

## Now, where were we this past month...?

To the west of the nation, an ambitious young MHR Andrew Hastie – who wants to be Prime Minister when he grows up – did his best to savage our crucial trade ties with China; to the east, on the island of Tuvalu, Prime Minister Scott Morrison downplayed climate change to the irritation of Pacific Island leaders.

In Canberra, the acting PM Michael McCormack managed to upset all Pacific Island leaders and their citizens with his “Let them pick our fruit” comment, followed by an apology that wasn’t.

Inside the Canberra Squabble, Home Affairs border and police agents demanded more powers to raid journalists’ home and offices. They asserted their ambit claims to a parliamentary committee when making submissions on freedom of speech for journalists and whistleblowers. And the High Court slashed free speech in the public service in the Banerji case.

Our always-up-with-the-latest internal spook agency, the Australian Security and Intelligence Organisation, revealed a brilliant “world first, exclusive” discovery about spying. See below. And another top spook dangled the fear of missing out on intelligence into the public arena, so we could quake even further.

Oh to be an Australian... whatever that means: the parliament also last month announced an inquiry (see below) into “nationhood, national identity and democracy”. What do you think is the solution?

“Simple answer,” says Civil Liberties Australia President, Dr Kristine Klugman, “adopt a Bill of Rights”.

## Your ideas wanted!

The Senate Legal and Constitutional Affairs References Committee (SLARC) is holding an inquiry into what it means to be Australian. The terms of reference include:

“Nationhood, national identity and democracy, with particular reference to:

- changing notions of nationhood, citizenship and modern notions of the nation state;
- rights and obligations of citizenship, including naturalisation and revocation;
- the responsibility of the state to its citizens in both national and international law;
- social cohesion and cultural identity;
- the role that globalisation and economic interdependence and economic development plays in notions of national identity;
- contemporary notions of cultural identity, multiculturalism and regionalism;
- the extent to which nation states balance domestic imperatives and sovereignty and international obligations;
- comparison between Australian public debate and policy and international trends; and
- any other related matters.

The report is due “on the last sitting day in May 2020”.

When is that? CLA doesn’t know: Australians don’t know; even the Australian Parliament doesn’t know.

At 25 August 2019 one of the world’s laziest parliaments had not scheduled its sitting days for the year 2020, which was then just four months away.

## ASIO reveals: ‘Spies pose as journalists’

You shouldn’t exempt journalists from national security laws because hostile foreign spies would exploit the journos and the system, ASIO told the parliament.



“These foreign intelligence actors seek to exploit vulnerabilities in our legal system in order to harm Australia’s security and to recruit individuals who can assist them in their goals,” said ASIO deputy director-general Heather Cook (photo: ASIO annual report) from her privileged position with access to knowledge help deep inside the spook agency.

“In Australia today, journalism is being used as a cover by foreign intelligence actors. And there is a long history of this worldwide,” she revealed. <https://tinyurl.com/y3bvs7un>

In another unprecedented revelation – who would have thought it? – ASIO also said last month that embassies here use their own staff and nationals living locally to spy on other nationals in Australia, and on Australia itself. <https://tinyurl.com/yxtyqevx> Quelle surprise, as they say in diplomatic language.

This was the first time ASIO had let the Australian people into previously-internal secrets:

1. Spies pose as journalists, and embassies are involved in spying.

Journalism was a convenient cover for espionage as both occupations rely on access to senior people and sensitive information, ASIO told the federal parliament.

ASIO’s solution was therefore to restrict Australian journalists. Brilliant! If there was no news, there’d be no leaks. Good one, ASIO, who are notorious as Australia’s main mushroom growers, who have a ‘new’ cook.

2. Heather Cook is the deputy DG of ASIO.

Until now, only the DG (there’s a new one, see below) could be publicly named. Now Heather is outed, too.

Meanwhile in Queensland, Premier Anastacia Palaszczuk’s diary, which is regularly published online so Queenslanders know who is lobbying/meeting her, revealed the name of an ASIO secret agent.

Premier Anna could go to jail for 1-10 years for revealing the ASIO name, or an ASIO operation. And so could you, and any other Australian, for doing likewise.

What should happen, of course, is that such a ridiculous law should be scrapped. The names of all senior, non-operational executives of ASIO (probably 100 people at least), should be public knowledge. And we should be told when they are lobbying government, and what they are lobbying or secretly consulting about. We live in a democracy, don’t you know?

Names of 99% of former agents and staff should also be public knowledge some time after they retire, say 5 or 10 years, if not instantly. Why should some administrative clerk’s name be protected? Perhaps a few of our ‘007’ trained killers might remain un-named, for example, any who served in East Timor with ASIS.

## Burgess become nominal head

Mike Burgess is the new director-general of ASIO: Duncan Lewis has retired.

Burgess has been DG of the Australian Signals Directorate since early 2018, boosting its public profile after it became a statutory agency instead of a branch of the Defence

Department, when it was known as the Defence Signals Directorate.

He has worked in naval shipbuilding and cyber security strategy, and was deputy director for cyber and information security at DSD from 2008 to 2013. From 2013 to 2016, he was Telstra's chief information security officer.

Given this background, citizens can expect less personal privacy down the track, and much more data sharing between government, the public sector and the Defence/security establishment, CLA believes. <https://tinyurl.com/y4adodaf>

## Beware! You must fear ghosts and hobgoblins: you've been Warned

"Director-General of National Intelligence Nick Warner warned Parliament's intelligence and security committee overseas agencies might refuse to

share information with Australia that could help prevent devastating events, including terrorist attacks." – report in News media: <http://tinyurl.com/y3j4znd9> (u/line added)

Yes, says CLA...and those same overseas agencies might just continue to share information, as they have always done.

Ever noticed how many hobgoblins and casperish problems the spook bosses, intelligence spruikers and political chancers can evoke in prospect? None of which ever come to fruition.

But creating fear suits their purposes of retaining tight control over the laws, the media and the citizens.

**'No passion so effectively robs the mind of all its powers of acting and reasoning as fear' –**

Edmund Burke 1729-1797, retrieved from *A Cynic's Political Dictionary*, a slim volume by CLA member Bill Godfrey (inquire via CLA Secretary re buying a copy as a Christmas present for your spouse, friend or local MP).

## Pezzullo ready to lock up a leaker

The trained head of the Border Force blackshirts, Michael Pezzullo 003<sup>1/2</sup>, said a leaker "should go to jail" for their actions and indicated police were "closing in" on a suspect. <https://tinyurl.com/y3bvs7un>

The Australian Federal Police raided the Canberra home of *News Corp Australia* journalist Annika Smethurst investigating the publication of a leak, so they said. Naturally, the leaked plan was all about allowing the government to increase its spying on Australians.

Given how Pezzullo and his fuhrer, Minister Peter Dutton, are further turning Australia into a secret state, it's possible journalist Smethurst and the leaker might meet an inexplicable end, suddenly.

Clearly, judge and jury Pezzullo has decided – before an arrest, before a trial – that a person should go to jail.

That's the new Australia that the Dutton-Pezzullo Axis is building. "You're guilty! Now we'll have your trial so a tame judge can impose the sentence we said should happen".

Ohh! What has it become, to be an Australian?

## Un-named K gives in to government pressure

The government has so worn down Witness K that he has plead guilty under the *Intelligence Services Act* to preparing an affidavit containing secret information.

"K is the former senior ASIS officer whose career was stymied by his opposition to the misdirection of counter-terrorism resources from Indonesia, where Australians were being targeted by Islamist terrorists, to bugging the cabinet rooms of Timor Leste in order to benefit Woodside in treaty negotiations between Australia and the fledgling state in 2004," Bernard Keane explained, writing for *Crikey*.

"The minister who ordered the bugging, Alexander Downer, later took a job with Woodside, while then-DFAT secretary Ashton Calvert later became a director of the company," he also wrote.

"No information identifying K can be published, but he is a distinguished, long-serving intelligence officer who served Australia diligently over decades, and who served it at great personal cost when he revealed that his own agency had engaged in criminal conduct to benefit a corporation, at the cost of Australia's counter-terrorism effort at a time when lives were being lost.

"His reward is years of harassment, the humiliation of prosecution and the full weight of a government hell-bent on covering up its crimes and making sure anyone tempted to expose it gets the message about what will be done to them.

"It's a deeply shameful moment for Australia, and a continuation of the cover-up of a shocking scandal in which those responsible for a reckless and deeply immoral act face no consequences while the patriots who exposed them endure misery," Keane wrote.

## Persecution is bipartisan

Keane also pointed out that the persecution – surveillance – of K and Collaery began under Labor when Mark Dreyfus was Attorney-General in 2013.

Ill-named Liberal AG Christian Porter endorses the current persecution through legal delaying tactics heaped upon totally inappropriate charges. ('Christian': "All that is noble, and good, and Christ-like").

The Australian government once again proves that it lacks morality and refuses to abide by the formal legal requirements on it under Model Litigant Obligations to behave ethically and fairly.

Australia desperately needs magistrates and judges prepared to show courage in the face of bullying by a government which believes in rule by its divine right, and which is led by a man who believes in miracles. Both the government and an acquiescent Opposition are devoid of principles.

CLA believes that K and Collaery should never have been under surveillance, should not have had their homes/office raided, should not have been charged, and should be honoured for what they have revealed.

As well as Porter and Dreyfus, the Commonwealth Director of Public Prosecutions, an "independent" statutory office holder, has a lot to answer for. It is amazing that, in analysing the Timor oil negotiations and their aftermath, the DPP found that only K and Collaery transgressed: not one other soul profited from their position under the Crown, or engaged in corruption, or took part in exchanging insider trading knowledge.

The DPP is indeed a most selective beast. Interesting that the Australian National Audit Office has recently decided to investigate just how the DPP makes its decisions to prosecute (see below).

## Keane nails it: CLA proposes a way out

Keane is right. Both Labor and Coalition governments have acted shamefully in the K & Collaery case.

What CLA believes should happen:

- AG Porter should immediately rescind his approval (given to the DPP) for the court cases to go ahead.
- K and Collaery should receive top honours in the New Year award of gongs.
- There should be a Royal Commission into the actions, roles played and subsequent benefits received – overtly and by patronage – of a list of federal and NT government Ministers and Opposition figures, bureaucrats and companies which have or had interests in relation to the Timor oil-gas fields.
- The RC should also inquire into the actions of any other people or entities and whether some benefited inappropriately from their involvement.
- A catch-all clause should allow the RC to inquire also into whether the same and other companies have operated in a similar manner in relation to MPs in federal and state/territory parliaments, and the public servants, in other resource developments.

### Audit holds some hope of accountability

An audit flagged by the Australian National Audit Office (ANAO) is expected to examine the effectiveness of the Australian Taxation Office's (ATO's) and the Department of Home Affairs' compliance with model litigant obligations (MLOs).

The audit, in 2019-20, will also examine how effective is 'help' provided to Commonwealth entities by the Attorney-General's Department (AGD) in maintaining compliance with the MLOs.

The obligation on government is:

Pursuant to the Legal Services Directions 2017, issued by the Attorney-General under the Judiciary Act 1903, Commonwealth entities have an obligation to act honestly and fairly in handling claims and litigation. Entities must reduce costs and delays in the handling of litigation and must not commence legal proceedings unless satisfied that litigation is the most suitable method of dispute resolution.

The Office of Legal Services Coordination within AGD is responsible for assisting Commonwealth entities in complying with the MLOs.

Civil Liberties Australia says the Australian government departments and agencies conspicuously fail to abide by MLOs. The AG's Department conspicuously refuses to take any positive action to check whether the MLOs are being followed: departments and agencies are permitted to self-report if they transgress.

Can you imagine how many people would self-report exceeding the speed limit, if self-reporting was the method for enforcing road laws? And that's exactly how many departments and agencies self-report when they breach the MLOs.

The ANAO is also currently examining how efficient the Commonwealth Department of Public Prosecutions (CDPP) is in managing cases brought to it by security and police. <https://tinyurl.com/y4gmt792>

### The law sends you barmy: survey

Some 170 of 200 legal professionals in Australia and NZ had experienced anxiety, or knew someone close to them in the workplace who had done so.

More than 60% of respondents said they had experienced depression, or knew someone close who had.

The 'wellness' survey provided a snapshot of the challenges faced by legal practitioners. A report for the Law Society of NSW showed, as of October 2016, there were more than 70,000 practising solicitors in Australia, which means that at least 60,000 people working in legal firms know all about anxiety, and some 35,000 at least are, or were, depressed.

President of the Law Institute of Victoria, Stuart Webb, said the high-pressure environment that legal professionals worked in meant lawyers were more prone to mental illness, including anxiety and depression as well as stress and burnout. <https://tinyurl.com/yxvh5pdu>

### Politicians battle each other for their benefit

A man with his eye firmly cast on being Liberal Prime Minister has bumbled undiplomatically into the realm of trade and foreign affairs in chasing his future ambitions.

The chair of parliament's "powerful" (see next item) security and intelligence committee publicly warned Australia against underestimating China, pointing to the experience of Europe in the face of an aggressive Nazi Germany. <https://tinyurl.com/yxky592k>

His outburst obviously harmed Australia's trade – and other – relationships with China, and had the Prime Minister, Trade Minister and Foreign Affairs Minister scrambling to find weasel words to get out of the diplomatic pickle.

Federal Liberal Andrew Hastie (MHR Canning WA) said the West once believed economic liberalisation would naturally lead to China becoming a democracy, just as the French believed "steel and concrete forts" would guard against Germany in 1940.

"But their thinking failed catastrophically. The French had failed to appreciate the evolution of mobile warfare," Mr Hastie wrote in an opinion piece published in the *SMH* and *The Age*, which probably also helped to put the French offside, as well as the Chinese.

The well-named Hastie unfortunately sits behind the ill-named fellow West Australian Christian Porter (see item above) in the rankings for next Liberal PM. So his speech could be interpreted as a long-term play/ploy for the prime ministership, hence its 10-year horizon.

"The next decade will test our democratic values, our economy, our alliances and our security like no other time in Australian history," Hastie wrote.

Forget 10 years: Hastie's outburst will have immediate consequences for the China-Australia relationship.

**LATE NEWS:** Australian writer Dr Yang Hengjun (photo) was charged in late-August 2019 with spying (apparently, but not yet formally, for Australia) by the Chinese government: he faces draconian penalties, with execution a possibility.

"The case...will further complicate already tense relations between Beijing and Canberra," Fergus Hunter wrote in the *Brisbane Times*: <https://tinyurl.com/y2oyewcg>

Dr Yang was detained in January 2019, Chinese authorities have held him since then. Hastie publicly slammed the arrest in January as an attempt to "coerce" the Chinese diaspora, according to *Crikey*, and "for geopolitical reasons", according to the *SMH*.

For an expose of how some politicians are constantly jockeying for future high office, CLA encourages you to read *Plots and Prayers*, the book by Niki Savva on how Morrison trumped Turnbull, which reveals the dog-eat-dog playpen that is the Australian Parliament. Scribe: 408pp ISBN: 9781925849189 RRP: \$35.00



## Duumvirate runs parliament's SIC committee

Hastie is part of the Liberal-Labor duumvirate which runs the Parliamentary Joint Committee on Intelligence and Security that has received the sobriquet "powerful" appended in recent media reports.

He is a former Special Air Service Regiment officer.

His deputy sheriff is Labor's Anthony Byrne (MHR Holt, Vic). Under 'Qualifications and occupation before entering Federal Parliament', the mysterious MHR lists "former CEO of the Anxiety Disorders Foundation of Australia 1994-96, and adviser to Senator JMA Collins 1996-99" before he entered parliament in 1999.

Byrne's parliamentary CV does not disclose the work he was engaged in for 12 years from about 1982, when he was 20, until 1994. Nor does it list academic qualifications, so he was apparently not at university: perhaps he was in the mental health field, which led to his later Anxiety Disorders role?

Among its other failings, this "intelligence" committee was apparently blindsided by a Chinese company gaining a 99-year lease on Darwin's port from the NT government without any federal parliamentary oversight. Federal intelligence monitors certainly failed in that instance.

Early in 2019, the SIC committee's leaders, after receiving a briefing by the CIA and other Washington spooks, strongly supported restricting Huawei, the Chinese company which has world-leading 5G telecoms technology. The result: Australia banned Huawei from supplying our network. But, a few weeks later, American President Trump backtracked on a similar ban he had imposed on America, realising it was commercially stupid. This leaves Australia as the the only Huawei goose in the 'Five Eyes' barnyard.

So preventing Australia accessing the latest technology can be chalked up as another "triumph" of "intelligence" for this committee.

When you see the term "powerful", think "gerrymandered" and "incompetent" instead for the PJCIS: it and its members' track record is of excessive and un-needed legislation, actively denigrating our major trading partner, and limiting Australia's national network communications options.

See also: Spooky MPs raise the bar on monumental hypocrisy: <https://tinyurl.com/y6tq8aly>

## SIC is possibly parliament's worst committee

The PJCIS (see above) is better named the Security and Intelligence Committee (SIC) because it is democratically 'sick' and ill-comprised.

The committee has been responsible for giving Australia the most draconian terror legislation in the western world, excessive and beyond what's needed.

Our terror laws are worse than those in the USA, the UK, Canada, NZ and the EU. Global security and legal experts believe Australia's laws are "over the top", particularly for an isolated country at the far end of the planet which exerts total control over its borders, something the Australian government boasts about.

CLA has constantly criticised the fact that the SIC committee comprises Liberal and Labor politicians only (not even Nationals get a nod). There are no Greens, minor party members or independents on the gerrymandered group. This means its membership totally ignores 15% of the parliament. On a committee of 11, at minimum one 'outsider' (if not two) should be included for representative balance.

It has precisely the wrong type of people as members. By being made up of 'insiders' – either by background or by their party positions entitling them to regular intelligence briefings – the committee's thinking is coloured by their own histories and the

slanted 'backgrounders' provided by the very security and intelligence agencies they are meant to be at least partially responsible for monitoring.

The SIC can only become healthy when at least half its membership comes from those outside the duumvirate and from people with both proven and current human rights and civil liberties backgrounds.

The committee should be a check on faceless, nameless spooks exercising secret power. Instead, it is a cheerleader for them.

If intelligence experience was a qualification, the former Office of National Assessment officer, Andrew Wilkie (Ind. MHR, Denison Tas – photo) would be a shoe-in...but he doesn't get a look in.

This is a committee established and operating to service the ruling political elites of the Liberal and Labor parties.



## Eastman may set precedent for damages

David Harold Eastman may set an Australian precedent in wrongful conviction damages cases.

Eastman, wrongly convicted and jailed for nearly 20 years, may set a 'mandatory' precedent for how Australian governments compensate people jailed through incompetent or malicious actions of authorities.

The 73-year-old former Treasury official is suing the ACT government in the civil jurisdiction. He is invoking the ACT Human Rights Act 2004, clause 23, under which a citizen is entitled to be free of unlawful discrimination.

Eastman was convicted of the assassination-style killing of assistant AFP Police Commissioner Colin Winchester on 10 January 1989. In November 1995 he was sentenced to life imprisonment without parole.

In May 2014 'Have Gavel-Will Travel' judge Brian Ross Martin ruled Eastman had not received a fair trial. He had been protesting his innocence through almost countless legal proceedings for two decades.

In layman's language, Martin found the ACT Police (part of the AFP) hid information about the reliability of forensics which would have cast serious doubt on Eastman's guilt. Also, the office of the Director of Public Prosecutions in the ACT had not disclosed all it knew, when it was obliged to do so.

Eastman was freed in August 2014 when the ACT Supreme Court endorsed the Martin finding and formally quashed the conviction.

Whereas Martin had said "a retrial is neither feasible, nor fair," the Supreme Court ordered a retrial. ACT Police/AFP and the ACTDPP desperately hoped a retrial would find Eastman guilty, but the shaky circumstantial case – this time not bolstered by hiding evidence – fell apart in court.

In November 2018 a jury found Eastman not guilty.

Now, 40 years later, the AFP has to face the fact that it was incompetent, and was and is incapable of finding the killer of its own assistant commissioner. That man, or woman, may still be alive in Canberra.

This will be the first such action for damages after a wrongful murder conviction under a human rights act in Australia. In all similar compensation cases, states and territories have made 'grace and favour' payments – authorities have decided on an amount and paid it, without admitting guilt. By taking the cash payment, the wrongfully convicted person acknowledges he or she has no further claims against the government.

However, a finding and an award under legislation would be an entirely new beast. Much larger compensation amounts could be awarded. There could be subsequent re-litigation if a wrongfully-convicted person's circumstances change, such as through an illness acquired in prison.

### **ODD SPOT: \$50m murder mistake: who pays?**

The Eastman case has cost the ACT government about \$35m, without a result. It's likely the AFP would have spent at least \$15m. So this is at least a \$50m murder 'mistake'...with further compensation imminent. The cost of police and prosecutor incompetence is seldom calculated. In a perfect world, the police force and the DPP would pay for any compensation out of their future budgets. Otherwise they will never learn to abide by the rule of law and their legislated regulations, CLA says.

### **\$10m could be the compensation**

The ACT government is likely to have to pay David Eastman many millions, maybe \$10m or so.

The government wanted to offer Mr Eastman an "act of grace" payment, which is discretionary and would be signed off by the ACT Chief Minister and Treasurer Andrew Barr. Lawyers for the ACT described such a payment as being made due to "moral obligation, not legal".

But Eastman's legal team is trying to outmanoeuvre the government, using human rights law. The case goes back before the ACT Supreme Court on 9 September.

In 2009, the WA government issued a \$3.25 million ex-gratia payment after Andrew Mallard spent 12 years in jail for a wrongful murder conviction.

In 2018, the SA government paid Henry Keogh \$2.57m, but he is seeking \$6m, as he told an SA parliament inquiry in November of that year.

"More than 7000 sunrises and sunsets that I never saw," he told them. "The marriage of children, the birth of grandchildren, my own advancement in the workplace. I believe I'm owed a debt for this nightmare, as is my family, as is Anna-Jane (Cheney), who deserves better than to be falsely remembered as the woman killed by the man she loved, and the man who loved her," Keogh said.

He told the inquiry the time and money spent on it would be better spent on investigating other miscarriages of justice. <https://tinyurl.com/y5mq2u88>

*Photo shows Keogh at the inquiry (ABC pic)*



In Eastman's situation, the ACT Supreme Court, the DPP and ACT Police put him through an entire trial process that was recommended against by the inquiry judge, Martin. It may well be that punitive damages could be awarded against the territory and its officials for doing so.

(NB: A Director of CLA is on Eastman's legal team, but is not involved with the writing of these items).

### **Pass-the-potato government is in full swing**

ACT Chief Minister Andrew Barr wants the Attorney-General Christian Porter to relinquish oversight of ACT Policing to the territory's new integrity body so its mistakes and miscalculations can be kept in check.

Home Affairs Minister Peter Dutton has washed his hands of the organisation's metadata bungles: the ACT branch of the AFP had illegally accessed metadata more than 3000 times in 2015, including in one case where the data may have been used wrongly in a prosecution.

Metadata includes information like the time of phone calls and text messages and who they are to. It also includes who a phone number is registered to, and can include location information.

Mr Dutton said the federal government had no responsibility for sanctioning ACT Policing, as the branch was under the remit of the "local council government" – by which the patronising prickly Peter means the ACT government, a sovereign parliament (apart from the federal Andrews "no euthanasia" restrictions").

But the territory government is prevented from making laws about ACT Policing under the Self-Government Act. The same law prevents the new ACT Integrity Commission investigating corruption complaints against ACT Policing.

In a letter to Attorney-General Christian Porter, Mr Barr said Mr Dutton's comments highlighted the need for oversight of the police to be clarified. "Mr Dutton stated that the Commonwealth takes no responsibility for the actions of ACT Policing and he viewed its operations as falling within the remit of the ACT government 'as we see in other states and territories'," Mr Barr wrote.

"It is unacceptable the ACT government should have responsibility yet limited oversight capacity." <https://tinyurl.com/y2euupvy>

### **Police rules say they should film naked people**

NSW Police are told to film people being strip searched, internal documents reveal.

Amid growing concern about the increasing and sometimes unauthorised use of strip-search powers by police in the state, documents obtained under freedom of information reveal that officers routinely film searches while they are being conducted.

Redfern Legal Centre used FOI to unearth standard operating procedures for body-worn cameras in NSW state that while an officer conducting a strip search should turn the camera off, "the support officer is to record the search using a [body-worn video] camera".

While the document states that officers should "take particular care to ensure the person's privacy is adequately protected" by ensuring footage cannot be viewed by anyone "without a lawful reason to do so", the searches should still be filmed.

"A person's privacy is not a sufficient reason to cease filming a strip search conducted in the lawful execution of an officer's duty," it states.

The FOI revelations come as police strip-search powers are being questioned. Apparently the searches are used punitively against patrons sniffed by drug dogs at music events.

Drug dogs have an error rate of up to about 73%. In other words, some are correct in only one in four cases, yet police undertake strip-searches on the basis of a dog's faulty nose. <https://tinyurl.com/y49ab8wr>

### **Its odds-on the story will be a Crowning glory**

You can bet that politicians, visa issuers and Crown Casino people are frantically working on how to spin events in a way that leaves everyone a winner.

All of them are under scrutiny by the federal Law Enforcement Integrity Commissioner after the odour around "special arrangements" for fly-in, fly-out Chinese gamblers became too much for the federal government's Attorney-General, Christian Porter, who ordered a formal inquiry.

The holier-than-thou Dept of Home Affairs last month admitted to "stakeholder arrangements" dating back 16 years with a number of large international organisations for fast-track processing of short-stay gambler visas. Home Affairs denies that such "stakeholder arrangements" are special treatment. Tell that to refugee claimants, CLA says, who wait years for Home Affairs processing.

Andrew Wilkie (Ind. MHR Denison, Tas) revealed in parliament that a whistleblowing former driver for Crown in Melbourne had told him that there were "no Border Force checks, foreign nationals getting off (planes) with up to 15 bags for a short stay, stopping only on the way to the casino to pick up a sex worker".

Wilkie quoted the whistleblower as saying: "Crown is Crown. No one touches Crown, you know there is no law at Crown. You literally get what you want and you do what you want. Money talks."

Wilkie said Victorian police officers had told him they call Crown Casino "The Vatican", because it's untouchable. <https://tinyurl.com/y67tr5lq> (NB: Andrew Wilkie is a member of CLA).

### **ODD SPOT: Let's have laws on freedom from hypocrisy and corruption**

There is lots of talk about freedom of speech and freedom of religion abroad in politics just now. But freedom from corruption and hypocrisy would probably satisfy a lot more voters. – ABC's Laura Tingle commenting on the swelling silence of the two major political parties over allegations against Crown Casino and some of its gamblers. <http://tinyurl.com/yxzubgyd>

### **One-way – only – security tradeoff**

Believing there must be only a repressive trade-off between crime-fighting and human rights is a false dichotomy, two experts said recently.

Lower crime and national security were not reason enough alone for new powers that infringe on human rights, the Victorian information commissioner, Sven Bluemmel, told a Melbourne Uni digital conference.

He said that, in his role with responsibility for privacy and information security in Victoria, he tried to ensure senior policymakers were aware that they did not need to choose between security and human rights or privacy.

"It's a false dichotomy," he said. "One thing doesn't trump another. There's more to life than having low crime or national security. I think we can all think of societies where there's essentially zero crime: would any of us want to live there?"

Bluemmel called for mature, non-sensational dialogue which acknowledged there was more to a good, healthy society than a reduction in crime, or increased national security.

The Australian Human Rights Commissioner, Ed Santow, told the conference that while the Australian Human Rights Commission is trying to influence policymakers to take into account human rights when developing national security legislation, it was an uphill battle.

"It needs to be made absolutely crystal clear, sometimes, the false dichotomy between liberty and security is just that, and we need to be smarter in how we protect national security in ways that don't impinge on human rights." <https://tinyurl.com/y3hv9u5q>

### **SAPOL error proves what has long been claimed**

SA Police bosses have hurriedly backtracked after a manager offered a gift card prize to the patrol which issued the most speeding and traffic fines.

Drivers in SA and throughout Australia frequently claim speeding fines are mostly revenue raising, a claim backed up by this case.

SAPOL said a manager had bought a gift card and offered by email to give it to the officer who made the "greatest contribution to road safety" for the most traffic infringement notices and cautions issued.

Police recalled the email and told its officers any incentive was against official policy. They will now conduct a formal review. <https://tinyurl.com/y4pxe5ho>

### **Appeal lodged: case won't begin until 2020**

Lawyers finally filed the formal appeal papers for Sue Neill-Fraser on 2 Aug 2019...as *The Mercury* Hobart report (below) shows.

At the first directions hearing for the case in late August, dates were established, from which we can deduce "progress":

- 28 Oct 2019 SNF formal appeal support documents to be filed
- 12 Nov 2018 Directions (administrative) hearing
- 20 Dec 2019 Crown files its documents
- Jan/Feb 2020 Directions hearing
- Mar-April 2020 (possibly) Appeal held
- May-Jun 2020 (possibly) Judges give appeal decision

SNF is appealing what CLA believes is her wrongful conviction for murdering her husband on a yacht in Sandy Bay on Australia Day 2009. There is no body, no witness, and no believable motive.

Neill-Fraser has now been in jail – wrongly – for more than 10 years of a 23-year sentence, with a 13 years non-parole period.

Groups in Hobart, Melbourne and Alice Springs held vigils for her around the 10-year anniversary, 20 August 2019.



### **NEILL-FRASER REVEALS 'FRESH AND COMPELLING EVIDENCE' IN**

The Supreme Court in Hobart has received Susan Neill-Fraser's second appeal which reveals "fresh and compelling evidence" she hopes could overturn her murder conviction.

### **Hickey stands for principle, again**

Tasmanian Speaker Sue Hickey again last month stood up for legal principle over her Liberal colleagues.

She cast the deciding vote against a bill that would have extended mandatory sentencing.

Labor and the Greens voted against the legislation because it included mandatory minimum sentencing.

"Sentencing should be left to judges and magistrates as they have the appropriate training to make a judgement on the information specific to each case," Ms Hickey said.

"The legal view is that mandatory sentencing is against the separation of power of the judiciary and the state. We are obliged to make good law, not populist law."

The bill would have extended mandatory minimum sentences of six months' jail – which now only apply to serious bodily harm to police officers – to assaults on ambulance officers, child safety officers, correctional services and community corrections officers, nurses, midwives, medical orderlies and hospital attendants. <https://tinyurl.com/y6mpnfxu>

### **Leftovers may reveal jury misbehaviour**

The Tasmania Law Reform Institute is examining jurors' use of the internet and social media.

Author Jemma Holt told *The Mercury* that she believed the issue was under-reported.

Ms Holt pointed to a 2015 Launceston case in which two defendants were found guilty of aggravated assault and wounding.

She said court staff in Launceston in 2015, after a trial, found three pages printed from a US website explaining the legal terms "beyond reasonable doubt" and "circumstantial evidence".

When the two convicted people appealed the aggravated assault and wounding convictions, the court ruled that a procedural irregularity had occurred, but the appeal was dismissed.

The TLR – <https://tinyurl.com/y54uteyz> – has issued a draft paper: submissions in response may be made until 4 October 4. They plan to report to the Tasmanian Attorney-General by early 2020. <https://tinyurl.com/y3hp4kxx>

## Murphy – from an APM family – remains acting top cop and fire boss

Michael Murphy APM is continuing as NT Police Commissioner and CEO of Fire and Emergency Services until a permanent appointment, Police Minister Nicole Manison announced last month.

The position became vacant when Reece Kershaw APM resigned to take over the national top cop job as AFP Commissioner from October 2019.

A recruitment process is under way and a new NT Police Commissioner will be appointed before the end of the year, Manison said.

Given the surname difference, CLA members may not be aware that Michael Murphy APM (photo, right) is the younger brother, by 13 years, of former long-time pro bono lawyer for Sue Neill-Fraser, Barbara Etter APM (photo, at left). She rose to acting Assistant Commissioner of Police while herself serving in the NT Police.

Barbara later became Assistant Commissioner of Police (and acting Deputy Commissioner) in WA before changing from her 30-year police career path and moving to Tasmania to be CEO of that state's then-new Integrity Commission. After leaving the TIC, she took on the SNF case.

She is probably the most academically highly-qualified police officer Australia has ever had. For example, she holds a Pharmacy degree, a Masters in Law, and an MBA...among other qualifications. She co-edited a book with former AFP (and NT) Commissioner Mick Palmer (*Police Leadership in Australasia*, Federation Press 1995).

Barbara and Michael's late father, career NSW Police officer Ken Murphy, would have been very proud of his children.

Are there any other police families in Australia with two Australian Police Medals? There may be two males in one family, but male and female siblings? (Disclosure: Etter is a CLA member of many years standing).

## NT claims it's winning the Battle of the Booze

The NT government, fighting alcohol-related harm and alcohol-fuelled crime and violence which costs the NT about \$1.4 billion every single year, is claiming some victories:

- a 22% reduction in alcohol-related assaults across the NT, including a 13% reduction in Darwin and 38% in Alice Springs;
- a 24.5% drop in alcohol-related emergency department presentations in NT hospitals Sept–Dec 2018, compared to 2017. The drop is 22% in the first quarter of 2019; and
- police have seized more than 17,000 litres of alcohol earmarked for illegal secondary supply.

"We have reduced the supply of alcohol to problem drinkers through measures like the Banned Drinkers Register, a new Police Alcohol Unit and 75 new Police Auxiliary Liquor Inspectors," Attorney-General Natasha Fyles claimed last month. – media release 190814

## ODD SPOT: How not to make data laws

CLA member Roger Clarke, former long-time chair of the Australian Privacy Foundation, commenting on one of the latest legislative proposals to ensure an "unalterable" way of holding public data:

"The lawyers misunderstood the techos the first time, and still don't \*really\* understand the nature and limitations of the technology. And they're too proud to rescind the dopey first attempt and replace it with provisions that stipulate requirements that are achievable. Instead we end up with meaningless drivel that confuses everyone, and is later re-misinterpreted by a judge, with completely dysfunctional outcomes.

"As the proportion of the population with degrees has gone up, the quality and the common-senseness of business processes has plummeted," Clarke said.

## Prisons report may be imminent

The full report of the year-long inquiry into imprisonment and recidivism in Australia is ready to be released.

The Queensland Productivity Commission sent the final report to the Queensland government (Deputy Premier Jackie Trad) on 1 August 2019. Under the terms of the QPC Act, the government has up to six months to provide a response, after which the final report will be published...in full, without redactions.

While the inquiry is into Qld prison system, it is expected to provide a lead for all such systems throughout all Australian states and territories. Basically, adult prison and juvenile detention is costing more that taxpayers can afford to pay, and their ability to pay will only lessen in future.

The QPC report is believed to explore valid options for improving the system while saving money. <https://tinyurl.com/yxu24zxb> You can read CLA's submission there.

## Rayney loses appeal to keep practising

Lloyd Rayney has lost his appeal against being struck off from practising law in WA.

The WA Court of Appeal last month dismissed his application against the State Administrative Tribunal's recommendation, leaving Mr Rayney's future as a lawyer up in the air, Emily Moulton reported.

The former state prosecutor and barrister was last year found guilty of professional misconduct by the SAT for secretly recording his wife before her death and deliberately misleading a court and magistrate about it.

The tribunal recommended the former top prosecutor be struck off saying "such conduct should not be tolerated ... and is



incompatible with anyone in the legal profession". (CLA can quote many cases of lawyers engaging in far worse behaviour, without being sanctioned by loss of practising certificate).

The recommendation was made in January 2018 but was not allowed to be reported.

Mr Rayney appealed against that recommendation arguing he wasn't given a fair trial, an adequate opportunity to defend himself and that the tribunal erred by not taking into account his mental health.

He had been diagnosed with PTSD in 2007. <http://tinyurl.com/y5asemtd>

### 'Massacre recollections: Elder stories of Frontier Wars in FNQ', YouTube, 190716

North Queensland-based historian, Tim Bottoms, has posted a 13-minute video in which Aboriginal elders recount specific instances of frontier violence. The late Kenny Jimmy from Kowanyama, as well as Jack Muriata (Girramay), David Lawrence (Girramay) and Bessie Jerry, and Jirrbal Elder, Willie Masina. Also Dr Ernie Grant (Girramay) and Willie Brim (Buluwanydji), recount Indigenous people being shot and the use of poisoning as they were in the way of the invaders' economic viability.

Bottoms' coda is worth repeating in full: *"No Australian today is responsible for what happened on our colonial frontier. But we are responsible for not acknowledging what happened. If we do not, our integrity as a nation is flawed and we are shamed as a people for perpetuating a lie."*

– from Honest History <http://honesthistory.net.au/wp/>

### Australian briefs

**New Aboriginal court starts:** The ACT's Warrumbul Court is about to start sittings. It provides an optional, alternative criminal justice pathway for Aboriginal and Torres Strait Islander young people, according to chief magistrate Glenn Theakston, writing in the *ACT Bar Bulletin* August 2019 issue. The new court is both similar and different to the Galambany Court for adults in which Magistrate Bernadette Boss sits, Theakston says. Magistrate Robert Cook is finalising a practice direction for those appearing in the court.

### Judges swap may lead to improved learning:

Next month, the President of the Court of Appeal in WA, judge Michael Buss (photo), will sit on the Court of Appeal in Queensland for two weeks. He will be reciprocating an exchange in late July, when the President of the Court of Appeal in Queensland, Walter Sofronoff, spent two weeks sitting on the WA Court of Appeal, hearing cases in both the civil and criminal jurisdiction. Judges hope the exchanges will create a common approach to uniform Australian laws and professional development of judges in Australia. Hear, hear, CLA says...and it is long overdue that judges be required to undertake professional development: they are still not under any mandatory requirement to study or learn anything from the moment of their first appointment. – media release Supreme Court of WA, 12 July 2019



**ODD SPOT: Female teacher given 7-plus years:** The WA District Court last month sentenced a female teacher to 7 1/2 years jail, with a non-parole period of 5 1/2 years, for abusing two teenage girls. The teacher was in her mid-20s when she sexually abused two students, 13 and 17, between September 2015 and December 2016. The woman, now aged 29, pleaded guilty to 44 charges, including indecent dealing and sexual penetration of a child under her care.

**New Palmo police station to open:** A new \$30 million Palmerston Police Station starts operating this month (Sept 2019) to serve residents of suburban Palmerston and rural areas in the NT. The three-storey facility is twice the size of the existing police station. It caters for 200 staff and includes a 24-hour watch house, improving response times for Palmerston police, who will not have to travel to Darwin to process offenders. – media release, Minister for Police Nicole Manison 190805

**Department fails IT test...again!** The Department of Homes Affairs will refurbish the ageing Morpho arrivals "smartgates" after signing a new deal with IDEMIA (previously Morpho: IDEMIA says it is "the global leader in Augmented Identity"... whatever that means). The deal, worth \$30 million over the next five years, will see the border technology company support and maintain the arrivals smartgates for international passengers until July 2024. DHA had previously announced a fleet of facial biometrics-powered arrivals smartgates by July 2020 under a \$22.5 million deal which would process travellers without a presenting passport by matching individuals against facial images stored in airlines' advanced passenger processing systems. The shutters appear to have come down on that one...another in a long line of Australian government IT cock-ups (remember ABS?) <https://tinyurl.com/y2rc8muw>

**Judge tongue lashes terror police:** A then-19yo Aboriginal man, Eathan Cruse, has been awarded \$400,000 in damages for a "cowardly and brutal attack" by counter-terrorism police officers who used unreasonable force to arrest him during a dawn raid in Melbourne on 18 April 2015. Victorian Supreme Court judge Melinda Richards ruled that masked, armed and armoured officers from a joint counter-terrorism team had entered his parents' house and then assaulted him while he was in handcuffs. Richards said the damages awarded were "not sufficient to bring home to the state of Victoria and Victoria Police the enormity of the abuse of power that occurred here" but they would help Cruse obtain medical treatment. She said the police behaviour was "a shocking departure from the standards set for police officers by parliament and expected of them by the community". Police conducted six dawn raids that morning against a reported plot to kill police and civilians on Anzac Day. Cruse was released without charge: another man was later convicted and sentenced to 14 years in jail. <https://tinyurl.com/y2lbfkjd>

### Comments by CLA's members

(mostly in letters to the editors)

### For 2m public servants, speech is not free

The High Court's decision to uphold the sacking of immigration department official Michaela Banerji (photo) over her anonymous social media posts is a real setback for freedom of expression in Australia. Now, the roughly two million federal, state and local public servants have every reason to believe that if they express their view on issues that concern them then that can be used to sack them from their job. Private companies are increasingly including similar policies on public comment in their employment contracts. The Israel Folau case is just the most high profile example of this. Thus, pretty much anyone who has a job or wants to get one is getting the message: keep your opinions to yourself.



Already, in Australia it is mostly retirees and people who are independently wealthy who attend protest rallies, write to their local MPs, sign petitions, speak up at town hall meetings, and send letters to the newspapers. It is no surprise then that these

groups have a disproportionate influence on our politics and the issues that get the most attention in election campaigns. The High Court's decision in the Banerji case will only serve to silence most people from having a say about the issues that matter to them. – CLA President, Dr Kristine Klugman, letter in the *Canberra Times*, August 2019.

### Being in power doesn't mean you're governing

Instead of a government, we have an ugly, vacuous rabble. They are somehow in power, but not "governing" in any intelligent way. Sexual assault accusations that go nowhere: deliberately divisive rhetoric ('Whose side are you on?' being a stand-out); Ministers accused of corruptly encouraging the changing of environment laws; former deputy PM telling women what to do with their bodies; and "freedom of speech" held up as the excuse for party politicians to attend, and speak at, a right wing, US-style hate fest, where speakers encourage their followers to tape a woman's legs together to stop her from breeding. (In my view such a group is not too far from the KKK, given enough rope, which our "government" appears to be doing out). This is far from a complete list.

At what point will a serious discussion arise about the separation of church and state and the independence of the judiciary? I suspect never, if this government can avoid it. We, the general public, appear to be in grave danger as we lose liberties, our rights diminish and freedoms disappear. – Elizabeth Chandler, CLA member, Napoleon Reef NSW

### One eye on creating 'Disney goes to war'

Let's hope that whoever replaces Brendan Nelson as the Australian War Memorial's next director recognises its true role as a memorial, not as a \$500m fun park – Garth Setchell, CLA Member, Mawson ACT.

### Bopping manages to wrong rights

The claim by Home Affairs assistant secretary Derek Bopping that "citizenship is a privilege" may have come as a shock to some of our precious Parliamentarians but Australians should not be under any illusion that this is the view of those who believe that everything should fall within the remit of government: after all, what better way to ensure compliance? This bent & broken thinking has been permitted to infect our nation's psyche by those who support totalitarianism & care not a jot for our so-called "Democracy" & the natural rights & freedoms that all Australians take for granted; including the birthright or lawfully conferred right of "Citizenship": the very last right that should be the gift of any government, let alone some petty bureaucrat or half-baked politician. Bopping & his confederates should be immediately subject to some heavy-duty re-education. – John Richardson, CLA member, Wallagoot NSW

### What took Dutton so long?

Bevan Shields' article (*Canberra Times* 10 Aug 2019) said 'Dutton orders AFP to lift the bar for investigating journalists'. It is indeed sobering to see that Peter Dutton (of all people) regards it as necessary to direct the AFP on the responsible exercise of discretion. And what took him so long? – Peter Grabosky, CLA member, Forrest ACT

### Triggs to protect people internationally

Congratulations to Gillian Triggs on her new position as the Assistant High Commissioner (Protection) with the UN High Commissioner for Refugees. During her tenure with the Australian Human Rights Commission, Professor Triggs demonstrated her unwavering commitment to the rights of refugees and stateless persons as determined by international law. I wish her every success in her new position where her formidable skills will be needed to protect the rights of these

people on a world stage. – Jennifer Ashton, CLA Director, Ainslie ACT (*Canberra Times* 190813)

**Letter to NT News:** One of the biggest miscarriages of justice is the jailing of Sue Neill-Fraser in Hobart – with no evidence at all to convict her. Tuesday 20 August is the 10th anniversary of her incarceration. The Civil Liberties Australia group has been a champion for her release, because she is suffering a miscarriage of justice. Wouldn't happen in the NT! – Rob Wesley-Smith, CLA member, Howard Springs NT

## CLA report – main activities for July 2019

The CLA Board met in August: here are some of the main matters discussed.

**VALE:** Noted, with great sadness, was the death on Saturday 17 August 2019 of long-term Civil Liberties Australia member Brian Tennant, aged 85, probably Australia's greatest individual civil libertarian of the past 50 years.

From a humble, Aboriginal "orphan" background and as a factory worker, by becoming a Justice of the Peace and using facsimile machine correspondence, he was the mainstay of trying to right legal wrongs in Perth and WA since 1971.

WA Director Margaret Howkins and CLA member Christina Marruffo represented CLA at his burial.

Photo shows Brian Tennant the day he received his AM award in 2015.



### Poster presentation:

Director Margaret Howkins of WA will manage a project to create a poster presentation for the ANZ Society of Criminology conference in Perth in November. Her son has volunteered to do the artwork for the poster.

### Submissions:

#### Upcoming:

- Press Freedom, Senate Standing Committee on Environment and Communications – submissions due by 30 August 2019
- Nationhood, national identity and democracy: see article, page 1
- CLA proposes to make a 'left-field' submission to the House Standing Committee on Procedure, which usually doesn't invite submissions. CLA will propose an easier to understand system for bad behaviour by MPs during Question Time, etc.

#### Lodged

- Free and Equal: Australian conversation on human rights, Australian Human Rights Commission consultation (Ashton) July 2019
- End of Life Choices, SA Joint Committee on End of Life Choices (Klugman) August 2019

### Meetings:

President Dr Kristine Klugman (Pres) and CEO Bill Rowlings met with ANU-based Director Elly McLean and member Aaron Bronitt re student activities, problems and proposals. CLA will seek a meeting with newly-announced Chancellor Julie Bishop

Pres and CEO met with Dr Richie Gunn, former MHR and a CLA member from South Australia, re the Witness K and Bernard Collaery case

Pres and CEO met with Dr Mai Sato of ANU, formerly of Reading Uni, now of ANU and co-author of '*Reasons to Doubt*',

at the Australian launch of the 2018 book of a four-year analysis of wrongful convictions and the Criminal Cases Review Commission of England, Wales and Northern Ireland (co-author was Prof Carolyn Hoyle of the Uni of Oxford).

*Photo shows panellists Dr Greg Stratton of RMIT, Dr Sato, and DR Rachel Dioso-Villa of Griffith Uni.*

Pres and BR met Jill Mowbray-Tsutsumi of ANU re the School of Regulation and Governance (RegNet)

Skype sessions with Margaret Howkins WA re PIP (police-investigating-police)

#### 'Champions' projects:

Freedom of speech: Director Rajan Venkataraman (RV) is preparing a policy paper on freedom of speech for employees

UN and agencies: Director Jennifer Ashton (JA) is monitoring latest re Australia & Universal Periodic Review and Human Rights Council, as well as DFAT and AGs activities

Human Rights Acts in Australia: Director Richard Griggs (RG): Tasmania is stalled: Board members suggested involving Rob Hulls and Ron Merkel of Victoria as advocates; NT: draft bill likely to be progressed soon by Sandra Nelson MLA; WA: bill is on hold, unlikely before next state election; Qld: new Human Rights Act will operate from 1 Jan 2020, to be first reviewed after 1 July 1 2023 including to ask whether additional human rights should be included

Sporting bodies/contracts: Director Frank Cassidy and BR are considering a change approach after rugby league player Jack de Belin withdrew from a legal challenge against the NRL

#### Treasurer report:

Finances in sound condition. New database is up and running, an improvement on old system. More people are opting to take 2- or 3-year membership, instead of annual.

Minor discrepancy in 2018 accounts to be resolved by November Board meeting.

#### Web report:

Database working well. Proposed regular webmaster contract agreed. Proposal for new e-voting system for AGM 2019 onwards agreed by Board.

#### Media:

Director Rajan Venkataraman undertook an interview with *ABC Radio Hobart* re surveillance cameras. (Noted that CLA used to be on advisory committee for CCTV cameras in the ACT);

CEO provided comments on No-Cash-Unless-Over \$10,000 proposed law for Paul Gregoire of Sydney Criminal Lawyers

#### Speeches/addresses:

On the 10th anniversary of Sue Neill-Fraser's imprisonment, CEO Bill Rowlings gave an update to the ACT Vintage Reds (union retirees) on the SNF case

#### Local government:

The Board considered and proposed a way forward for two members grappling with WA local govt issues

#### Internship:

ANU Law student Tyler Graves completed five-weeks with CLA to (a) write an essay on parole in SA, the NT and the ACT, and (b) learn the legalities and practical realities of how an NGO operates.

#### NT report:

- Caitlin Perry reported that the age of criminal responsibility was becoming an important issue, where the NT (currently 10 years) wants the federal and other jurisdictions to act together to change to 14.
- Don Dale cases are proceeding: one issue is extent that Superintendent's powers can be delegated.



**Letter of future resignation:** Received from Director Tim Vines for execution later in 2019. He and wife Saskia Vervoorn (photo) – a former CLA Board member herself – have moved to NZ for her to take up senior NZ govt tourism management position.

**Notice of motion:** Board agreed to an administrative notice of motion to the next AGG to clarify the 'final date' for CLA business affairs.

## INTERNATIONAL

### Sexism, racism, gunism

Pro-shooting forces in America are shifting the gun debate away from there being too many people with too many guns to "mental illness" being the core problem.

However, as racism and sexism rises in the USA, the real problem is "gunism", CLA says, which we define as "too many Americans with too many guns".

**For the year 2019 to 16 August 2019** these are the figures:

9262	Gun violence deaths
2346	Children 0-17 killed or injured
261	Mass shootings (4 or more shot or killed, not including the shooter, in any one incident)
1005	Unintentional shootings

(Figures **do not** include 22,000 annual suicides) Source: <https://www.gunviolencearchive.org>

"Gun-related deaths in the USA (nearly 40 000 in 2017) carry a massive economic toll (\$338 billion, including more than \$13 billion for medical and emergency care). Despite these costs, Republicans and the National Rifle Association continue to propound unfettered access to firearms as an expression of liberty, stymieing legislation prohibiting high-capacity firearms, challenging universal background checks, and opposing extreme protection orders temporarily removing firearms from those deemed at risk." – Editorial, *The Lancet*, 17 Aug 2019 <https://tinyurl.com/y6ouayzx>

### ODD SPOT: Swedes put a premium on begging

The Swedish town of Eskilstuna is issuing an official begging permit. Anyone who wants to beg for money in the street for cash must show their ID, then pay \$38 for a licence, which last three months. You can get your licence online or at a police station. If you're caught begging without a licence, you may have to pay off a fine of up \$600. <http://tinyurl.com/yymzcg6g>

### Is Big Brother health screening coming to you?

A development in the USA on population screening for drug use could flow on to Australia.

On 13 Aug 2019, the US Preventive Services Task Force published a draft recommendation on screening for illicit drugs, including the non-medical use of prescription drugs.

The announcement comes amid the opioid crisis in the USA and is motivated by the need for early identification of people at

risk for drug use, The task force is drawing on data from a 2017 national survey in which 11.5% of Americans reported illicit drug use with more than 700,000 overdoses.

The draft recommendation is open for public comment until 9 Sept 9.

“Those providing feedback should ask how beneficial and cost-effective an under-researched and prematurely implemented measure could be in addressing the harms of opioid and substance use in the USA?,” The Lancet queried.

CLA asks what about freedom of choice and personal privacy; what about mandatory insurance and superannuation reporting rules; what about Big Brother? – <https://tinyurl.com/yy57bcje>

### **ODD SPOT: 71% of Americans don't like Arabic numerals being taught in schools**

Should Americans, in their school curriculum, learn Arabic numerals? CivicScience, a Pittsburgh-based research firm, put that question to some 3200 Americans recently in a poll seemingly about mathematics, but the outcome was a measure of students' attitudes toward the Arab world. Some 56% of the respondents said, “No” – they didn't like Arabic numerals being taught in US schools, and 15% had no opinion. The results might have been sharply different had the pollsters explained what “Arabic numerals” are. There are 10 of them: 0, 1, 2, 3, 4, 5, 6, 7, 8 and 9.

– <https://www.nytimes.com/2019/06/04/opinion/arabic-numerals.html>

### **Patel turns ‘terrorist’ to show tough on crime**

The new British Home Secretary, Priti Patel, said last month that she wants criminals “to literally feel terror” once she begins law and order reforms aimed at restoring the Conservatives' status as the party of the police.

Patel foreshadowed a sharp right turn in the approach to crime. Prime Minister Boris Johnson has already announced the government will recruit 20,000 new police officers.

Patel has voted in the past for a stricter asylum system, stronger enforcement of immigration rules, and for detaining pregnant women in immigration jails. She has also publicly supported reintroducing the death penalty in the Britain. <http://tinyurl.com/yx9hsoud>

### **Three journos murdered in one week**

An investigation has been launched into the death of a reporter in the Mexican state of Veracruz after he became the third journalist to be murdered in a week.

Jorge Ruiz Vazquez worked for the Grafico de Xalapa newspaper in Veracruz's capital

Ruiz was shot dead days before he was to testify before state authorities about previous death threats made against him. He alleged that Actopan Mayor Paulino Domínguez Sánchez was behind the threats.

Ruiz's death brings the murder toll of Mexican journalists this year to 10, according to the Commission to Protect Journalists (CEAPP). <http://tinyurl.com/y5nvwcd5>

### **Social media posts prove costly**

The *Fiji Sun* reported last month that opposition political candidate Anirudh Sharma was jailed for three months and fined \$6800 for “criticising the judiciary without any valid reason” by Judge Lyone Seneviratne. Sharma posted a comment on social media criticising a magistrate for releasing two businessmen on bail who were allegedly caught with more than 6kg of drugs. It is not known whether the businessmen have gone to jail and/or been fined. – alert by MW: <https://tinyurl.com/y32cmg6> In a similar case, Air Terminal Services Employees Trust chairman, Jay Dhir Singh, is facing three

months jail for scandalising the courts. in other social media posts. High Court judge Mohamed Ajmeer said Singh's sentence would operate from the date of his arrest as Singh was out of the country. <https://tinyurl.com/y53djocd>

### **Even Brit police don't like facial surveillance**

British police are fighting back against the Home Office department wanting widespread roll out of facial recognition systems, allegedly to help with missing persons cases.

Kent Police and West Midlands Police are fiercely resisting being involved in any pilot facial recognition trial: in writing they deny agreeing to help the Home Office trial the technology.

Hannah Couchman, policy and campaigns officer at human rights group Liberty, said: “These responses demonstrate how the Home Office has botched its attempt to make dangerous facial recognition technology seem more palatable by targeting missing or vulnerable persons – a well-worn tactic to justify a controversial new tool, and one which raises serious rights concerns.”

Only South Wales Police are supporting the Home Office-funded facial recognition trials. <http://tinyurl.com/yy42phnh>

### **ODD SPOT: Passport control always rises for this baker**

A university professor has been stopped about 100 times in seven years at UK airports by Border Force despite having no criminal record. Prof David Baker, (photo: *Guardian*) a specialist in neuro-immunology at Queen Mary University in London, has carried out pioneering work on conditions like multiple sclerosis. He and travels frequently for his work, and was once stopped three times in a single week by Border Force officials at airports. Baker, 57, has never been arrested. His repeated attempts to get an explanation from the Home Office about why he is continually stopped and questioned at airports have failed. <http://tinyurl.com/y4ytwdes>



### **Password/biometric access...or open slather?**

Researchers claim to have gained unhindered access to the fingerprints of more than 1 million people, as well as facial recognition information, unencrypted usernames and passwords, and personal information of employees, which they discovered on a publicly accessible database for a company used by 5700 organisations in 83 countries, including governments, banks and police.

Suprema is the security company responsible for the web-based Biostar 2 biometrics lock system that allows centralised control for access to secure facilities like warehouses or office buildings using fingerprints and facial recognition as part of identifying people attempting to gain access.

The researchers had access to over 27.8m records, and 23 gigabytes-worth of data including admin panels, dashboards, fingerprint data, facial recognition data, face photos of users, unencrypted usernames and passwords, logs of facility access, security levels and clearance, and personal details of staff.

Much of the usernames and passwords were not encrypted. “We were able to find plain-text passwords of administrator accounts,” Israeli security researcher Noem Rotem said.

The service is in 1.5m locations across the world. Unlike passwords being leaked, when fingerprints are leaked, you can't change your fingerprint. <https://tinyurl.com/y556ux65>

## International briefs

**Talaq<sup>3</sup> meets its match:** India has outlawed the centuries-old right of a Muslim man to instantly divorce his wife. Narendra Modi's Hindu nationalist administration has been pushing to criminalise "triple talaq", under which a man can divorce by uttering the word "talaq", meaning divorce in Arabic, three times in his wife's presence. Anyone practising instant divorce is liable to prosecution. India is one of the few countries where the practice has survived in law. It was declared "unconstitutional" by the supreme court two years ago. <http://tinyurl.com/y4ewojuu>

**'Clear space' for abortion clinics upheld:** Anti-abortion activists in England last month lost a Court of Appeal challenge against a local council's decision to ban protesters from gathering outside a clinic in west London. Restrictions imposed by Ealing council outside a Marie Stopes clinic were justified, the court ruled. Ealing was the first council in the UK to create a buffer zone in April 2018 after anti-abortion demonstrations. It imposed the public spaces protection order (PSPO) following reports of "intimidation, harassment and distress" of women using the facility in Mattock Lane. Australian states have passed similar legislation. <https://tinyurl.com/y3tzlmv9>

**Females can go out by themselves:** Women in Saudi Arabia will no longer need the permission of a male guardian to travel, according to laws published last month in a key step towards dismantling controls that have made women second-class citizens in their own country. Other changes issued in the decrees allow women to apply for passports, register a marriage, divorce or child's birth and be issued official family documents. It also stipulates that a father or mother can be legal guardians of children. <http://tinyurl.com/y4ts8677>

## DATES:

**2019, World:** UN International Year of Indigenous Languages

**3 September (and 27 August): SBA Insight: 'Wrongful Convictions'**... discussion which includes the Australian cases of Henry Keogh and John Button and the US cases of Debra Milke (20 years on death row) and Greg Bright (27 years in one of the toughest US prisons). All had convictions overturned having established that the evidence against them was false and misleading. How did they cope? Find out from *Insight*.

**4 Sept, Melbourne:** Democracy, Human Rights and the Judiciary: the common law and the wider world: Sir Nicholas Blake, Fed Crt of Aust. 305 William St. [www.academyoflaw.org.au/events](http://www.academyoflaw.org.au/events)

**4 Sept, Canberra:** Gaming the System? 'Legal' corruption by political, corporate, bureaucratic and institutional elites. Prof Michael Johnson, PolSci Prof Emeritus, Colgate U. NY. Bookings: <https://tinyurl.com/y4qwrdc7>

**18 Sept, Sydney:** Sydney Science Forum – Not Guilty: the psychology of crime investigations: Wrongful convictions are not just a legal matter; the science of how our brains work plays a big part too. Dr Celine van Golde explains how psychological and legal research is seeking justice for the wrongly convicted. 5.45-7pm, Charles Perkins Auditorium. Details: <https://tinyurl.com/y4vmhrjy>

**18 Sept, Brisbane:** Qld Chief Justice Catherine Holmes delivers the 2019 Derek Fielding memorial lecture on the implications of the Human Rights Act for Qld, which comes into operation on 1 January 2020. All Saints Convention Centre. Bookings: <https://tinyurl.com/y3al6fao>

**19 Sept, Darwin:** Journey of a Restless Advocate: Creating a more Gender Equal Australia. Nitmiluk Lounge Level 4, Parliament House Darwin. 5pm. RSVP: [CDUEvents@cdu.edu.au](mailto:CDUEvents@cdu.edu.au)

**8 October, Sydney:** 'Free and Equal in Dignity and Rights: A national conversation on human rights', organised by the Australian Human Rights Commission. Details: <http://tinyurl.com/yanftqn3>

**17 Oct, Brisbane:** Prospects of Reform of Investor-State Dispute Settlement (ISDS), Prof Chester Brown U.Syd, judge James Douglas Qld Supreme Court, Prof Anthony Cassimatis Qld U. law school, 5-6.45pm, Banco Court, 451 George St Brisbane. Details: <http://tinyurl.com/yyq5qczp>

**31 Oct, Brisbane:** Australian Academy of Law and the Courts: what do they mean to each other today. Address by CJ of the High Court, Susan Kiefel. Banco Court, QEII Courts. 5.30pm. Register: [www.academyoflaw.org.au/events](http://www.academyoflaw.org.au/events)

**1 Nov, Canberra:** Technology, public law and public administration conference. China in the World building – discussing unique challenges of automation and AI to liberal democratic governments, administration and public law. Details: [marketing.law@anu.edu.au](mailto:marketing.law@anu.edu.au)

**8-9 Nov, Melbourne:** Justice for Young People conference, Australasian Inst of Judicial Admin. Rendezvous Hotel. Details: <http://tinyurl.com/y2udcflk>

**1-4 Dec, Hobart:** Polar Law Symposium, discussing polar law, polar marine resources, native peoples and human rights, the Antarctic treaty system, and developments in international law. <https://tinyurl.com/yxa35azb>

**02 Dec, Adelaide:** Academic symposium, Histories of Fascism and Anti-Fascism in Australasia, 9am-5pm, Flinders U. Victoria Sq. Details: Organiser Evan Smith: [evan.smith@flinders.edu.au](mailto:evan.smith@flinders.edu.au)

**10-13 Dec, Perth:** ANZ Society of Criminology conference: 'Justice Reimagined'. Perth Convention Centre. Details: <https://tinyurl.com/y4wzjmce>

## 2020:

**21 March, Canberra:** Start, 60th year of the ANU College of Law celebrations. Details: <https://tinyurl.com/y46hwot9>

**16-17 April, Wellington NZ:** A NZSIL Oceans and International Environmental Law workshop. Details: <https://www.anzsil.org.au/event-3515188>

**13-15 May, Darwin:** Inst of Patent and Trade Mark Attorneys of Australia. Info: <https://tinyurl.com/y3eqnug9>

**23-26 June, Brisbane:** Asia Pacific ministerial conference on Indo-Pacific natural disaster risk reduction, hosted by DFAT. Details: <http://tinyurl.com/y5qb9ysy>

**2-4 July Canberra:** 28th ANZ Society of International Law conference, ANU. Details: <https://www.anzsil.org.au/events>

**19-21 Nov, Hobart:** Australasian Association of Bioethics & Health Law Conference, Hobart Function Centre, 1 Elizabeth St. Info: <https://tinyurl.com/y25tn84z>

## 2022:

**10 May, Adelaide:** 50th anniversary of the death by drowning of law lecturer Dr George Ian Ogilvie Duncan, thrown into Torrens River by a group believed to be police officers. Led to SA enacting the first homosexual law reform act in Australia.

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