortion law: no change, says AG

AG and Minister for Justice Yvette D'Ath said last month the Queensland government would not change abortion laws anytime soon.

In Queensland it is illegal for a woman to have an abortion unless the woman's mental or physical well-being is proven at risk. A termination can be either medical (before 9 weeks) or surgical (after 9 weeks). There is no standard data collection in Queensland on abortion rates, with the termination procedure often categorised under other Medicare item number procedures such as miscarriage or foetal death.

There are currently 17 active abortion clinics in Queensland, with 11 of those concentrated in the south-east corner of the state.

An editorial last month in the *Medical Journal of Australia* outlined the need for abortion laws to be updated to better reflect modern medical practices to prevent women from travelling interstate, creating abortion "tourism". <http://tinyurl.com/q4gaue5>

Freo isn't...at least, not for beggars

Fremantle council is running beggars out of town...but installing "spare change collection points".

It's part of the council's \$140,000 safety and crime prevention plan announced last month to clean up the port-and-yuppy city's streets by targeting drinkers, opportunistic beggars and public nuisances.

Repeat anti-social behaviour offenders are more likely to face a jail term after local police agreed to work with the city to impose rarely-utilised Prohibited Behaviour Orders on serial trouble-makers. No politician has yet been the subject of a PBO. <http://tinyurl.com/owmfyfj>

Publish first approach urged on government

The ACT government could open almost all information, even cabinet papers, to potential public scrutiny under a plan by Greens Minister Shane Rattenbury that would make the territory the most transparent jurisdiction in Australia.

His draft laws also carry fines of up to \$14,000 for public servants who wrongly suppress documents.

Mr Rattenbury's FOI bill proposes abolishing the government's right to automatically prevent the release of documents, such as cabinet briefs, internal advice or information about businesses. The legislation would force agencies to publish online whether anyone asked for the documents or not: reports from experts, minutes from committees, ministers' diaries, and cabinet decision precis.

Information law specialist Peter Timmins said the concept, if made law, "would be widely regarded, even internationally, as very best practice". Mr Rattenbury said: "In the long run, it actually saves time and money for governments to get their information out there and see it used in really effective ways."

<http://tinyurl.com/qatr3uc>

Australian briefs

Fine defaulters clamped and shamed: The NT's Country Liberal Government is targeting serial fine defaulters with wheel clamping to immobilise vehicles and also publishing names on a shaming website. The *Fines and Penalties (Recovery) Amendment Bill 2015* captures defaulters owing more than \$10,000 in unpaid fines. Offenders face imprisonment, wheel clamping and naming on the Fines Recovery Unit website. NT serial fine defaulters owe more than \$63m. – media release, AG Johan Elferink 12 Oct 2015

Surveillance 72, Convictions 0: ACT Policing used surveillance devices 72 times in 2014-15: data surveillance, listening devices, optical surveillance and trackers to investigate suspected murder, arson, incest, assault, drug and aggravated robbery offences. The outcome? Two arrests and the information obtained was used in one prosecution. No guilty conviction was recorded. <http://tinyurl.com/olpzgzf>

Hobart suffers wave of prison unrest: Risdon Prison in Hobart is suffering from a wave of unrest, including stabbings, deaths in custody, riots and frequent lockdowns by guards. One reason may be the recently-introduced total ban on smoking. See report at: www.cla.asn.au

Euthanasia doctor agrees to pull his head in: Dr Philip Nitschke has agreed he will no longer promote voluntary euthanasia...in return for keeping his licence to doctor. The Medical Board of Australia and the AMA have come down heavily on the man who believes people should be able to freely choose to die with dignity. Apparently, the medical bosses can turn a blind eye to blatant bullying and sexual harassment among surgeons for decades, but one doctor exercising freedom of thought and speech is a special type of threat to the medical profession. Remember that Hippocrates' son was Draco, from which name comes the term 'draconian' in relation to laws...perhaps named after a different Draco, but you get the idea. <http://tinyurl.com/ptnwf67>

CLA report – key activities for Oct 2015

October was planning and strategy month: for a year, CLA has been researching in readiness for the launch of a long-term plan for 'Better Justice' in Australia from 2016.

That strategy, originally in the form of a two-page master document, will be ready for release by Christmas 2015. In November, we will be liaising with like-minded people and organisations who can contribute some of the active campaigns needed to deliver the overall aims.

CLA expects to operate as the network, or communications, hub for a range of targeted activities that will, over a decade, change how justice operates in this country.

In October, the President Dr Kristine Klugman and CEO Bill Rowlings were honoured to accept an award from the Australian Lawyers Alliance – the National Civil Justice Award 2015. It was presented by the State Governor, Professor Kate Warner AM, at the ALA 2015 national conference in Hobart on Friday 23 October. The award reads:

"In recognition of an outstanding achievement in promoting justice, freedom and the rights of the individual."

In announcing the award, ALA National President Greg Phelps said Dr Klugman and Mr Rowlings had shown diligence, passion and vision in their bid to protect the rights and civil liberties, freedoms and responsibilities of all Australians.

"It is for their selfless devotion to improving Australia's laws and legal system on a voluntary basis over a number of years that the ALA is proud to present this award," Mr Phelps said.

"The pair founded Civil Liberties Australia (CLA) specifically to monitor the powers and actions of police and security forces, as well as governments, across Australia.

"Their recent work includes campaigning for the 'Right to Appeal' law that was recently introduced into the Tasmanian parliament to be mirrored around the nation, so that innocent people have the chance to appeal their wrongful conviction of serious crimes if new evidence comes to light," Mr Phelps said.

The president and CEO made a number of very useful contacts for future joint liberties and rights work at the ALA conference, which will be followed up in November.

The visit to Hobart followed closely on the passage through the Tasmanian Legislative Council (Upper House) the 'Right to Appeal' legislation, for which Civil Liberties Australia has been lobbying for several years. CLA was the first to propose the legislation to the Tasmanian government, in April 2013, even before the first such law in Australia, in South Australia, had been passed following excellent work by Dr Bob Moles and Bibi Sangha.

The award gave an opportunity for the president and CEO to catch up with Hobart members of CLA. Tasmanian Directors Richard Griggs and Rajan Venkataraman arranged a morning tea gathering, and we were able to update CLA members on current and planned national activities and learn what the local issues are likely to be for 2016.

Barbara Etter, pro bono lawyer for the jailed 'murderer' Sue Neil-Fraser (both of whom are CLA members), has the appeal on her case ready to be lodged as soon as the legislation is



signed by the governor, which is expected by mid-November. Eminent WA barrister Tom Percy and his associate barrister Belinda Lonsdale are expected to appear for SNF, also pro bono.

We were unable to visit SNF on this occasion, despite repeated requests, owing to more stringent rules on visitors to the women's prison at Risdon.

Risdon Prison itself is likely to be an area of focus for CLA in 2016: there are significant concerns about the lack of education opportunities provided, which ultimately has an impact on morale and behaviour within the prison, and of course on whether or not prisoners are rehabilitated, or just 'parked' for a period of their sentence.

Network meetings:

Bill Stefaniak, ACAT ACT

Sen Nick McKim, the new Greens Senator, re bill of rights, right to appeal, Better Justice campaign, and the idea of 'blue' paper.

Submissions:

Any members interested in being lead author, or contributor, to these potential submissions by CLA?

TAS: Inquiry into the structure of the Dept of Police and Emergency Services, in particular the appropriateness or otherwise of the Forensic Science Service Tasmania being answerable to the Police Commissioner, when forensic expert witnesses in court are supposed to be independent of the government, police and the director of public prosecutions. Closes 8 Jan 2016.

NSW: Joint Committee on Children and Young People inquiry into and report on the sexualisation of children and young people with particular reference to exposure in electronic print and social media and marketing; and to sexualised images and content in public places. Details: <http://tinyurl.com/p3ro87b> Closes 5 Feb 2016.

NSW: Economic development in Aboriginal communities. Closes 14 Feb 2016. Details: <http://tinyurl.com/nccfwya>

Parliamentary Committee appearance:

Civil Liberties Australia will be appearing on 27 Nov 2015 at Parliament House in Canberra before the Joint Standing Committee on Foreign Affairs, Defence and Trade (JSCFADT's) Human Rights Sub-Committee in relation to the inquiry on Australia's Advocacy for Abolition of the Death Penalty.

INTERNATIONAL

Big business betrays trust of the people

Just as big company boards want civil society to trust them when they implement corporate-friendly TPP, TTIP and other "free trade" agreements, a raft of bad business behaviour is coming to light.

Volkswagen has lied to governments throughout the world about its environment systems on vehicles.

Three companies in Japan disclosed internal malfeasance in 24 hours last month, including one that said one of its units tried to cover up the faulty construction of an apartment building that started to tilt and another that said one of its units falsified reports on the quality of rubber used in trains and ships.

Takata has admitted to supplying faulty airbags, which has led to the recall of more than 50 million vehicles. Toshiba has admitted to artificially inflating profits for almost seven years.

Big corporations do not have a track record of acting in a transparent and open way, and the actions of many have betrayed any benefit of the doubt they might be given, Civil Liberties Australia says. <http://tinyurl.com/qzmyt54>

Chemical castration to be used

Indonesia's President Joko Widodo is expected to soon sign a decree authorising chemical castration to punish paedophiles.

Indonesia would join a small group of nations that allows such punishment, including Poland, Russia, and Estonia, as well as some US states. In 2011, South Korea became the first Asian country to use chemical castration as a punishment.

"We are very concerned about child molestation abuse cases – this phenomenon has reached extraordinary levels," Attorney General H.M. Prasetyo told reporters after a cabinet meeting last month.

"It has been agreed that there will be additional punishment in order to make people think a thousand times before doing this," he said. <http://tinyurl.com/qd2e3rk>

Prosecutor calls for wait until formal charges

A former top British prosecutor, Alison Levitt QC, who was the former principal legal adviser to the DPP, said there should be a law to ban people being named by police before they are formally charged.

Levitt told the *Guardian*: "It should be a criminal offence to name someone before charge. I feel strongly there should be a presumption of not naming before charge, with an exception in certain cases."

She said there could be an exception where someone could be named before charge if it was in the public interest to do so, with a judge being asked to make the decision.

Metropolitan police commissioner, Sir Bernard Hogan-Howe, said he thought legislators should "consider the issue of pre-charge publicity for suspects and whether additional legal safeguards are required". <http://tinyurl.com/p69buqu>

(Note: a similar law in Australia would protect the innocent, and avoid suggestions – not infrequently made – that some police use public naming to destroy reputations where they don't have enough reliable evidence to prosecute).

What can be achieved with cooperation

There are only two polio-endemic countries left in the world, Afghanistan and Pakistan...and it is possible that there will be none left before the end of this decade.

When the global polio eradication initiative, a public-private partnership, was launched in 1988, more than 350 000 children in at least 125 countries were being paralysed by the virus every year.

The Lancet reports: "Last year (2014), only 359 cases were reported in only nine countries, and this year, as *The Lancet* went to press, only 43 cases had occurred. Achieving this 99% drop in polio cases has so far cost \$15.6 billion in financial contributions, of which \$1.5 billion came from the polio-affected countries and \$14 billion from more than 80 international donors. <http://tinyurl.com/psqn9xq>

One new Australian submarine is expected to cost \$3 billion. About 60 new fighter jets will cost about \$12 billion. Just sayin'.

The world is your phone, courts will adjudicate

The loss of precious photographs or sensitive personal details when a smartphone is stolen will result in tougher sentences

for thieves under new UK guidelines, with less focus on the cash value of the item.

The sentencing council rules, published last month, say sentences should now take into account whether a stolen possession was of substantial value to the loser – regardless of monetary worth and would result in emotional distress or a loss of confidence caused by the crime.



Lord Justice Treacy, sentencing council chair, said the guidelines would take a more holistic approach to the effects on a victim, rather than focusing purely on traditional factors such as the financial worth of the item or the physical harm. "Judicial thinking has evolved in part because technology has evolved; people carry their

whole lives on their smartphones or other devices, their pictures, their personal message[s], but also potential sensitive financial data and organisational data." <http://tinyurl.com/pjsyk39>

Tax dodging: the drug of choice for big pharma

AstraZeneca, one of Britain's largest businesses, is using a multimillion-pound tax avoidance scheme in the Netherlands, set up months after the UK relaxed its tax laws for multinationals in 2013.

A *Guardian* investigation has found the pharmaceutical giant created the scheme using \$3.9 billion of internal group loans routed through its Dutch subsidiaries.

The company paid no corporation tax in the UK, despite global profits in 2013 and 2014 totalling \$6.35bn, the *Guardian* claims. It was legally able to do so partly by securing some UK tax deductions from the Dutch lending structure as well as by offsetting high running costs and investment at its UK operations and using other tax breaks, some relating to new medicine research and development.

Pharmaceutical companies, which are demanding excess patent protection on drugs under trade agreements to boost their income, are notorious for paying little if any tax in the major drug-using nations. <http://tinyurl.com/qy2uog6>

Drones told to fall into line

The US Dept of Transportation is now requiring purchasers of drones to record the devices on a new national registry.

The crackdown results from close calls with drones and passenger aircraft at airports and after firefighters said their aerial firefighting has been hindered because of drones being in the way. Hundreds of thousands of the small unmanned aircraft are expected to be sold in the lead-up to Christmas.

"Registering unmanned aircraft will help build a culture of accountability and responsibility, especially with new users who have no experience operating in the US aviation system," Anthony Foxx, the transportation secretary, said. "It will help protect public safety in the air and on the ground."

The first commentator on the article revealing the crackdown said: "Just so long as I don't have to register the gun it is carrying I'll be fine with that." <http://tinyurl.com/ouxtfmh>

EU Court of Justice says OK to ban voting

The European Court of Justice has ruled that it is lawful for countries such as Britain to impose a voting ban on prisoners convicted of serious crimes.

The unexpected ruling upholds a ban on a French convicted murderer who was serving a sentence of more than five years from taking part in the European elections.

The judges ruled that the ban on his voting did represent a breach of the EU charter of fundamental rights but that it was proportionate "in so far as it takes into account the nature and gravity of the criminal offence committed and the duration of the penalty".

The ruling, which has clear implications for Britain's blanket ban on prisoner voting, also said: "The court concludes that it is possible to maintain a ban which, by operation of law, precludes persons convicted of a serious crime from voting in elections to the European parliament."

Britain is the only western EU which blanket bans prisoner voting with only Armenia, Bulgaria, Estonia, Georgia, Hungary and Russia in the Council of Europe doing the same. <http://tinyurl.com/o67evym>

Youth, 14, sentenced to life...or 5 years

A British teenager, thought to be the UK's youngest convicted terrorist, has been sentenced to life imprisonment, with at least five years detention, for plotting an Anzac Day "massacre" in Australia.

Sentencing, Mr Justice Saunders said it was chilling that a defendant so young – 14 – had been "hoping and intending that the outcome would be the deaths of a number of people".

The boy, from Blackburn in Lancashire, was the organiser and adviser of a plot to behead Australian police officers on Anzac Day. He cannot be named for legal reasons.

The youth, now 15, pleaded guilty at Manchester crown court in July to inciting terrorism overseas. It emerged during the trial that the teenager sent thousands of online messages to extremists in Australia.

The judge said, in sentencing him, that the defendant would not be released until he was considered not to be dangerous. "Thanks to the intervention of the police in this country and in Australia, that attack and the deaths which were intended to follow never happened," he said. <http://tinyurl.com/o4mw6uj>

ODD SPOT: A new twist on training for the law

A British barrister who evaded paying the right fare on trains for two years has been spared prison.

Peter Barnett, 44, made hundreds of journeys from his home near Oxford to London's Marylebone station without buying a ticket for the route. He pretended to have only travelled from Wembley Stadium station in north-west London, and paid for the short trips in the capital.

He had received a conditional caution in 2010 for a similar offence. The father of three was sentenced to 16 weeks in prison, suspended for 12 months.

The court was told that Barnett, a former Oxford graduate and Rhodes scholar who also worked in the financial services sector, failed to pay for journeys on Chiltern Railways on 655 days between April 2012 and November 2014.

Prosecutors argued that he should pay back \$42,000, the full value of the cost of daily return fares. But his barrister argued he should only have to repay the cost of buying the cheaper weekly tickets, totalling about \$12,000. <http://tinyurl.com/ns8fvdj>

Science forced to knuckle under to spooks

A biology institute at Russia's most prestigious university has instructed its scientists to get all research manuscripts approved by the security service before submitting them to conferences or journals.

The instructions are in response to an amended law on state secrets. They appear in minutes from a meeting held on 5 October at the Belozersky Institute of Physico-Chemical Biology at Lomonosov Moscow State University (MSU).

The Russian government says the amendment is not designed to restrict the publication of basic, non-military research. But scientists say institutes across the country are issuing similar orders.

"This is a return to Soviet times when in order to send a paper to an international journal, we had to get a permission specifying that the result is not new and important and hence may be published abroad," says Mikhail Gelfand, a bioinformatician at MSU.

In 1993, the government passed a law obliging scientists in Russia to get permission from the Federal Security Service (FSB) before publishing results that might have military or industrial significance. This mainly covered work that related to building weapons, including nuclear, biological and chemical ones.

However, in May 2015, President Vladimir Putin used a decree to expand the scope of the law to include any science that can be used to develop vaguely defined "new products". The amendment was part of a broader crackdown that included declaring the deaths and wounding of soldiers during peacetime a secret; this was prompted by accusations that Russian soldiers are involved in conflict in Ukraine. <http://tinyurl.com/olk2lhx>

ODD SPOT: Number of crimes being prosecuted is dropping

More than 2000 suspected criminals avoided prosecution in England and Wales in 2014 because of their ill-health or age, according to the Crown Prosecution Service said. There were 1,892 cases dropped due to the "significant ill-health, elderliness or youth" of a defendant, and another 439 cases abandoned before the suspect was charged. Equivalent figures were 1714 in 2013 and 1402 in 2012. Those dropped before charge were 354 in 2013 and 128 in 2012. <http://tinyurl.com/p39qoms>

Critics arrested: claims PM is corrupt

Malaysia's government has embarked on a "binge" of prosecutions against its critics, using criminal laws to crush peaceful expression, according to Human Rights Watch.

HRW has documented the arrests of scores of people with critical views, including opposition politicians, activists, journalists and ordinary citizens, as well as the suspension of two critical newspapers, the blocking of websites and the declaration that peaceful protests were unlawful.

The crackdown is allegedly in response to Malaysian Prime Minister Najib Razak's fighting for his political life over an alleged corruption scandal. The 62-year-old PM is being asked to explain how \$966 million turned up in his private bank accounts in 2013...and what happened then to the money.

Mr Najib denies any wrongdoing, saying he has never taken money for personal gain. Investigations are under way in Malaysia, Singapore, the US, Hong Kong and Switzerland into his personal finances and his oversight of the sovereign fund,

1Malaysia Development Berhad, that is billions of dollars in debt. <http://tinyurl.com/ox8efwc>

Son of chads: how Republicans get the vote

Our man – and the Justinian legal newsletter's man – Fitch, reporting on USAsinity, says that, even though US elections don't begin until late-2016, Republicans are continuing vote-stealing tricks.

(US election observers will recall 'Chadsgate' in 2000 when Bush, George won the presidency on the back of dubiously punched ballot cards in Florida <http://tinyurl.com/p2jal8y>)

Fitch previously reported a trick of closing voter registration offices and places where one acquires the ever-more-complicated identification to vote. Alabama, which requires a photo driver's licence for voting, has simply closed the driver's licence offices in most black-majority counties. The Washington Post reveals another ruse for deflating Democrat votes – moving popular polling places to remote, less accessible locations.

In North Carolina, black voters (22 % of the population) are likely to vote Democrat, but even those with transport will find themselves driving, on average, three times as far to vote as white voters. In Kansas, the state's tea party politicians are attempting to require proof of citizenship, at odds with federal rules.

The only good news for Democrats – and democracy – has come from California, a solidly Democrat state: it now has a new law providing automatic voter rego. Henceforth potential voters will have to opt out rather than jump through hoops to opt in.

Sounds almost Australian, Fitch says.

International briefs

No data repatriation: Europe's top court, the Court of Justice of the European Union, has struck down the 15-year-old Safe Harbour agreement that allowed the free flow of information between the US and EU. The most significant repercussion is that American companies, such as Facebook, Google, and Twitter but many others also, may not be allowed to send user data from Europe back to the US. Note that the new Trans Pacific Partnership (TPP) agreement prevents Australia from insisting that Australians' data stays in Australia. <http://tinyurl.com/q8r3s2b>

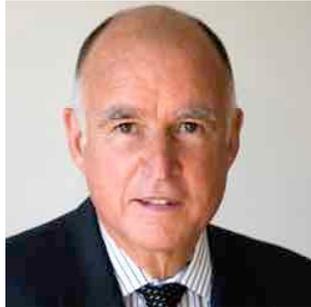
CIA leaks from the top: WikiLeaks has released documents collected from CIA director John Brennan's personal email account, the first in what the group said would be a series of publications. The account of the US's top spy was compromised by hackers who claimed to be high school students. Those hackers had threatened on Twitter to release the same documents. <http://tinyurl.com/necmkfv>

Police chiefs 'stunned' when charged over use of force: Former Louisiana small town police chief Gregory W. Dupuis has been sent to jail for a year, and his replacement as chief, Robert McGee, is awaiting sentence, for using stun guns on inmates they considered unruly. McGee resigned as police chief last month. <http://tinyurl.com/nnqg737>

UK cops kept on their mettle: The UK's Independent Police Complaints Commission recorded 69,561 allegations against police last year: 31,333 were investigated, of which 14%, or

4386, were upheld (the percentage upheld ranges from 7-27% between different police forces). One in seven allegations – 14% – involved incivility, impoliteness and intolerance, 8% were classified as “other assault”, 6% were categorised as oppressive conduct or harassment and 5% were linked to claims of a lack of fairness and impartiality. There were also 150 claims of sexual assault, while 405 were classed as “serious non-sexual assault”. The most commonly recorded allegation category was “other neglect or failure in duty” at 34%. <http://tinyurl.com/nth9ow3> The Australian situation? No idea, we have no independent national body reviewing police behaviour.

Euthanasia to be legal in California: The most populous US state, California (38m people), will early in 2016 become the fifth to allow doctors to prescribe life-ending drugs to terminally ill patients. Governor Jerry Brown (photo), a former Jesuit seminarian, signed the measure into law last month. “I do not know what I would do if I were dying in prolonged and excruciating pain,” he said. “I am certain, however, that it would be a comfort to be able to consider the options afforded by this bill. And I wouldn’t deny that right to others.” <http://tinyurl.com/owdwwfm>



USA permits mass prison ‘escape’: The US Justice Department is this week (through 2 November) releasing about 6000 inmates from federal prison to ease overcrowding and roll back the harsh penalties given to non-violent drug dealers in the 1980s and ‘90s. New US Sentencing Commission guidelines this year reduce the penalties for many non-violent drug crimes and make some changes retroactive, potentially freeing some 50,000 prisoners. <http://tinyurl.com/pj63m9l>

DATES

9-10-11 Nov, Sydney: *Law via the Internet 2015* conference 10-11 Nov at UNSW, preceded by annual meeting of the Free Access to Law Movement on 9 Nov at UTS. Call for papers: <http://www.lvi2015.org/callforpapers/> Register interest at: registration@austlii.edu.au

10 Nov, Brisbane: Jessica Ritchie, PhD candidate: The regulation of forensic science in the EU: lessons for Australia. 1-W341 Forgan Smith Bldg UQ, 12noon-1pm, info: c.lam@law.uq.edu.au

13 Nov, Sydney: National Environmental Lawyers Assn conference: Pullman Hotel., Details: 02 9387 8133

13 Nov, Perth: GeneMappers 2015, focusing on novel concepts for genetic dissection of human disease, Rendezvous Hotel, details: 08 9389 1488

13-14 Nov, Adelaide: 15th Australia Homosexual Histories conference, celebrating the 40th anniversary of decriminalisation of gay male homosexuality in SA, the first Australian state to do so. Details: <http://prideadelaide.org/ahhc2015/>

17 Nov, Canberra: New directions in men, masculinities and law: sources, methods and law’s ‘man question’ – the example of wellbeing and work-life in corporate legal practice.

Prof Richard Collier, Newcastle Law School, Newcastle on Tyne (UK). Venue: Staff library, ANU College of Law (private seminar – not open to the general public), 1-2pm. Details: coast.law@anu.edu.au

19 Nov, Brisbane: Aust. Public Sector Anti-Corruption conference, Brisbane Convention Centre, Details: 07 3255 1002

20 Nov, Perth: Public Inquiries: Evidence, Advocacy, Investigations – seminar to learn the ins and outs of public inquiries and commissions.. Parmelia Hilton. Details: 02 9387 8133

25 Nov, Sydney: Vital Issues for Government Lawyers: UNSW CBD campus. Details: 02 9387 8133

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

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

30 Nov- 3 Dec, Adelaide: Law & Society Assn of ANZ conference ‘Inside Out’. the edges and changing limits of law. Flinders U Law School. Venue: 182 Victoria Sq Adelaide. <http://tinyurl.com/qzs8sto>

14-15 Dec, Brisbane: Private Law in the 21st C, Stamford Place Hotel, city. Details: <http://www.law.uq.edu.au/pl-21-century>

17 Dec, Sydney: inaugural Evidence-Based Policing Summit, Sheraton on the Park, details 02 9080 4307...”High level policy-driven conference that will have a theme and focus on “Research, Testing, Leadership” and will draw on policy, legislation, socioeconomics and case studies of successful implementation”.

2016

5-6 Jan, Paris, France: Global Law Conference. Details Professor Jim Corkery, CLE Paris co-chair, Law, Bond University Qld E: jcorkery@bond.edu.au Contact: <http://tinyurl.com/nzqcdol>

14-15 April, Canberra: **National Law Reform conference**, University House, ANU. Calling for papers: <http://tinyurl.com/oueoomn>

18-23 Sept, Auckland NZ: 23rd Intntl Symposium on Forensic Sciences. Details: www.anzfss2016.org

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