

Annual Report 2006: Civil Liberties Australia



This is the third annual report of Civil Liberties Australia (ACT) Inc, Registered Association No. A04043, trading as and known as Civil Liberties Australia, or CLA. The report covers the period from 1 January 2006 to 31 December 2006.

Registered office and register of members:

The registered office of CLA is 51 Ardlethan Street Fisher ACT 2611 Australia. The register of members is kept at the registered office. Public officer is Bill Rowlings, of that address. Further information about CLA and its activities is at www.claact.org.au

Office-bearers:

The office-bearers during the period of this report were:

Dr Kristine Kay Klugman OAM	President
William Rowlings	Vice-president, Secretary and Treasurer
Vic Adams	Director
James Staples	Director
Anthony Williamson	Director

No office bearer received any remuneration from CLA, or had any interest in any financial activities of CLA, other than in the proper, normal course of reimbursement of expenditure outlaid for the good governance, administration and promotion of CLA.

Reporting against the primary targets of the Business Plan for CLA, 2005-2007

The core business of CLA involves:

Making submissions to governments to improve legislation/treaties, etc

In 2006, CLA made a range of submissions, which easily exceeded business plan targets, on:

- Access (national ID) card
- Anti-terrorism legislation, nationally and in the ACT
- Australia-Indonesia treaty (the 'Lombok' treaty)
- Civics education
- Civil Unions (federal and territory)
- Citizenship
- Criminal checks for aged care workers
- Multicultural strategic plan
- New ACT prison
- Pregnant women
- Racial vilification
- Sedition laws
- Slap legislation
- Strict liability offences
- Victorian Charter of Rights

An example of the impact of CLA's work is shown by extracts from a media release from the ACT Chief Minister, Mr Stanhope, on 7 March 2006:

"The Crimes (Offences Against Pregnant Women) Amendment Bill 2005 makes assault against a pregnant woman an aggravated offence. The Bill amends the Crimes Act 1900 to create aggravated offences, carrying penalties some 30% higher than those for general offences..."

"The Government takes its legislative powers seriously and the input of other MLAs, the Scrutiny of Bills Committee and the ACT branch of Civil Liberties Australia has been most welcome."

CLA Director Anthony Williamson, then a law student and now a graduate lawyer, is to be congratulated on his work on that submission, as well as on a number of others.

CLA members appeared before committee hearings in relation to many of the above submissions.

In general, CLA's submissions and personal appearances at hearings were given due consideration by decision-makers, but maintaining the traditional rule of law and Australia's formerly free, open and transparent society undoubtedly suffered setbacks during the period, particularly at the federal level. This was due to an overwhelming and excessive concentration by the Australian Government on 'security'.

In the name of security, a government becoming more Conservative with each year is inflicting leaping and creeping change on Australian civil society. Mainstream 'anti-terror' legislation takes Australian laws in leaps away from the rule of law, while creeping ancillary clauses and regulations contain insidious provisions which cast an even darker cloud over civil liberties in Australia.

As well as the above CLA submissions, there was extensive discussions and sometimes preliminary work in other areas where submissions were ultimately not made. At the rate of more than one submission a month, members have an opportunity to contribute if they wish to volunteer. We hope in future to be able to give more notice to members of these opportunities.

Formally monitoring department and agencies through annual reports

This activity was curtailed by lack of people with time and expertise to undertake it. Analysis was made (for the second year) of essential departments only, such as the AFP, ACT Policing, ASIO, Immigration, Ombudsman and Defence.

The number of departments to be examined in 2007 will be managed to match resources. While it appears to be a simple task, a detailed analysis of annual reports involves looking for what is not present as much as what is included, and having a 'nose' for where the bureaucratic skeletons are buried. Volunteers are welcome, particularly if they have experience in writing/editing annual reports, or in formally analysing them.

As no other civil liberties group appears to do so, CLA concentrates part of its monitoring on the Australian Federal Police and also its ‘business unit’, ACT Policing, year about.

With particular reference to ACT Policing’s 2005-6 annual report, a number of fundamental problems were found in a 12-page CLA analysis. Commissioner Fagan signed a certification that the annual report was ‘an honest and accurate account and that all material information on the operations of ACT Policing during the period 1 July 2005 to 30 June 2006 has been included...’. In fact, in the report there is no mention of significant issues, such as:

- ACT trial of stun guns
- Number of people Tasered (stunned) or capsicum sprayed
- Clea Rose case (death following a police car chase)
- Number of police pursuits and the outcomes
- Mandatory review of chase guidelines after a death
- Court criticism of police performance (on numerous occasions)
- Impact on ACT Policing of AFP overseas deployment
- Problems at the ACT watchhouse (subsequently the subject of a formal AFP/Ombudsman inquiry in 2007).

In addition, no explanation was given for continuing below par performance results against long-established targets, including response times.

There continues to be significant issues with the contracted police force for ACT. In the perception of CLA, ACT is poorly served, with AFP overseas duties taking precedence over local policing. The matter of AFP/ACT Policing being subject to the ACT Human Rights Act is still unclear, with the report spending two-thirds of a page obfuscating the fact that the ACT’s police force does not come under the ACT Human Rights Act. This is a ludicrous situation, which requires immediate remedying by the ACT Government.

Finally, CLA analysis found one outstanding statement for which it congratulated Commissioner Fagan:

“ACT Policing monitors community perceptions of the threat from crime which can be equated to ‘fear’ of crime. This fear can be just as debilitating as the actuality of crime”.

CLA asked that the ACT Chief Police Officer draw this fact to the attention of the AFP Commissioner, the head of ASIO, the Australian Attorney-General and the Prime Minister in the hope they would stop fanning fear of terrorism in the Australian community.

Meetings were held with Commissioner Fagan and senior police to take up specific issues, and critical questions given to Parliamentarians for follow up. A number of these issues were put as Questions on Notice in the Parliament – with no satisfactory responses, unfortunately.

DFAT/NGO consultation:

In June, President Kris Klugman participated in an all-day consultation between Non-Government Organisations and DFAT, where she announced CLA's *10/10 for Life* initiative against the death penalty, which was supported by John Dowd, International Council of Jurists.

Creating and nurturing partnerships

This networking activity, though very time consuming, proved to be extremely useful. During the year, CLA met face-to-face with numerous federal Members of Parliament, ACT Legislative Assembly members, members of the judiciary and lawyers, academics, senior public servants, and state and federal agencies and NGOs involved in human rights and civil liberty activities. Details of these meetings have been reported in the monthly *CLArion* newsletter. We attempted to include members with a particular interest in the topics under discussion at these meetings.

Formal meetings included those with:

- Mr John McMillan Ombudsman, Ex Chief Justice Jeff Miles, and barristers Jennifer Saunders, Mr John Purnell, and Mr Doug Hassall.
- Mr Jon Stanhope (Chief Minister ACT Legislative Assembly), MLAs Dr Deb Foskey, Mr Bill Stefaniak, Attorney-General Mr Simon Corbell, Wayne Berry (Speaker, ACT Legislative Assembly) - meetings held more than once with some of them.
- Senators Kate Lundy, Gary Humphries, MPs Mr John Faulkner, Malcolm Turnbull, Nicola Roxon, Duncan Kerr, and Mr Harry Evans (Clerk of the Senate).
- Gabrielle McKinnon, ANU/ACT Human Rights Project.
- Mr James Ryan and Mr John Paget, ACT Department of Justice and Community Safety.
- Ms Heidi Pritchard, National Library of Australia.
- Mr Jim Torr Australian Federal Police Association.
- Mr Roger Clarke, Australian Privacy Foundation.
- Mr John Langmore UN Association of Australia, Mr Ian Mathews UNity e- newsletter.
- Justice Ken Crispin (ACT Supreme Court), Mr Bill Fisher, (former Arbitration Court judge NSW, and author of the Fisher Report on the AFP internal procedures).
- Ms Audrey Fagan, Police Commissioner, Superintendent Leanne Close, Director of Corporate Services, Mr Paul Williams.
- Bishop George Browning, Bishop Pat Power.
- Mr Ikbar Patel, (now head of the) Australian Islamic Federation.
- Mr Bruce Petty, Mr Geoff Pryor, Mr Alan Moir and Mr Ian Sharpe, cartoonists.
- Mr Peter Ford, law internship program ANU, Dr Marion Sawer, ANU Democratic Audit, Prof Don Rothwell ANU.
- Mr Bill Bashford, Aboriginal Legal Service, Ms Linda Crebbin, Legal Aid.
- Mr Greg Barns and Mr Howard Glenn, Rights Australia.
- Mr Jack Waterford, Editor at large, (and ACT 2006 Citizen of the Year) and Ms Tamara Glumac, police reporter, Canberra Times; and Mr Nick Stuart, freelance journalist.

Lectures and outreach

Two open public lectures were held in this period: The first hosted by Speaker of the ACT Legislative Assembly Wayne Berry, on the topic of the death penalty, with speakers Vic Adams, Emma Hines and Bill Rowlings. Attendance was low (a lesson against holding functions on cold nights in winter in Canberra).

The second, held in September at the Australian National Library, was very well attended, with an audience of nearly 300. The speakers were Prof Simon Bronitt, of the ANU College of Law and the National Europe Centre, and David Marr, author and journalist, on the topic of the sedition laws. This event was in cooperation with the Independent Scholars Association of Australia.

CLA members Vic Adams and Kris Klugman lectured in May to 100 student cadets from three forces at UNSW/ADFA on civil liberties, which was followed by very lively discussion, with questions from the students on a wide range of human rights and civil liberties issues related to themselves as military students and as future officers.

Talks to U3A: Two addresses were given to U3A audiences: to the Hughes group on the death penalty, human rights globally and nationally, and local issues; and to the Belconnen group (human rights globally and nationally). As well, another 20-minute lecture was presented to a Probus Club. CLA's presentation materials, in PowerPoint format, are available for members to use if they are asked to speak to organizations, or if they would like to approach organizations offering to speak. A prepared text/presentation can be emailed quickly to members.

Annual General Meeting:

A formal Annual General Meeting was held on Saturday 4 March 2005, and was followed by a social BBQ of members and friends at the home of the President and Secretary. Board meetings were held approximately quarterly, mostly at the same location, but one board meeting was held on a property at Bywong in NSW.

Finances and growth/development

A separate financial report indicates CLA had a basically break-even year, with a surplus of \$25.09 and total funds going into the 2007 year of \$1844.31. This was a satisfactory result in that one-off expenditure was needed during 2006 for a banner and website establishment.

Further one-off expenses will arise over the coming years as CLA builds a 'library' of tools and aids (printed promotional flyer, second banner for lecterns and marches, t-shirts/caps, etc). During 2006, we were producing an interim flyer on a desktop printer, which was convenient when small numbers were required, but costly in terms of printer ink.

Sponsorship:

At present we have major support from one law firm. Efforts will be made to start attracting additional funding in 2007 beyond individual subscription sources.

Website:

The CLA website launched on 24 April 2006. It was a most significant development in the growth of the organisation.

Mr Lance Williamson is our web master and his work on the site has been widely praised. We have many experts, members and non-members, who have contributed articles. The help of members (and some non-members) in keeping the site up-to-date, as error-free as possible, and informative has been much appreciated.

The site contains all CLA's basic information, media releases, submissions, articles, cartoons, and so on, and is a vehicle of quickly-growing importance to the future of CLA. It also contains a scrolling 'news headlines' feature, a calendar of events, and links to kindred organizations and information nationally and internationally.

At year-end, we were beginning work on a series of policy statements to help people locate information in an organised manner. We were also anticipating using the site more for electronic voting and a form of 'electronic meetings'.

In some of these areas CLA is pioneering how best to use the website for the benefit of members and their two-way communication with each other, and to/from the board. We would welcome further suggestions for development of the website, contributions of items and articles, as well as feedback and corrections.

We confidently expect more sophisticated development of the site during 2007 under the expertise of Mr Williamson, for which CLA is extremely grateful. CLA was and is extremely fortunate to have him create and now maintain our website at no cost. This is a substantial saving to the organisation, possibly of the order of several thousand dollars as a one-off expense, and \$1,000 or more annually.

Because of the quality of the CLA website, Mr Williamson has been approached on three occasions to create website for other groups.

Membership

Membership at 30 December 2006 was 121 (of which 15 were in the Goulburn CLA Branch), an increase of 59 on the membership of 62 at the start of the year. This is a good growth, but possibly not a sustainable rate into the future...though we will strive maintain the rate.

For information, membership details since inception are:

Membership since CLA's inception:

Year	Members	Branches - members	Associates/students
2003 (from 10 Dec) + 2004	17		
2005	62		42
2006	121	1 - 15	70

The website is becoming more important in attracting new members, hence our continual emphasis on keeping the site updated with quality material. In the past six months, many new members have come via the website, and it is also being used by members to pay annual subscription renewals.

During 2006, various factors motivated people to join, including continuing alarm over the implications of the so-called 'terror' laws, including sedition provisions, and people being incensed by the injustice of David Hicks' treatment. President Kris Klugman took a strong lead in writing to prospective members whose letter had appeared in newspapers. About one-third of the membership increase came from this source.

CLA membership is characterised by many people who are national or local experts in their field – law, politics, governance/administration, teaching, science, technology, agriculture, etc – comprising a diverse and experienced resource which can help keep a close eye on the excesses and omissions of governments, their agencies, consultants and contractors. As well, there are many CLA members who have extensive practical experience from the 'school of hard knocks' whose first-hand knowledge is extremely valuable. Further initiatives to involve members in ways to use their expertise will be made in 2007, and the board plans to institute a more formal mentoring system to draw on the experience of CLA members to help CLA student members.

Goulburn:

The Goulburn CLA branch was formed during 2006, when a group of concerned citizens approached CLA for support to hold meetings. The vibrant group, which meets approximately quarterly for lively discussion and debate, is particularly interested in seeking justice for David Hicks.

Several meetings were held in Goulburn, strongly supported by CLA board members such as Directors James Staples and Vic Adams, President Kristine Klugman, Secretary Bill Rowlings and Gunning-based member (Father) John Parsons. There were 15 people from the town and surrounds who signed up as members of CLA. At year-end, Mr Fred Rainger of the Goulburn branch was planning a major public meeting as its first 'external' foray outside its home base, Sasso Restaurant, which is run by the Roxburgh family who were instrumental in the branch getting off the ground and continuing to be so strongly supported and focused.

The CLA board is investigating early expressions of interest in forming a branch from Braidwood. Mr Forbes Gordon, a qualified lawyer who is also a noted broadacre farmer in the district, has joined CLA. He was a foundation member of a previous ACT civil liberties group in the 1970s.

Member networking

BBQs were held at the home of the president and secretary in February, March, April, June, September, October and November. These occasions were an excellent opportunity for members to get to know each other. All were very successful and enjoyable occasions, and it is planned to continue a similar series of gatherings during 2007.

A party of CLA members and families enjoyed the one-man comedy show by David Callan, *I Spied!* at the Tuggeranong Art Centre in May. (Mr Callan, whose show spoofs ASIO, where he was once employed, volunteered to be CLA's undercover agent!).

Administration

With increased membership and a very active year of submissions, media releases and meetings, there was a consequent heavy administrative workload. We are particularly in need of assistance in administrative duties, especially a membership/treasurer person, or two people for those roles. Please volunteer if you have two hours to spare a week.

Students:

Director Anthony Williamson enrolled about 40 students, mostly from the ANU Law School, on Market Day in February, a few of whom have become involved in CLA activities. The challenge is to devise ways of involving them more often in meaningful projects with a two-way benefit. Ideas from members would be welcomed.

We are also planning to expand our reach into other universities and law schools during 2007.

Internships:

Then-ANU Law student (now Minter Ellison lawyer) Brooke Horne produced a seminal paper on environmental refugees early in 2006 – the paper is on the CLA website under 'Uni Students'. We were not able to promote this paper, as much as planned, at the time of its completion. However, we plan to utilise future equivalent papers to help position CLA and its excellent student resources, and to gain kudos for the student who has spent three months working to produce a quality product.

At the end of 2006, arrangements were made for ANU Arts/Law student, Amanda Alford, to undertake a three-month law internship in the Senate, under the mentoring of Harry Evans, Clerk of the Senate. Amanda's topic was to establish baseline information on the extensive legislation dealing with terrorism, with a view to making long-term (2-5 years ahead) plans for countering it when it is reviewed by the Australian Parliament. Her work was supervised by Ernst Willheim and Peter Ford (ANU), both CLA members.

CLA is grateful to the ANU College of Law, and to Mr Tom Sherman and Mr Peter Ford, for enabling and supporting us to be part of the excellent program which produces quality papers for CLA, marks for the student, and a contribution to the future thinking of Australian society.

Australian civil liberties bodies:

CLA has continued to cooperate with the Sydney, Melbourne and other interstate civil liberty groups as appropriate on particular issues, which works especially well on the death penalty. Director Vic Adams represents CLA on a round-table death penalty group run by Mr Michael Walton, Vice-President of the NSW Council for Civil Liberties.

In July, the CLA President and Secretary attended in Melbourne a combined 75th anniversary dinner for 'Liberty Victoria' and the 100th anniversary of the birth of Brian Fitzpatrick. He was the journalist/historian primarily responsible for the launch of civil liberties in Australia in the mid-1930s, when he co-formed the group that now operates under the name of Liberty Victoria. For about 30 years he was the face of civil liberties in Australia.

A meeting of civil liberties groups from Queensland, NSW, Victoria and the ACT in Melbourne, held the morning following the dinner, did not result in a cooperative outcome.

About the same time as the Melbourne dinner, CLA met with Rights Australia regarding the government's citizenship push, and a joint position paper was developed, including a 'fair go' statement. Contact was also maintained and developed with Whistleblowers Australia and the Australian Privacy Foundation, as well as euthanasia groups in the NT, ACT and NSW.

CLA continues to operate in a supportive role with most of the activities of these groups, and with moves to introduce a human rights bill to Australia. CLA's preferred model is based tightly on the European Convention.

The CLA board is keen to find groups to work cooperatively and in partnership with throughout Australia and the region, as the widest possible civil liberties movement will be needed to counter the terrorism-fuelled fear that has usurped the traditional rule of law and free and open societies in so many areas and in so many ways.

Media and communication

CLA issued a number of media releases during the year, including on:

- ASIO annual report
- Civil Unions (several)
- Data safeguards - legislation/protocols/guidelines
- Death Penalty (several)
- Death Penalty in Indonesia
- DNA
- Freedom of Information provisions/court hearings
- Goulburn CLA Branch
- Muslim support
- Police chases (Clea Rose report; Woden death)
- Pregnant Women

- Privacy (several)
- Public Interest Monitor (anti-terror legislation)
- Sedition (several)
- Smart/Access/National ID Card (several)
- Stun Guns/Tasers
- UK police anti-terror warning

With growth of a civil liberties organisation comes more frequent requests for media appearances. Many of the above media releases resulted in interviews with newspapers and television stations, as well as radio stations from Western Australia, NSW, Queensland, Victoria, South Australia and the ACT, as well as from Koori/Murri (Indigenous) newspapers and radio outlets. As well as the media release topics (above), these interviews covered:

- abused children (Western Australia and the ACT)
- pedophiles (Queensland, NSW and the ACT)
- ongoing detention (Queensland, NSW and the ACT)
- politicians' calls on 'law-and-order' issues (several)
- Indigenous issues (several States/Territories)
- women's issues, particularly related to employment (NSW, ACT)

CLA members, particularly 2006 media spokesman Anthony Williamson and Secretary Bill Rowlings, have appeared on TV, and given radio interviews on an average of about once a week throughout the year.

Official CLA letters to the editor have usually been published in national dailies, while members continue to dominate letter pages in the ACT's daily newspaper, the *Canberra Times*, and to feature frequently in *The Age* in Melbourne and the *Sydney Morning Herald*.

Public communication

Secretary Bill Rowlings continued to produce the monthly newsletter *CLArion* to a very high standard, and to distribute it electronically on time by the 1st of the month of the cover date. The *CLArion* is available widely to rights/liberties and associated audiences, and helps to keep people throughout Australia and the region informed of CLA activities.

CLA has been more active than other civil liberties/human rights bodies in Australia and the region in trying to extend the two-way communication between organizations that could lead to cooperative approaches, the saving of duplicated time and effort, and effectively speaking with one voice. We will continue to work to those ends in an open and transparent fashion...even in the face of occasional criticism for communicating too widely, too frequently!

History:

An organisation concerned with civil liberties (Council for Civil Liberties of the ACT Inc) existed in the ACT in the 1970s, 80s and 90s. Mostly, it was organised and managed by Mr Laurie O’Sullivan, a barrister at the Sydney and Canberra bars who also had extensive involvement with the Australian Public Service Board over many years.

In the late 1990s, the organisation’s management changed and Mr Jon Stanhope became prominent as president. He went on to a political career, and to be Chief Minister of the ACT at the time of this report. After Mr Stanhope went into politics, the organisation died and then was formally de-registered by the ACT Registrar-General in the early 2000s period.

A new organisation with a different name to distinguish it from the earlier body - Civil Liberties Australia (ACT) Inc. – was created when a properly constituted meeting of the interim board of CLA resolved to apply for registration under the Associations Incorporation Act 1991 of the ACT.

The Certificate of Incorporation was stamped by the ACT Registrar-General on 10 December 2003.

At the 2004 AGM Mr O’Sullivan was voted the first honorary life member and patron of CLA. He died in October 2004. Mr John Marsden, a former president of the NSW Council for Civil Liberties and of the NSW Law Society, was voted patron two months before his death in May 2006.



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