

### Table of Contents

QUT to analyse firms' monitoring of employee email .....	1
Human rights law .....	1
US Congress moves to protect federal whistleblowers .....	2
Bahraini HR chief arrested and held incommunicado.....	2
NSW CCL due to vote on marriage rights/rites at AGM .....	3
ACLU urges Virginia legislators to drop radio chips in driving licences .....	3
USA approves under-skin ID chip for use in health care.....	3
Excuse me... Are you British? .....	5
'Anonymous' police approved in South Australia, says MLC .....	5
Secret rewriting of military law produces Guantanamo shambles, says NY Times .....	5
US says some captured in Iraq not covered by Geneva Convention .....	6
China to consider resuming talks on human rights.....	6
Censors censor the bit about 'censorship' .....	7

.....  
- from ACLU email 28 Oct 2004

### Millions disenfranchised by US voting system - claim

Many millions of people are disenfranchised in the US by poor voter registration procedures, according to the Right to Vote Campaign (RTVC).

RTVC includes eight national civil rights organizations working toward the end of prisoner disenfranchisement through research, public education, voter registration and litigation.

According to the Campaign, nearly five million people - 1 in 43 adults - are disenfranchised in the US.

Among Africans-Americans, 1 in 13, or 1.8 million people, are disenfranchised.

More than 600,000 women are denied the right to vote, and more than half a million veterans are disenfranchised.

"Every vote should be counted accurately, every vote should be counted equally, and no one should be denied the right to vote based on the color of his or her skin," says the President of the American Civil Liberties Union, Nadine Strossen.

For more information and to read the latest RTVC report online visit:  
<http://www.aclu.org/VotingRights/VotingRightsMain.cfm?orgid=n&MX=1681&H=0>

.....  
- from Qld CCL email, 29 Oct 2004

### QUT to analyse firms' monitoring of employee email

The Queensland University of Technology (QUT) will be hosting a free public seminar entitled *Monitoring Employees' Use of the Net* on Thursday 04 November.

The seminar will address the issues raised due to the increasing number of companies attempting to monitor their employees' use of email and internet.

Details: Keith Done on [k.done@qut.edu.au](mailto:k.done@qut.edu.au), or Mandy Lister, 0409 624 646 or [www.qccl.org.au](http://www.qccl.org.au)

.....  
- from UNity 398 (01 Oct 2004)  
email newsletter of UN Assn of Aust

### Human rights law

The HREOC *Legal Bulletin*, covering developments in domestic and international human rights law during the period 1 May 2004 to 31 July 2004, is now available online.

To access *Legal Bulletin* - Vol 9 visit:  
[http://www.humanrights.gov.au/legal/bulletins/volume\\_9.htm](http://www.humanrights.gov.au/legal/bulletins/volume_9.htm)

.....  
- from NY Times, 3 October 2004

## **US Congress moves to protect federal whistleblowers**

By ROBERT PEAR

Over strong objections from the Bush administration, the US Congress is moving to increase protections for federal employees who expose fraud, waste and wrongdoing inside government.

Lawmakers of both parties say the measures are needed to prevent retaliation against such whistleblowers revealing threats to public health, safety and security.

But the administration says the bill unconstitutionally interferes with the president's ability to control and manage the government.

In September, a House committee approved a whistleblower protection bill. In July, a Senate committee approved a similar measure offering more extensive protections to whistleblowers.

Representative Todd R. Platts, Republican of Pennsylvania, the sponsor of the House bill, said: "We need to protect public servants who expose fraud and intentional misconduct.

"Court decisions in the last 10 years have eroded whistleblower protections, so that if you're a federal employee, you're often risking your job - and the wrath of your superiors - if you come forward with evidence of wrongdoing."

As evidence of a need for legislation, lawmakers cited dozens of cases, including these:

1. Federal investigators found that two Border Patrol agents, Mark Hall and Robert Lindemann, were disciplined after they disclosed weaknesses in security along the Canadian border.
2. Teresa C. Chambers was dismissed from her job as chief of the US Park Police after she said the agency did not have enough money or personnel to protect parks and monuments in the Washington area.

3. The nation's top Medicare official threatened to fire Richard S. Foster, the chief Medicare actuary, if he provided data to Congress showing the cost of the new Medicare law, which exceeded White House estimates.

Airport baggage screeners say they have been penalized for raising concerns about aviation security.

But in August, an independent federal agency, the Merit Systems Protection Board, ruled that they had none of the whistleblower rights available to other federal employees. The government, it said, can "hire, discipline and terminate screeners without regard to any other law."

The US Congress has repeatedly tried to protect conscientious civil servants, under laws adopted in 1978, 1989 and 1994, the NY Times reported.

But lawmakers said these efforts had been frustrated by the court that hears appeals from aggrieved federal employees, the US Court of Appeals for the Federal Circuit. The court often assumes that a federal agency acted properly unless an employee offers "irrefragable proof to the contrary".

.....  
- FIDH news site, 28 Sept 2004

## **Bahraini HR chief arrested and held incommunicado**

From Bahrain comes reports of the arrest and detention of Abdul-Hadi Al-Khawaja, a human rights activist and executive director of the Bahrain Centre for Human Rights (BCHR).

Mr Al-Khawaja was arrested on 26 September at the Nabee Saleh police station, where he was summoned two days after participating in a symposium called 'Poverty and Economic Rights in Bahrain'.

Mr Al-Khawaja was then taken to the Howdh Aljaf detention centre, presented to the public prosecutor, and remanded in custody for 45 days.

He was charged for "encouraging hate of the state" and "distributing falseness and rumours" on the basis of articles 165 and 168 of the Bahraini penal code. He could face five years in jail.

Mr Al-Khawaja was being detained incommunicado and not allowed to receive legal or family visits.

At the symposium, Mr Al-Khawaja presented a paper titled 'Combating poverty in Bahrain: campaigning principles and strategies' based on a report from the BCHR, in which he criticized the government policy.

.....  
- from NSW CCL email

### **NSW CCL due to vote on marriage rights/rites at AGM**

At its annual general meeting on Wednesday 27 October, the NSW CCL was due to vote on the following notice of motion:

*That the NSW CCL, acknowledging the fundamental civil right of equality before the law, supports the rights of gay, lesbian and transgender people to marry under Australian law other adult people of their choosing and opposes any legal restriction on the right to marry and consequent legal rights and privileges on the grounds of sex or sexuality of the parties to the marriage.*

Report on the vote in the next CLArion.

.....  
- from a media release, 6 Oct 2004

### **ACLU urges Virginia legislators to drop radio chips in driving licences**

The American Civil Liberties Union has urged Virginia not to become the first state in the USA to place radio frequency identification (RFID) chips in its drivers' licences.

"Until now, the controversy over RFID tags has focused on retail applications," said Chris Calabrese,

program counsel of the ACLU's Technology and Liberty Project.

"This is the first proposal we've seen to include RFIDs in drivers' licences. That brings the potential intrusion of this technology to a whole new level."

Calabrese testified before a panel of Virginia legislators considering whether to recommend the technology's adoption.

RFID tags are computer chips attached to tiny antennae capable of broadcasting their data wirelessly to anyone with a RFID reader. They are currently used for "contactless" applications such as toll-booth speed passes.

"Almost everyone carries a driver's licence, and RFID chips allow people to be tracked," said Kent Willis, executive director of Virginia ACLU.

"This proposal would allow anyone to set up an RFID reader to capture the identities and personal information of every person who comes within range.

"FBI agents, for example, could sweep up the identities of everyone at a political meeting, protest march, gun show, or Islamic prayer service."

Already, the ACLU says, the US government is working to include RFID tags in passports, and, at the direction of President Bush, the National Institute for Standards and Technology is working on a standard for a federal employee identification card that would also include the radio chips.

.....  
- from a report in the NY Times  
14 October 2004

### **USA approves under-skin ID chip for use in health care**

From a report by BARNABY J. FEDER and TOM ZELLER Jr.

The US Food and Drug Administration has given a company approval to market implantable chips containing a person's medical records.

Applied Digital Solutions of Florida announced yesterday that its

'VeriChips' – about the size of a grain of rice – could save lives and reduce errors in medical treatment.

The company hopes the health uses will drive acceptance of under-the-skin ID chips as security and access-control devices.

Applied Digital believes patients implanted with chips would receive more effective care because doctors, other emergency-room personnel and ambulance crews equipped with Applied's handheld radio scanners could read a unique 16-digit number on the chip.

With the number, the health professional could retrieve medical information about blood type, drug histories and other critical data held in computers.

Tiny RFID tags similar to VeriChip have been embedded in livestock and pets for many years.

In Mexico, Rafael Macedo de la Concha, Mexico's attorney general, and his staff had received implanted chips controlling access to a secure room and documents.

Solusat, the sole distributor of VeriChip in Mexico, says about 1000 people have received implants to link to their medical records.

In March, the Baja Beach Club in Barcelona offered VeriChips to patrons who wanted to dispense with traditional identification and credit cards. About 50 VIPs have received the chip so far, according to a spokesman, which allows them to link their identities to a payment system.

The program has been expanded to a club in Rotterdam also owned by Baja, and about 35 people there have signed up for the implants, the company said.

VeriChip announced last week that it had signed a distribution agreement with a British company, Surge IT Solutions, which it said intended to use the technology to control access to government facilities.

Antonia Giorgio Antonucci, an Italian doctor, is leading a study using VeriChip at the National Institute for Infectious Diseases Lazzaro Spallanzani in Rome.

But real privacy concerns have emerged. "At the point you place the chip beneath the skin, you're saying you will not have the ability to remove the ID tracking device," said Marc Rotenberg, executive director of the Electronic Privacy Information Center, a public interest advocacy group in Washington.

"I think, increasingly, if this takes off - and it's still not clear that it will - the real social debate begins around prisoners and parolees, and perhaps even visitors to the US. That's where the interest in being able to identify and track people is."

The debate over civil liberties and privacy has made discussing any practical benefits of a technology like VeriChip harder, the NY Times report said.

The evolution of radio identification technology also concerns some critics. Passive tags like VeriChip do not broadcast radio waves and cannot now be used to track a person's movements.

Current scanners cannot read the passive chip from more than a few feet away. But design advances or the addition of a separate power source for the chip could expand those ranges and make tracking possible.

Mr Silverman has said that the current chip could help managers of high-security installations like nuclear power plants locate people in the building because scanners in doorways should be able to track who enters and leaves a room.

The company is also talking to large orthopaedics companies to demonstrate the value of linking the chip to medical devices like hip and knee implants.

Mr Silverman said that surveys had shown that 14 to 22 per cent of people

would consider having the implant, but more than 80 per cent of those surveyed said they would consider having the implant if the question was framed to show a medical benefit from the chip.

.....

- Liberty UK website, October 2004

### **Excuse me... Are you British?**

In London tube and rail stations immigration officials are stopping passengers speaking non-European languages and asking them to prove their right to British residence.

They began by questioning passengers who did not have tickets, but now they are stopping people who they believe to be foreign.

UK Home Office guidelines explicitly prevent police from stopping people because of their accent or appearance. Yet officials are now claiming the guidelines can be ignored because the current operation is to target illegal immigration.

This argument is unconvincing as many immigration offenders are English speakers from Australia, South Africa and New Zealand who have overstayed their visas.

The new practice is targeting people from minority ethnic communities.

There are clear racist implications in stopping people who look and sound 'foreign' and asking them to produce papers proving their right to residency, Liberty says.

.....

- from UNity 22 Oct 2004, No 401, bulletin of the UN Assn of Australia

### **'Anonymous' police approved in South Australia, says MLC**

The South Australian Parliament has heard news of a police general order that allows officers to remove their identification while on duty, according to Ian Gilfillan, an Australian Democrat member of the SA Legislative Council.

The matter has been raised in connection with police activity during demonstrations at immigration detention centres in South Australia.

Mr Gilfillan, Democrats police spokesperson, said: "Police identification is essential for accountability in the force and is a fundamental part of our justice and law enforcement system.

"This new general order, however, states that; 'When deployed to a public order incident, you may only remove epaulettes and name badges where authorised in the operation order or by the Police Commander responsible for the management of the incident. Police Commanders responsible for the management of public order incidents are to ensure that members are readily identifiable, and should instruct them to exhibit their name or identification number onto protective dress or equipment worn, by using adhesive tape or similar means.'

Civil libertarians would put out that the little word 'should' in the above gives police commanders open slather – it certainly relieves police of the mandated instruction to wear identification.

For more information, e-mail: [ian.gilfillan@democrats.org.au](mailto:ian.gilfillan@democrats.org.au)

.....

– from the NY Times, 24 Oct 2004

### **Secret rewriting of military law produces Guantanamo shambles, says NY Times**

*From a report by TIM GOLDEN*

In early November 2001, with Americans still staggered by the 11 September Twin Tower jet aircraft attacks, a small group of White House officials worked in great secrecy to devise a new system of justice for the new war they had declared on terrorism, Tim Golden said today in the NY Times.

The officials bypassed federal courts and their constitutional guarantees,

and produced 'law' that allowed the military to detain foreign suspects indefinitely and prosecute them in tribunals not used since World War Two.

Golden reports officials as saying that the plan was so sensitive that senior White House officials hid its final details from the US President's national security adviser, Condoleezza Rice, and the Secretary of State, Colin Powell. "It was so urgent, some of those involved said, that they hardly thought of consulting Congress," he writes.

The aim of the extraordinary powers was for the Pentagon to collect crucial intelligence and mete out swift, unmerciful justice. "We think it guarantees that we'll have the kind of treatment of these individuals that we believe they deserve," said Vice President Dick Cheney, who was a driving force behind the policy, according to Golden.

But, he writes, three years later, not a single terrorist has been prosecuted.

Of roughly 560 men being held at Guantanamo Bay US naval base, only 4 have been formally charged (including Australian David Hicks).

Preliminary hearings for those suspects brought such a barrage of procedural challenges and public criticism that verdicts could still be months away, the NY Times reports.

"And since a Supreme Court decision in June that gave the detainees the right to challenge their imprisonment in federal court, the Pentagon has stepped up efforts to send home hundreds of men whom it once branded as dangerous terrorists," Golden writes.

.....  
- from NY Times, 26 Oct 2004

### **US says some captured in Iraq not covered by Geneva Convention**

By DOUGLAS JEHL

WASHINGTON— A new legal opinion by the Bush administration has concluded for the first time that some non-Iraqi prisoners captured by American forces in Iraq are not entitled to the protections of the Geneva Conventions, according to US administration officials.

The new opinion establishes an important exception to public assertions by the Bush administration since March 2003 that the Geneva Conventions applied comprehensively to prisoners taken in the conflict in Iraq, the officials said.

They said the opinion would essentially allow the military and the CIA to treat at least a small number of non-Iraqi prisoners captured in Iraq in the same way as members of Al Qaeda and the Taliban captured in Afghanistan, Pakistan or elsewhere, for whom the US has maintained that the Geneva Conventions do not apply.

The officials outlined the opinion in response to a report in The Washington Post that the CIA had secretly transferred a dozen non-Iraqi prisoners out of Iraq in the past 18 months, despite a provision in the conventions that bars civilians protected under the accords from being deported from occupied territories.

.....  
- from NY Times, 26 October 2004

### **China to consider resuming talks on human rights**

From a report by STEVEN R. WEISMAN

The US Secretary of State Colin Powell said in Seoul, South Korea, that China had agreed to discuss the American request for a new dialogue over the detention of Chinese citizens without due process and other human rights violations.

Talks broke off earlier this year because of Chinese objections to American criticism of its practices.

.....

– from The New Yorker, 27 Sept 2004

### **Censors censor the bit about ‘censorship’**

US Justice Department censors were fighting to stop the ACLU successfully asking for the Patriot Act to be declared unconstitutional because it was an abuse of government power.

“The existence of the law suit was gagged for nearly a month,” American Civil Liberties Union lawyer Ann Beeson said.

“We had to get the Justice’s Department’s approval even to disclose that we had filed the case.

“Then we had to fight with them over every line in our legal papers,” she was quoted as saying in The New Yorker.

“They used a big black Magic Marker to censor stuff on almost every page.”

One of the passages the Justice Department censors blacked out, in a letter from the ACLU to Judge Victor Marrero, was a quotation from a 1972 decision by the US Supreme Court:

“The danger to political dissent is acute where the Government attempts to act under so vague a concept as the power to protect ‘domestic security’. Given the difficulty of defining the domestic security interest, the danger of abuse in acting to protect that interest becomes apparent.”

As *The New Yorker* commented: In a case about the abuse of government power, how could the government censor the Supreme Court’s warning about the abuse of government power?

Sort of sums the situation up, doesn’t it?