

**This is a combined CLArion No3 and CLArion No4 edition, both published for
February 2004**

CLArion

No. 3 – 25 January 2004

email newsletter of Civil Liberties Australia (ACT) Inc., Assn. No. A04043

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EMAIL received Tuesday 20 January 2004

Dear Dr Klugman,

Congratulations to you and your colleagues on establishment of the Civil Liberties Australia (ACT).

When you are next time in Sydney, please accept my invitation to visit HREOC and discuss issues of common interest.

Again congratulations and best wishes

*Dr Sev Ozdowski OAM
Human Rights Commissioner
A/g Disability Discrimination Commissioner*

We asked the HR Commissioner if he could come to our Australia Day function...but he was already committed, and replied:

However I will let you know when I am next time in Canberra and would be glad to meet with your members.
Pls stay in touch. Best wishes

Sev

...and then, as a follow-up, an email on Wednesday 21 January:

Sev will be in Canberra Friday February 20 and suggested he would like to meet with you and members of Civil Liberties Australia, perhaps at an evening function, as he will be unable to visit on Australia Day. Your suggestion of 6.30-7pm arrival at your house is fine. Perhaps nearer the date you would be able to give me the names of those who will be attending? Avril Cox, *Executive Assistant to Dr Sev Ozdowski OAM*
Human Rights Commissioner and A/g Disability Discrimination Commissioner

AMNESTY in the ACT GLBT (gay, lesbian, bisexual, transgender) team

All around the world people are discriminated against, and/or denied their basic Human Rights due to their sexual orientation, the GLBT team says. Established in 2001, the AIA Queer Network works within the mandate of Amnesty International on behalf of people denied their rights due to sexual identity.

The inaugural meeting of the GLBT team, which is part of AIA Queer Network, was due to take place on Thursday, January 22. For further information contact Bede Carmody on 6257 6636 or email bcarmody@amnesty.org.au

**From the ezine, UNity. The national publication of the United Nations Association of Australia
January 23 , 2004 No 366**

Australia heads UN Commission on Human Rights

Australia has been elected as chair of the United Nations Commission on Human Rights for 2004 with Australia's Ambassador to the UN in Geneva, Mike Smith, who was a Vice-Chair of the Commission in 2003, taking over the position from Libya's representative.

Making the announcement, the Minister for Foreign Affairs, Alexander Downer, said, "Australia has a long-standing commitment to protecting and promoting human rights around the world. We work for practical improvements through a combination of measures, including constructive bilateral dialogues, focused technical assistance to improve governance and participation in multilateral efforts to develop and promote international human rights standards.

"The Commission draws global attention to human rights abuses, debates and promotes human rights norms, and directs and supports the efforts of related international bodies and mechanisms including

the Office of the High Commissioner for Human Rights and the various Special Rapporteurs who promote human rights universally.

"In addition to the important work carried out by the Commission in Geneva, at the national level it is often national human rights institutions that are responsible for enhancing public awareness of human rights and investigating cases of abuse. As Commission Chair, Australia will work to increase the Commission's awareness of, and support for, this critical in-country work by promoting the importance of strong and independent national human rights institutions.

"Over the past few years, Australia has worked hard to strengthen and improve the operation of the United Nations human rights machinery. The major focus of this work has been the Government's treaty body reform initiative announced in 2000. Australia has already hosted three workshops in Geneva to promote treaty body reform.

"As Commission Chair, we will continue to promote focused and effective consideration of human rights issues in the Commission, to ensure the organisation remains relevant and responsive to global demands for better observance of human rights standards."

For more information, call the office of the Minister for Foreign Affairs (02) 6277 7500 e-mail: A.Downer.MP@aph.gov.au website: www.dfat.gov.au Departmental inquiries (02) 6261 1555

29 December 2003, NY Times

This Car Can Talk. What It Says May Cause Concern

By JOHN SCHWARTZ

Last year (2002), Curt Dunnam bought a Chevrolet Blazer with one of the most popular new features in high-end cars: the OnStar personal security system.

The heavily advertised communications and tracking feature is used nationwide by more than two million drivers, who simply push a button to connect, via a built-in cellphone, to a member of the OnStar staff. A Global Positioning System, or G.P.S., helps the employee give verbal directions to the driver or locate the car after an accident. The company can even send a signal to unlock car doors for locked-out owners, or blink the car's lights and honk the horn to help people find their cars in an endless plain of parking spaces.

A big selling point for the system is its use in thwarting car thieves. Once an owner reports to the police that a car has been stolen, the company, which was started by [General Motors](#), can track it to help intercept the thieves, a service it performs about 400 times each month.

But for Mr. Dunnam, the more he learned about his car's security features, the less secure he felt. A research support specialist at Cornell University, he is concerned about privacy. He has enough technical knowledge to worry that someone else - say, law enforcement officers, or even hackers - could listen in on his phone calls, or gain control over his automotive systems without his knowledge or consent. Any gadget that can track a carjacker, he reasons, can just as readily be used to track him. "While I don't believe G.M. intentionally designed this system to facilitate Orwellian activities, they sure have made it easy," he said.

OnStar is one of a growing number of automated eyes and ears that enhance driving safety and convenience but that also increase the potential for surveillance. Privacy advocates say that the rise of the automotive technologies, including electronic toll areas, location-tracking devices, "black box" data recorders like those found on airplanes and even tiny radio ID tags in tires, are changing the nature of Americans' relationship with their cars.

From Radio Canada International, 01 January 2004

OTTAWA: ID CARDS FOR NON-CITIZENS NOW IN EFFECT

The Canadian government's new identity cards for permanent residents are now in effect. The cards are required for international travel. Six-hundred-and-twenty-five thousand permanent residents haven't applied for them. Those travelling abroad during the holiday season risk having trouble returning to Canada because airlines that accept them as passengers without the cards face severe fines. The immigration department has said, however, that permanent residents without cards can apply at Canadian consulates for temporary identity documents to make it back home.

If you would like to join the ACT Branch of Civil Liberties Australia (CLA), see the form you can print out, fill in and put in the post, with your cheque. Thank you.

Copies of the ACT Government's Bill of Rights, plus the explanatory statement to the Bill, are available from the CLA Secretary, Bill Rowlings.

They can be sent to you by email (free), or by post as a hard copy.

(For a hard-copy by post, please send a cheque for \$7 to Secretary, CLA ACT, 51 Ardlethan St, FISHER ACT 2611).

Application to join: **Civil Liberties Australia (ACT) Inc**

Post: 51 Ardlethan St FISHER ACT 2611 Ph: 6288 6137

Extract from the Constitution of CLA (ACT) Inc:

3. Objects

3.1 *The objects of Civil Liberties Australia (ACT) Inc are to protect and advance civil liberties and human rights and responsibilities. It aims to act as a watchdog, catalyst, publicist and educator in relation to these objectives.*

3.2 *Through its board, Civil Liberties Australia (ACT) Inc aims to bring to public notice instances or situations which may involve infringements of, or undue restrictions on, civil liberties or human rights and responsibilities, or the inequitable treatment of persons, groups or classes of people.*

I,(please print) apply to join the CLA. I agree with its objects, and agree to be bound by its Constitution and By Laws, and to pay the annual fee* until I advise in writing/email that I no longer wish to remain a member.

* 2004: \$50 (or \$75 for two people at same address)

..... (signed)

Address:

.....Postcode.....

Phone (home):..... Mobile:.....

Occupation/employer:

.....Work phone:

Email: home:.....
work:

Assn. No. A04043

From the New York Times, 8 January 2004

US awards Tenet whistleblowers \$8.1m

By KURT EICHENWALD

US federal prosecutors announced on 07 January 2004 that the government had awarded \$US8.1 million to two men who filed the first whistleblower suit contending that unnecessary cardiac procedures were being performed at a California hospital owned by Tenet Healthcare.

The payment comes after a \$US54 million settlement reached last year between the government and Tenet over accusations that doctors at the company's Redding Medical Center had subjected possibly hundreds of relatively healthy patients to unnecessary heart tests and operations.

The investigation of Redding was disclosed in...2002, when federal agents raided the hospital and the offices of Dr. Chae Hyun Moon and Dr. Fidel Realyvasquez. Dr. Moon was chief of Redding's cardiology department; Dr. Realyvasquez was its top cardiac surgeon. Both men remain under investigation.

The two men who received the multimillion-dollar payment from the government were the Rev. Joseph Corapi, 56, and Joseph Zerga, 61. Father Corapi, a Catholic priest, was a patient of Dr. Moon; he was told in 2001 that he had a life-threatening cardiac condition that required immediate surgery.

Father Corapi consulted Mr. Zerga, a friend in Las Vegas who persuaded him to have the surgery in Nevada. But after Father Corapi arrived, doctors informed him that he did not have heart trouble. The two men returned to Redding and confronted hospital administrators, who maintained that Father Corapi indeed had a heart problem.

Mr. Zerga, an accountant, contacted the FBI. The two men subsequently learned about the False Claims Act, better known as the federal whistleblower law. Under that law, private citizens are able to bring suits on behalf of the United States when federal programs are defrauded. The two men filed suit, contending that Redding was cheating Medicare.

Mr. Zerga said yesterday that he had not yet given much thought to his financial windfall, saying that "what's important is that this nightmare in Redding is over."

Michael A. Hirst, the assistant US attorney in Sacramento who handled the case, also had praise for the two whistleblowers.

"We are pleased to provide Mr. Corapi and Mr. Zerga with their statutory award for coming forward," Mr. Hirst said. "Their willingness to blow the whistle on fraud resulted in our putting a stop to the surgeries and recovering \$54 million."

\$US8.1m is about \$Australian 10.4m

Getting Away With . . .

By BOB HERBERT

New York Times: Published: 5 January 2004

WINSTON-SALEM, N.C. — Two days before Christmas — after nearly two decades of bungling and outrageous misbehavior — the police finally arrested the right man for the rape and murder of a woman in 1984.

But even after a DNA match and a credible confession showed conclusively that the wrong man had been locked up for the better part of 19 years, law enforcement authorities remained reluctant to let him go.

I suppose times have changed. Half a century ago, Darryl Hunt might have been lynched. Instead, he was left to rot in a cell, wrongfully incarcerated, for half his life.

Deborah Sykes was a 25-year-old white woman who was beaten, raped and stabbed to death by a black man on the morning of Aug. 10, 1984. The case was a local sensation, an accelerant in a racial atmosphere that was fiery in the best of times.

Mr. Hunt, 19 at the time, was caught in a search that can fairly be categorized as "any black man will do." Patently unreliable testimony got him convicted of murder and sentenced to life in prison. And after procedural problems caused the first conviction to be thrown out, he was tried and convicted again.

Mr. Hunt insisted from the beginning that he was innocent. He and his attorney, Mark Rabil, who is white, and several dedicated supporters in the black community, including a former city alderman named Larry Little, spent many long disheartening years fighting a hateful, racist system that was never interested in dispensing justice or finding the real killer.

Even after DNA tests of semen collected from Ms. Sykes's body failed to show any link to Mr. Hunt or to any of the alleged accomplices fantasized by prosecutors over the years, the courts would not intervene.

But last year an extraordinary sequence of events forced the truth into the open. In response to motions by Mr. Hunt's lawyers, a judge ordered the state to compare the DNA evidence with genetic profiles of state prisoners compiled in a DNA database. In November The Winston-Salem Journal started an eight-part series that detailed the mistakes, the unreliable witnesses, the official misconduct, the DNA evidence and many other aspects of the case.

With pressure growing, a new generation of investigators ran a broad check of the DNA. Lo and behold, the check led them to a man named Willard Brown whose DNA matched that of semen taken from Ms. Sykes. On Dec. 23 Mr. Brown was arrested and charged with kidnapping, rape, armed robbery and murder.

On Feb. 2, 1985, less than six months after the attack on Ms. Sykes, another woman was abducted, raped and, like Ms. Sykes, repeatedly stabbed. The abduction occurred just a couple of blocks from the spot where Ms. Sykes was attacked.

The second woman survived and identified Willard Brown as her attacker. But for reasons that are not at all clear, he was never prosecuted.

Mr. Brown has confessed to the rape and murder of Ms. Sykes. He said he acted alone and, according to court papers, he expressed remorse for the crime and for the many years Mr. Hunt spent in prison.

But prosecutors were still reluctant to do the right thing by Mr. Hunt. They continued to search for a way to link him to the crime.

At that point a number of prominent white voices were raised, saying essentially that enough was enough. Several white ministers held a press conference to express their dismay at the way the case had been handled.

On Christmas Eve a Superior Court judge ordered the release of Mr. Hunt on an unsecured \$250,000 bond pending a hearing in February. His lawyers hope that prosecutors will agree at that point to have his murder conviction vacated.

There are many terrible things about this case. The awful attacks on at least two women. The years lost to Mr. Hunt in prison. And the fact that the relentlessly bad behavior of the law enforcement authorities — the use of unreliable witnesses, the illegal withholding of exculpatory material, the refusal to acknowledge clear evidence of innocence — is so ordinary. This sort of thing goes on all the time.

Mr. Hunt told me he was not bitter, but he did think someone should be held accountable for what happened to him. "If people feel they can get away with anything," he said, "then you will have other Darryl Hunts, from now until the end of time."

NY Times, 10 January 2004
By Katharine Q. Seelve

Michigan online ballot spurs new strategies for Democrats

Detroit – The virtual ballot box has arrived in Michigan. Democrats in this state are the only voters in the country who have the option of voting online in the presidential primaries this year.

Since New Year's Day, voters have been allowed to apply for ballots and vote by mail or internet in advance of the 07 February caucuses. Or, on February 7, they can go to one of 576 caucus sites and vote the old-fashioned way. By Thursday night, 11,000 people had applied for ballots, three-fourths of them over the internet, according to the Michigan Democratic Party. About 100 people had voted so far, 90 of them online.

Mark Brewer, executive chairman of the party, said he had promoted the internet option as a way to make voting easier and increase turnout. "Polls show that this is very popular, particularly with young people, and they have one of the worst rates of participation," Mr Brewer said. "If this helps them, that's terrific."

New York Times, January 15, 2004

A Real-Life Debate on Free Expression in a Cyberspace City

By AMY HARMON

Peter Ludlow said he was only trying to expose the truth that Alphaville's authorities were all too happy to ignore. In his online newspaper, The Alphaville Herald, he reported on thieves and their scams. He documented what he said was a teenage prostitution ring. He criticized the city's leaders for not intervening to make it a better place.

In response to his investigative reporting, Mr. Ludlow says, he was banished from Alphaville. He was kicked out of his home; his other property was confiscated. Even his two cats were taken away.

Alphaville is not a real town but a virtual city in an Internet game called The Sims Online, where thousands of paying subscribers log on each day to assume fictional identities and mingle in cyberspace. Indeed, none of Mr. Ludlow's possessions existed outside the game. But the recent decision by the game's owner, Electronic Arts, to terminate Mr. Ludlow's account — forever erasing his simulated Sims persona — has set off a debate over free expression and ethical behavior in online worlds that is reverberating in the real one.

"To me, it was clearly censorship," said Mr. Ludlow, whom the Internet magazine Salon.com described as "an unabashed muckraker."

A Yale Law School student, writing on the school's Web log, condemned Electronic Arts as "a classic despot" that is "using its powers to single out individual critics for the dungeons and the firing squads."

The issues are actually not that clear-cut. But the episode has called attention to the little-known netherworlds of a popular computer game genre known as "massively multiplayer online role-playing games," which now regularly attract a million or more Americans. In Sims Online, Everquest and others where the border between fantasy and reality is increasingly blurry, the games have become more than simply a source of entertainment. They are also a gateway to a complex social network that takes on a life of its own.

But in a setting where the point is to play out fantasies, there is little agreement among players about the real-world consequences of their online actions. At the same time, the games' corporate owners are finding themselves at odds with some subscribers, who want more control over how the communities they play, fight and live in are governed.

That repeatedly wielding highly realistic, albeit fictional, weapons will contribute to real-life violence has long been a concern about traditional video games. But players and social critics say the ethical questions multiply when thousands of other real people are behind the characters on the screen.

Is it all right for teenagers to slaughter other characters in Everquest, but not for them to engage in sex chat in Sims Online? Is it fine for adults in Sims to engage in private sex chat, but not acceptable to advertise virtual bondage and discipline services, as dozens of Alphaville's virtual residents now do?

EDITORIAL

NY Times

Keeping Detentions Secret

Published: January 14, 2004

The (US) Supreme Court made it easier this week for the government to drape a cloak of secrecy over the imprisonment of people accused of crimes when it rejected an appeal seeking the identity of hundreds of men rounded up after the Sept. 11 attacks. The freedom of all Americans is diminished.

In the days after the terrorist attacks, nearly 1,000 suspects, most of them Muslim men, were detained. A vast majority proved to have no connection to terrorism. Many were deported for immigration violations. The government released the names of the 129 who were accused of crimes, but it refused to identify the hundreds who were not charged.

The Center for National Security Studies and other groups sued under the Freedom of Information Act to learn their names and the circumstances of their arrests. The government invoked an exemption to

the act. But the plaintiffs, backed by news organizations, including The New York Times, contended that the exemption did not apply because this sort of information was given out in ordinary police investigations. They argued that the public needs to monitor detentions to ensure that the government is not trampling on constitutional rights.

The trial court agreed, and ordered most names released. But an appeals court reversed that decision, 2 to 1. In dissent, Judge David Tatel warned that the court was ignoring the public's interest in knowing whether detainees' rights had been denied by "detaining them mainly because of their religion or ethnicity, holding them in custody for extended periods without charge, or preventing them from seeking or communicating with legal counsel."

The Supreme Court's decision not to hear this appeal comes as the Bush administration is increasingly asserting the right to conduct law enforcement in secret. It argues in the case of Jose Padilla, an American citizen accused of being part of a dirty bomb plot, that merely by labeling him an "enemy combatant," it can hold him in secret indefinitely. In a Florida case involving Mohamed Kamel Bellahouel, a post-Sept. 11 detainee, the federal courts have sealed the court records and decisions, listing the defendant only by his initials.

The Supreme Court will soon confront the larger issue of civil liberties after Sept. 11. It has agreed to hear the case of Yaser Esam Hamdi, an American citizen being held as an enemy combatant, and accepted the appeal of 16 foreigners being held in Guantánamo Bay. We hope that beginning with these cases, it will start reining in the disturbing excesses of the administration's war on terror.

**From UNITY , The national publication of the United Nations Association of Australia
January 19 , 2004 No 365 1945-2004 UN59 ISSN 1035-218X**

Australia contributes to disability Convention

Attorney-General Philip Ruddock and Minister for Family and Community Services, Senator Kay Patterson, announced on January 6 that Australia had provided a written contribution for inclusion in a draft text for negotiation of a **Convention on the Rights of People with Disabilities**.

Australia's written contribution focuses on accessibility – stressing the importance of taking appropriate measures to provide an environment which enables people with disabilities to access their fundamental human rights.

A UN working group, established by the United Nations Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities is currently meeting in New York to prepare this text, to be negotiated by UN member states.

An Australian delegation participated in the second meeting of the UN Ad Hoc Committee in June 2003.

The delegation comprised representatives from the Australian Government, the Human Rights and Equal Opportunity Commission (HREOC) and the disability community. Further meetings are scheduled for 2004.

Australia's contribution to the draft text can be seen at www.ag.gov.au/publications
For more information, call the office of the Attorney-General (02) 6277 7300 website:
www.law.gov.au/ag
or Senator Patterson's office (02) 6277 7560

NOTE: The same edition of *UNity* also featured a write-up on Civil Liberties Australia (ACT) Inc, notifying people of the re-forming of a civil liberties body in the ACT.

OP-ED COLUMNIST: NY Times

A Single Conscience v. the State

By **BOB HERBERT**

Published: January 19, 2004

Katharine Gun has a much better grasp of the true spirit of democracy than Tony Blair. So, naturally, it's Katharine Gun who's being punished.

Ms. Gun, 29, was working at Britain's top-secret Government Communications Headquarters last year when she learned of an American plan to spy on at least a half-dozen U.N. delegations as part of the U.S. effort to win Security Council support for an invasion of Iraq.

The plans, which included e-mail surveillance and taps on home and office telephones, was outlined in a highly classified National Security Agency memo. The agency, which was seeking British assistance in the project, was interested in "the whole gamut of information that could give U.S. policymakers an edge in obtaining results favorable to U.S. goals."

Ms. Gun felt passionately that an invasion of Iraq was wrong — morally wrong and illegal. In a move that deeply embarrassed the American and British governments, the memo was leaked to The London Observer.

Which landed Ms. Gun in huge trouble. She has not denied that she was involved in the leak.

There is no equivalent in Britain to America's First Amendment protections. Individuals like Ms. Gun are at the mercy of the Official Secrets Act, which can result in severe — in some cases, draconian — penalties for the unauthorized disclosure of information by intelligence or security agency employees.

Ms. Gun was fired from her job as a translator and arrested for violating the act. If convicted, she will face up to two years in prison.

Ms. Gun is being allowed by British courts to plead an unusual "defense of necessity." She has said that her disclosures were justified because they revealed "serious wrongdoing on the part of the U.S. government," and because she was sincerely trying to prevent the "wide-scale death and casualties" that would result from a war that was "illegal."

She's due in court today (19 Jan) for a pretrial hearing.

ENDS THIS ISSUE of **CLArion**

...please email your contribution to:
rowlings@netspeed.com.au

CLArion

No. 4 – 13 February 2004

email newsletter of Civil Liberties Australia (ACT) Inc., Assn. No. A04043

Email: rowlings@netspeed.com.au Phone: 02 6288 6137

Radio Canada International: Sunday 25 January 2004

NEW YORK: ARAR CASE FALLOUT CONTINUES TO SPREAD

Two media organizations are condemning (the 21 January 2004) Royal Canadian Mounted Police raids on the home and office of *Ottawa Citizen* reporter Juliet O'Neill.

The New York-based Committee to Protect Journalists says the police action represents "a significant threat to press freedom in Canada." Committee Executive Director Ann Cooper says the raids send "a terrible message to journalists around the world, whose rights are routinely restricted by repressive governments." The Vienna-based International Press Institute has written Prime Minister Paul Martin, saying it believes the raids violate a section of the Universal Declaration of Human Rights. Institute Director Johann Fritz says the police action represents a flagrant violation of everyone's right to "seek, receive and impart information and ideas through any media." The raids were apparently in response to an article Ms. O'Neill's wrote in November article about the Maher Arar case. The Mounties are investigating what they say is a leak of information in the case. In the fall of 2002, Mr. Arar, a Syrian-born Canadian, was detained by US authorities at New York's Kennedy Airport on suspicion of having terrorist connections. He was deported to Syria, where he says he was tortured. He is currently suing the US government and has called for a full Canadian investigation into his deportation.

BBC NEWS, Sunday 25 January 2004

African rights court's slow start

By Mohammed Adow in Addis Ababa

An African human rights court is due to come into force on Sunday following its ratification by the required number of African Union countries.

In a continent where violations of human rights abound, the new court is seen as a step in the right direction.

But many question whether the court can be effective and whether it will go beyond being just an idea.

No country has yet offered to host it and no judges have been appointed to run it.

The court is meant to work together with the Banjul-based African Human Rights Commission and is intended to enhance the African Union's commitment to human rights in the continent.

The director of the African Union's communication division, Desmond Orjiako, says the host country and the judges will be appointed during the African Union's general assembly in July.

He says the court will draw its laws from the African Union's charter of human rights and laws on human rights ratified by the union's member states.

The court is one of several bodies established by the 53-member African Union which last year succeeded the Organisation of African Unity.

These include an African parliament, an investment bank, a common peace and security council and a court of justice.

But what is still unclear is how a cash-strapped African Union will turn these grand ideas into reality.

Story from BBC NEWS, Published: 2004/01/25 04:32:04 GMT, © BBC MMIV
<http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/3427155.stm>

New York Times, 27 January 2004

Citing Free Speech, Judge Voids Part of (US) Anti-terror Act

By ERIC LICHTBLAU

WASHINGTON, Jan. 26 — For the first time, a (US) federal judge has struck down part of the sweeping antiterrorism law known as the USA Patriot Act, joining other courts that have challenged integral parts of the Bush administration's campaign against terrorism.

In Los Angeles, the judge, Audrey B. Collins of Federal District Court, said in a decision made public on Monday that a provision in the law banning certain types of support for terrorist groups was so vague that it risked running afoul of the First Amendment.

Civil liberties advocates hailed the decision as an important victory in efforts to rein in what they regard as legal abuses in the government's antiterrorism initiatives. The Justice Department defended the law as a crucial tool in the fight against terrorists and promised to review the Los Angeles ruling.

At issue was a provision in the act, passed by Congress after the attacks of Sept. 11, 2001, that expanded previous antiterrorism law to prohibit anyone from providing "expert advice or assistance" to known terrorist groups. The measure was part of a broader set of prohibitions that the administration has relied heavily on in prosecuting people in Lackawanna, N.Y., Portland, Ore., Detroit and elsewhere accused of providing money, training, Internet services and other "material support" to terrorist groups.

In Los Angeles, several humanitarian groups that work with Kurdish refugees in Turkey and Tamil residents of Sri Lanka had sued the government, arguing in a lawsuit that the antiterrorism act was so ill defined that they had stopped writing political material and helping organize peace conferences for fear that they would be prosecuted.

Judge Collins agreed that the ban on providing advice and assistance to terrorists was "impermissibly vague" and blocked the Justice Department from enforcing it against the plaintiffs.

"The USA Patriot Act places no limitation on the type of expert advice and assistance which is prohibited, and instead bans the provision of all expert advice and assistance regardless of its nature," Judge Collins wrote in a ruling issued late Friday.

As a result, the law could be construed to include "unequivocally pure speech and advocacy protected by the First Amendment," wrote the judge, who was appointed to the bench by President Bill Clinton.

At the same time, however, Judge Collins sided with the government in rejecting some of the plaintiffs' arguments, and she declined to grant a nationwide injunction against the Justice Department.

New York Time, 26 January 2004

Plans for Wireless Directory Raise Concerns About Privacy

By LISA NAPOLI

Lawmakers on Capitol Hill (in the USA) are poised to tackle the next privacy frontier: the nation's 150 million wireless phones.

As a group of carriers quietly works to create the first wireless white pages, legislation is in the works to protect consumers concerned about the privacy issues of those numbers going public. Privacy advocates say the proposed protections are not strong enough.

The Wireless 411 Consumer Privacy Act was introduced in both the House and the Senate before the holiday recess. The bill would require existing customers who want to be listed in a national database of numbers to "opt in," or specifically say they want to be listed, while new wireless subscribers would have to "opt out," that is, choose not to be listed.

The proposed legislation also insists that consumers not be charged a fee for keeping their numbers private, a practice that generates \$50 million in revenue for land-line companies each year.

"It is important for Congress to clearly articulate a pro-consumer privacy policy for wireless 411 information before the industry implements a 411 database," said Representative Edward J. Markey, a Massachusetts Democrat who is the ranking member of the House Subcommittee on Telecommunications and the Internet. "Otherwise, wireless consumers may be on the receiving end of an industry-designed service that results in privacy invasions, an increase in unwanted calls, or new charges simply to retain the current level of privacy." Mr. Markey introduced the bill with Representative Joe Pitts, Republican of Pennsylvania.

Industry insiders say that for years the wireless carriers did not think a directory would be useful or desirable. Since last year, though, with a decline in demand for traditional directory services, carriers have been discussing the idea of such a service. The complexities are formidable, but the payoff could be great: analysts say the mobile directory assistance business could yield \$3 billion in revenue a year.

The creation of a master database of mobile phone numbers requires competing carriers to work together. In a survey conducted last year by the Zelos Group, a research firm based in San Francisco, just 2 percent of consumers said they would agree to list their wireless numbers if there were no privacy protections. That jumped to 51 percent if privacy protections were guaranteed.

UNITY, national publication of the Association of Australia 29 January 2004

No 367 1945-2004 UN59 ISSN 1035-218X

Human rights education conference

The role of human rights education in strengthening communities in New Zealand and the Pacific is the subject of a conference, *Living and Learning Together*, to be held in Auckland, New Zealand from July 11 to 13.

The NZ Human Rights Commission and the NZ National Commission for UNESCO are hosting the conference with the support of the New Zealand Ministry of Education and the New Zealand Bahá'í community.

The Conference will offer two streams:

- Formal education - pre-school through to tertiary; and,
- Life-long learning - community development, the workplace, media and in our own lives.

The Conference will particularly appeal to all those interested in applying human rights education principles, whether as practitioners, managers, academics, teachers, or educators in a related field, students, care-givers, community workers and those who have a general interest in human rights.

The objectives of the conference are:

- To mark the end, in 2004, of two International Decades: the UN Decade for Human Rights Education and the UN Decade for the Rights on Indigenous Peoples.
- To share information, strategies, delivery styles and resources between human rights educators within New Zealand, the South Pacific and the wider Asia Pacific Forum region.
- To develop ongoing networks and communication systems to enable closer relationships and collaboration on human rights education.
- To provide initial information and assist with the development of the NZ Action Plan for Human Rights (NZAPHR) which aims to help set the agenda for human rights over the coming decade.

Special Rapporteur on the right to education of the UN Commission on Human Rights, Professor Katarina Tomasevski, will be the key note speaker.

DATES FOR YOUR DIARY

July 11-13 Conference *Living and Learning Together* -- role of human rights education in strengthening communities in New Zealand and the Pacific. Hosted by NZ Human Rights Commission and the NZ National Commission for UNESCO, Auckland. Info: Lili Tuioti or Rosi Fitzpatrick, TEUILA Consultancy, PO Box 78 321, Grey Lynn, Auckland, New Zealand. Ph: **+64 9 360 0257**, fax: **+64 9 360 0258**, e-mail: tkconz@xtra.co.nz or, Victoria Gregory (Human Rights Commission) victoriag@hrc.co.nz
Or, in Australia, Tessa Scrine (02) 6287 2019 tessa.scrine@bnc.bahai.org.au

December 10 Human Rights Day www.unhchr.ch

CLIPPINGS AND BOOKS

- organized and edited by Liz and John Shaw

There's no charge in the land of the free

OPINION: There's growing criticism of the 'legal black hole' into which people designated 'alien combatants' by the US Government have fallen.

They are being held by the US military at Guantanamo Bay in Cuba, on land that is neither Cuba nor the United States. In fact, it may be the only parcel of land in the world where nobody is responsible or accountable, and where there is no customary rule of law.

According to the Australian Government's actions, there is more law in the middle of the Southern Ocean than there is on a peninsula in Cuba, just a little more than a day-sail from the United States.

The detainees, mostly captured in Afghanistan in company with fighters from the then-ruling Taliban government, have not been charged before a military tribunal, despite being in custody for more than two years.

The US Supreme Court, a senior British judicial Lord, Australian jurists and even US military-appointed defence lawyers have questioned how Australians and others could be detained for two years by a country fighting for the rule of law, the USA, without being charged with a crime.

Australians are asking why the Australian Government does not represent the interests of its citizens: Australians are asking on what basis the Australian Government has apparently presumed Australian citizens to be guilty until charged, instead of innocent until proven guilty.

At the very least, the Australian Government should be asking the US Government to charge the detainees, or repatriate the Australian detainees to Australia.

Australian Attorney-General Philip Ruddock has said there is no law in Australia under which an Australian detainee in Cuba could be held; in Australia, the person would be free. How then can it be possible that, after two years, they are un-free and still un-charged under the control of the brave people from the land of the free?

- Bill Rowlings, with thanks to an article by Richard Ackland, Sydney Morning Herald, 23 January 2004

Addendum, from the New York Times, 13 February 2004: The official said it was possible that an individual could be convicted by a (military) tribunal and serve a five-year sentence and then not be released if he were judged to remain a danger.

Apparently, the US Military is to be capturer, judge and jailer-for-life...on its own say-so, even AFTER an individual has served a tribunal-imposed sentence .

OBITUARY: *Andrew McNaughtan, born 20 March 1954, died 22 December 2003.*

McNaughtan fought intellectually for the rights of the East Timorese when to do so was unpopular with the Indonesian, Australian and United States Governments.

At one stage, he was giving 80 per cent of his salary as information officer for the East Timor International Support Centre in Darwin to the Falintil guerrilla army.

McNaughtan had been convenor of the Australian East Timor Association. As a doctor at Katherine hospital in the Northern Territory, he saw the effects of torture on East Timorese refugees. He was a lifelong supporter of human rights issues.

The Australian's obituary headline summed up McNaughtan's contribution: *Fighter for truth, liberty and justice.*

- from an obituary in *The Australian* by Peter Slezak

BOOK: The Eastman Case: Reflections of an onlooker, by Alastair Morrison, November 2000, apparently self-published by the author.

Slim, 24-page, personal interpretation of facts and circumstances surrounding the vexed legal case in which David Eastman was convicted of murdering Australian Federal Police Assistant Commissioner Colin Winchester on 10 January 1989.

The author concludes Eastman was wrongly convicted, and that "...Winchester was the victim of a payback murder organised by cannabis barons in reprisal for his role in Operation Seville", in which Winchester pretended to be corrupt to snare marijuana growers operating near Bungendore – Bill Rowlings

Did you see the item in 'Fridge Door', on the back page of the *Canberra Times* main section on Friday 6 February?

CIVIL LIB: The newly-formed Civil Liberties Australia ACT is seeking members to help ensure the maintenance of civil and human rights. Cost: \$50 full membership, \$25 friend membership. Contact CLA President Dr Kris Klugman on 6288 6137.

New York Times, 2 February 2004

Charity Reopens Bible, and Questions Follow

By DANIEL J. WAKIN

The Salvation Army of Greater New York, long known for its network of thrift shops and shelters, has begun an effort to reassert its evangelical roots, stressing to lay employees that the Army's core mission is not just social services but also spreading the Gospel.

The New York division's new leaders have ordered that job descriptions now state the mission clearly. They have reminded employees who deal with children that they must fill out a form promising to follow the Army's religious mission in working with them. The form also asks those employees to describe their church affiliations.

"Periodically, we have to kind of reclaim the ecclesiastical turf, if you will," said Col. Paul M. Kelly, a former New York division commander who was brought in as a consultant last year to assess its operations.

The effort has stirred a mini-rebellion among some longtime employees who resent what they see as an intrusion on their privacy and the potential for religious discrimination. Such demands for religious loyalty, they say, breach the wall between church and state because the division accepts \$70 million in state and city funds for its programs.

One high-ranking administrator, in a complaint to the Equal Employment Opportunity Commission, said a Salvation Army official said during a meeting that any staff member who refused to sign revised job descriptions proclaiming the church's mission would be fired. And a former human resources executive said a Salvation Army official asked about religious affiliations of people who worked for her and whether several of them were gay.

Catholic Charities, the UJA-Federation of New York and the Evangelical Lutheran Church's local synod all said they do not require social service employees to reveal religious affiliations or commit themselves to a religious mission.

The Salvation Army's New York division leaders would not comment on the specific charges, but denied that their policies are new or even out of the ordinary for a religious institution. Officials acknowledged, however, that they had begun efforts to reinforce the organization's religious identity among employees as part of a general effort to tell the world about the group's mission.

The New York Civil Liberties Union asked the city and state comptrollers two weeks ago to audit the New York branch. Lawyers for the group say the New York division may be violating city and state contracts prohibiting religious discrimination.

The city comptroller, William G. Thompson, has passed the complaint on to the New York City Human Rights Commission, and the office of the state comptroller, Alan G. Hevesi, said it was studying the case.

Lawyers for the employees said a lawsuit could be filed this week.

"This is an agency acting on behalf of a government providing government services," said Donna Lieberman, the civil liberties union director. "It cannot be in the business of promoting religion and discriminating against its employees based on religion."

Religious institutions are exempt from religious anti-discrimination laws, but not for employees working in government-funded programs, the civil liberties union argues. The Bush administration favors allowing religious institutions to consider religion in hiring people who work for their government-funded programs.

The Army, which operates in 109 countries, was founded in London in the 19th century by a Methodist minister, who patterned its structure and terminology after the military. Adherents undergo training before being "commissioned," or ordained, as "officers," the equivalent of ministers. Army doctrine holds that the Bible is truthful revelation and salvation depends on obedience to Christ.

Nationwide (in the USA), the Army has 46,000 employees, a budget of \$2.5 billion and a reputation for being efficiently administered.

Some 1,700 employees work in the Greater New York Division's social service agencies, which have a budget of \$120 million a year, about 60 percent from government sources, the division said. The agencies operate more than 60 group homes, foster care, treatment programs, H.I.V. services, shelters and the like. The New York division, which covers New York City, Long Island and seven counties north of the city, said it touches the lives of 5 million people a year.

A few supervisors refused to hand out the forms that included questions on church affiliations. Some workers feared losing their jobs if they did not sign. They included Jews, Muslims and Hindus, gays and lesbians, atheists and even a lapsed Salvation Army member, employees said.

The civil liberties union has also condemned job descriptions calling for applicants to support "the mission" of the Salvation Army, which is listed on job postings and calls on new hires to "preach the Gospel of Jesus Christ and to meet human needs in His Name without discrimination."

The associate executive director of the children's agency, Anne Lown, who is Jewish, filed the E.E.O.C. complaint, according to the New York Nonprofit Press, which reported the dispute last month. Ms. Lown, now associate director, would not respond to questions about the complaint.

Mr. Gutheil, the executive director of the children's division, said in a Sept. 26 memo to his superiors that the church-affiliation form would have an "enormously chilling effect" on hiring good applicants. He said it was bound to be challenged in court, bringing bad publicity and hurting donations.

"Finally, whatever the legality and whatever the practical implications, this is just plain offensive to many of us who share the Gospel faith of the Salvation Army," wrote Mr. Gutheil, an Episcopalian. "This is a city that thrives on its diversity. Our workplace should reflect that."

Within weeks, Mr. Gutheil had left the Army after more than 20 years. On Tuesday, he said a confidentiality agreement that was part of a severance agreement prevented him from discussing his departure. But he said the dispute contributed to it.

"It was an important stand to take," he said. "I'm sorry I'm not at liberty to say more about it."

UNITY, 6 February 2004 – No 368, 1945-2004 UN59 ISSN 1035-218X
(national publication of the United Nations Association of Australia)

High Court allows HREOC say on immigration detention of children

The Human Rights and Equal Opportunity Commission was granted leave to intervene by the High Court today in a matter relating to the constitutional limits on the powers to detain children under the Migration Act 1958 (Cth).

In summary, the Commission submitted that the Migration Act 1958 (Cth) fails to provide a system whereby children's particular interests and vulnerabilities are recognised. Instead, the Act requires the mandatory detention of both adults and children alike, without any mechanism for the individual assessment of the needs of children.

The Commission has submitted that this undifferentiated approach fails to meet the constitutional requirement that such detention be limited to what is reasonably necessary for the purposes of assessment of immigration status or removal/deportation.

The Commission made particular reference to the **Convention on the Rights of the Child**, which imposes international legal obligations upon Australia in relation to the detention of children.

Human Rights Commissioner Dr Sev Ozdowski said the Commission's intervention in this case demonstrates HREOC's continued efforts to protect the human rights of children who are in immigration detention.

"The Commission will shortly be releasing the report of its national inquiry into that issue," he said.

Unity, 13 February 2003, No 369

Corporate conduct and human rights

Australian Democrats spokesperson on foreign affairs, Senator Natasha Stott Despoja, intends to introduce a Corporate Code of Conduct Bill, designed to regulate the conduct of Australian companies operating overseas with respect to human rights, the environment and labour standards.

The Bill will also ensure that Australian companies only source products from companies which observe similar standards.

“The protection of fundamental human rights, of the environment in which we live and of basic labour standards can no longer be left to Governments. Corporations have a vital role to play,” said Senator Stott Despoja. “This role is being increasingly recognised by the United Nations and other multilateral organisations, and by corporations themselves.

“Although there have been significant advances in promoting responsible corporate conduct in recent years, there is still a long way to go. The **Corporate Code of Conduct Bill** gives Australia the opportunity to lead the way,” she said.

For more information, call Senator Natasha Stott Despoja **(02) 6277 3200** or **(08) 8232 7595**
e-mail: senator.stottdespoja@aph.gov.au

Contributions please to CLArion to:
rowlings@netspeed.com.au

Copies of the ACT Government's Bill of Rights, plus the explanatory statement to the Bill, are available from the CLA Secretary, Bill Rowlings.

They can be sent to you by email (free), or by post as a hard copy.

(For a hard-copy by post, please send a cheque for \$7 to Secretary, CLA ACT, 51 Ardlethan St, FISHER ACT 2611).

Application to join: **Civil Liberties Australia (ACT) Inc**

Post: 51 Ardlethan St FISHER ACT 2611 Ph: 6288 6137

Extract from the Constitution of CLA (ACT) Inc:

3. Objects

3.1 *The objects of Civil Liberties Australia (ACT) Inc are to protect and advance civil liberties and human rights and responsibilities. It aims to act as a watchdog, catalyst, publicist and educator in relation to these objectives.*

3.2 *Through its board, Civil Liberties Australia (ACT) Inc aims to bring to public notice instances or situations which may involve infringements of, or undue restrictions on, civil liberties or human rights and responsibilities, or the inequitable treatment of persons, groups or classes of people.*

I,(please print) apply to join the CLA. I agree with its objects, and agree to be bound by its Constitution and By Laws, and to pay the annual fee* until I advise in writing/email that I no longer wish to remain a member.

* 2004: \$50 (or \$75 for two people at same address); \$25 for a non-voting 'friend' of CLA

..... (signed)

Address:

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Occupation/employer:
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work:
Assn. No. A04043
