

Suffer the little children, AGs say

Nearly 500 children under 13 were jailed last year throughout Australia, almost 70% of them before being convicted of a crime.

A coalition of 47 justice and health organisations representing welfare, youth and legal advocates, say the federal, state and NT attorneys-general have “failed” to take action, “despite being handed an expert report overwhelmingly recommending that all states and territories and the federal government change laws to keep children out of prison”.

Only the ACT has committed to raising the age of criminal responsibility to 14 from the 10 it now is.

In 2020, 499 children aged between 10 and 13 were imprisoned. At least 65% of them were Aboriginal or Torres Strait Islander children, and 68% of all children in detention were on remand, meaning locked up but not yet convicted of any crime. <https://tinyurl.com/psacm3wt>

Lewis now wants less egg, fewer scary PR ‘hams’, in security omelet

Former ASIO boss, and also national security adviser, Duncan Lewis (photo), last month tried to hose down professional government alarmists beating up the terror-cyber threat to Australia.

Warning specifically not to inflate a foreign interference threat, he backed the call from Department of Foreign Affairs and Trade retiring Secretary, Frances Adamson, to expand Australia's diplomatic reach to counter strategic competition.

Lewis, who was also Defence Department Secretary, spoke out against “over-egging” claims and overheated rhetoric by security spinmeisters. He is now a professor at the ANU's National Security College.

“There has been an over-egging of some of the claims,” he said.

“As ASIO director I was able to assist government in bringing to the Australian community's consciousness the issue of foreign interference. But it's very easy for that to slip off the rails and suddenly assertions are being made of spies under every bed, and that is not the case.”

As ASIO boss, Lewis was not averse himself to claiming that Australia was facing increased foreign threats just before the government introduced new terror and security laws. <https://tinyurl.com/3f6bvstw>

Liberal Democrats cite fear-mongers for overlong pandemic panic

The Liberal Democrats have mounted a petition calling on the federal government to set a date this year for Australia returning to the “old normal” of no lockdowns, no border closures, no other COVID regulations.

“Australians have been fairly patient over the last 18 months as governments attempted to come to terms with a difficult situation. This patience has a limit,” the Lib Dems say.

“As time goes on, governments around the country continue to stoke exaggerated fear and panic, renew their emergency powers, avoid honest risk assessments, while imposing new restrictions and draconian controls with no end in sight.

“Public policy is being driven by fear that is out of proportion to the actual risk.”

Setting a date this year would discipline the government's vaccine rollout, let people get vaccinated if they choose, provide clarity and certainty, and ensure that Australians could soon start living properly again, the libertarian Lib Dems believe. <http://www.ldp.org.au/>

Pandemic causes democracy ill health

The pandemic is causing our civil liberties, human rights and democracy to suffer ill health, CLA says.

“When the first worst of the pandemic emergency is over – likely two to three years from now – all public emergency laws federally and in states and territories need overhauling,” CLA President Bill Rowlings said.

“They are the base laws which were waiting in the wings for governments to apply by closing down parliaments, giving excess powers to the police and forcing people to stay in Australia and in their own homes at times, with no chance whatsoever of appeal to any judicial authority because of liberties, rights or special circumstances.

“Basically, we all abdicated our responsibilities when we allowed the passage of emergency health and public order laws a decade or more ago: we need new emergency laws that are human rights friendly and take into account people's ongoing civil liberties, as well as the freedom to make choices for themselves wherever possible,” he said.

Rowlings said at the start of an emergency a citizen's responsibility might well out-balance a citizen's rights. “But, as time passes and the ‘emergency’ becomes less intense, there must be more concentration on individual and group liberties and freedoms,” he said.

“These are not easy calculations and decisions to make, but there is little evidence that the rights and liberties of people have received much attention over the past 21 months.

“The fact that those in power – both sides – everywhere and virtually instantly closed down parliaments for many months is a very worrying sign. It was the first indicator of an authoritarian bent that has persisted.

“As we emerge from the emergency, these wrongs visited on citizens need to be corrected by formally enacting laws that give people greater access to having their liberties and freedoms considered.

“It is time for national concentration on Human Rights Acts wherever they are absent – federally and in NSW, SA, WA, Tasmania and the NT,” the CLA President said.

Veteran suicide gets its own Royal Commission

Former senior NSW cop Nick Kaldas will head a national Royal Commission into Defence and Veteran Suicide.

Helping him will be former Judge of the Queensland Supreme Court James Douglas and Dr Peggy Brown, a consultant psychiatrist.

They will inquire into systemic and common issues around defence and veteran death by suicide, including the possible contribution of pre-service, service, transition, separation and post-service matters.

The RC can look at any previous death by suicide, including suspected suicide, and will be independent of government, including Defence and Veterans' Affairs. An interim report is due by 11 August 2022 and a final report by 15 June 2023. <https://tinyurl.com/sctjez97>



Albanese calls ACT Senator a 'roadblock' to the rights of Territory citizens

Labor alternative Prime Minister, Anthony Albanese, last month backed restoring rights to ACT and the NT citizens so they have freedom to choose whether to pass voluntary assisted dying (VAD) laws.

He made his comments in a speech attacking the "roadblock" opposition of ACT Liberal Senator Zed Seselja based on Seselja's personal religious belief.

Both Territories have been barred from deciding their own laws on voluntary assisted dying since federal Parliament in 1997, spurred on by a private member's bill from fellow religious Liberal, Kevin Andrews, voted down then-existing euthanasia laws in the NT.

Albanese, addressing the ACT 'state' ALP conference, spoke on territory rights for the first time in taking a shot at Senator Seselja. "He is a roadblock to the territory's right to legislate. On euthanasia, he has let his own beliefs stand in the way of the democratic rights of the many," Albanese said.

Some 76% of Australians – including 74% of Coalition voters – support the territories' right to legislate on euthanasia, according to an April 2021 Australia Institute poll. <https://tinyurl.com/43wh4twv>

VAD is now, or soon will be, the law in Victoria, WA, SA and Tasmania. It is on the agenda of the Queensland and NSW parliaments. But neither the ACT nor the NT is even permitted to hold a vote on the issue, which is a denial of the rights of their citizens relative to other Australians, CLA says.

It's optional for MPs to learn respect

Federal parliamentarians will get a one-hour face-to-face training session at Parliament House or in electorate offices on how to deal with sexual assault, bullying and harassment...but only if they individually take up the option to do so.

Junior staff get a two-hour session, likely to become mandatory.

Tender documents to deliver the training show that, by the end of the session, MPs should understand "behaviours [that] do or do not constitute assault, sexual assault, sexual harassment and serious and systemic bullying and harassment", as well as what is needed to "provide a safe and respectful workplace".

The training, starting in September 2021, will use practical examples about how to prevent sexual assault, sexual harassment, and serious and systemic bullying, as well as how to support impacted people.

The hour-long session will also detail how to "respond appropriately to a disclosure" and give advice on "reporting options" for incidents. <https://tinyurl.com/f5krp34s>

ODD SPOT: On-water matters out of sight, mind

In a report to the UN Human Rights Council, the UN's special rapporteur on the human rights of migrants, Felipe González Morales, specifically noted Australia had pushed back an estimated 800 people on 38 vessels since 2013, but that there were few details on Australia's actions at sea. Report: <https://tinyurl.com/597eap6w> News item: <https://tinyurl.com/ryvyrppz>

No contest! Firm with Midas touch wins another \$1m-a-day contract

The 108 refugee claimants held on Nauru under Australia's offshore processing regime cost Australian taxpayers \$8,800 per person each day, or \$3.2m per person per year, the Guardian reported last month.

The money goes to Canstruct International, a Brisbane Liberal party-donating company. It has just won another uncontested contract extension worth \$180m for six months to the end of 2021. In the past five years, it has received more than \$1.5bn.

While no new asylum seeker arrivals have been sent to Nauru since 2014, the regime there will cost Australia more than \$400m this year.

Canstruct's original contract for "garrison and welfare services on Nauru" was worth \$8m in October 2017. One month after being signed, the contract amount was boosted by 4500% to \$385m. Seven further amendments have blown the cost to Australians out to \$1,598,230,689, an increase of more than 19,300%. <https://tinyurl.com/jjc5fuph>

Philistines invade the houses of culture

National female icon Marie Coleman summed up the plight of Australia's cultural institution on the ABC's 'The Drum' last month. After the recent exceptional, emergency payment of \$67 million over four years to



National Archives because it had run out of money to do its core work properly.

Coleman (photo: NLA pic) was the first woman to head an Australian statutory authority. She has an AO and a Public Service Medal.

"In terms of our national institutions, it's not that the Philistines are at the gates, they're lurching around inside with a total disregard for things like tertiary education and the future of things like the National Archives, National Library, National Film and Sound Archive and others.

"We have a problem about the lack of value being placed, at the moment, on national cultural institutions, and I think it's extremely valuable that in this particular instance the government has come to a recognition that it was so unpopular to allow these early records to be destroyed that they've been forced to act.

"I'm not convinced, looking at the annual budgets of bodies like the National Archives, National Library and others, that this government has really taken this lesson to heart. I think we have a big problem here."

A neat encapsulation of the current situation, writes Dr Ray Edmondson, the 'father' of the NFSA and a CLA member. See: <https://insidestory.org.au/authors/ray-edmondson/> 23 July 2021.

...and, by comparison: Defence spends big

In the 2021 federal budget, the military equipment, facilities and technology programs hit record spending levels with a 13% increase on the previous year. <https://tinyurl.com/2hy8997h>

RC into Aged Care – here's a short summary:

The Royal Commission was established in October 2018 after an ABC *Four Corners* expose, followed by public concern and outcry over substandard care, abuse and neglect in aged care facilities, and inadequate home care provided through federal government funding.

The final report was presented on 26 February 2021 and the government provided its response on 1 May 2021. Of 148 recommendations, the government's response was:

- 126 recommendations 'accepted' or 'accepted in principle';
- 6 recommendations not accepted;
- 12 recommendations subject to further consideration; and
- 4 recommendations for which the government substituted its own recommendations.

Staffing: In 2018 there were 366,000 in the paid aged care workforce (84%) and 68,000 volunteers (16%). Between 2003 and 2016 (13 years) the percentage of registered nurses working in direct care roles in the aged care sector fell from 21% to 15%; enrolled nurses fell from 13% to 10%; while personal carers rose from 58% to 70%. This amounts to deskilling of the workforce over time.

In 2018 there were 428,000 people identified as “informal primary care givers” for someone older than 65 years.

Providers of aged care (2018): There are 3000 aged care service providers: 873 are residential care providers, 928 home care providers and 1458 Commonwealth home support program providers. They are community, charity or religious organisations (‘not for profit’) and those run as a ‘for profit’, business and some government providers (primarily in Victoria).

The report notes that “there has been a shift towards consolidation of the aged care sector in the hands of fewer large-scale operators. In 2009–10, there were just two very large providers or groups in residential care, operating 16% of all places, whereas by 2018–19 this had grown to 10, operating 39% of all places.”

– thanks to Jane Timbrell and the Vintage Reds retired unionists of Canberra region for this excellent work. (If you would like a copy of the full summary document, email [secretary\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au))

INSLM to review govt ‘jail for life’ power

Grant Donaldson, the Independent National Security Legislation Monitor (INSLM) is reviewing the law that can keep “terrorists” in jail forever.

Under Division 105A of the criminal code, Home Affairs can ask a court to declare that someone poses an unacceptable risk of committing a serious terrorism offence if released at the end of their sentence.

Passed on 15 September 2016, the “jailing for life” without further offence is likely to apply at the end of a 10-20 years sentence. Effectively, it is executive action to lock a person up for good, CLA says.

Donaldson will look at:

- whether the clause is proportionate to national security threats;
- if the provisions are consistent with Australia’s human rights obligations and also whether they meet Australia’s international obligations to combat terrorism;
- is there adequate procedural fairness and/or safeguards for high-risk terrorist offenders; and
- how the provisions interact with similar State post-sentence detention regimes.

Submissions by 3 Sept 2021; a public hearing on 7 Oct, report by 8 December.

Croucher calls for immigration jail reviewer

The Australian Human Rights Commission wants the government to appoint an independent reviewer to examine the continued detention of people held in immigration detention for prolonged periods.

In her July 2021 Report 141 – *Immigration detention following visa refusal or cancellation under section 501 of the Migration Act* – AHRC President, Rosalind Croucher, said the independent reviewer should also undertake a detailed assessment of any risk people in immigration detention posed to the community.

Prof Croucher said the AHRC investigated complaints made by 11 individuals in immigration detention who had had their visas cancelled and who alleged their human rights were breached by the Department of Home Affairs. <https://tinyurl.com/cdyjem7s>

Calls increase for CCRC

Renewed calls are being made for an independent criminal cases review commission (CCRC) in Australia.

Two last month emanated from deputy directors of the Victorian Institute of Forensic Medicine (VIFM), Prof David Ranson and Assoc Prof Richard Basset. There was a clear need for an independent body that would help protect the integrity of the forensic sciences and provide a last resort for the wrongfully accused, they told Nino Bucci of *Guardian Australia*.

Such bodies, known as Criminal Cases Review Commissions, have operated in England and Wales, and in Scotland, for nearly 25 years, and in NZ for the past year.

Ranson and Basset said that forensic methods relating to bite mark, hair, bullets, footprints, blood spatter and mixed-sample DNA analysis that were previously considered meritorious were now either regarded as baseless or without conclusive evidence that they work. There are also concerns about whether fingerprint comparisons, for example, are as reliable as had long been believed, the *Guardian* reported.

Forensic science, portrayed on TV as 100% accurate, is significantly less so in real life, where biased opinions, lab errors, cross-contamination and selective police and prosecution presentation of “evidence” can sway courts away from the truth, as demonstrated in WA in recent years. <https://tinyurl.com/bbhmpvu2>

Broadbent tries, but is rebuffed by AG

Civil liberties-leaning federal MP, Russell Broadbent (Monash, Vic) approached former AG Christian Porter to set up a CCRC (see above).

Porter was non-committal to Broadbent photo), who believes there needs to be someone higher up the political chain who is inspired by a particular case to take action.

There are plenty of cases: Nicholas Baxter in Queensland and three appeals in Victoria over “battered” baby syndrome, Sue Neill-Fraser in Tasmania, Derek Bromley in South Australia* – 36 years in jail, and still there, because he claims he is innocent and the state won’t free him unless he admits guilt – Scott Austic in WA, and so on. <https://tinyurl.com/bbhmpvu2>

In 2019, the Council of Australian Governments (COAG) agreed to a major review of the reliability of forensic science evidence used in courts. But the advent of COAG’s replacement, the “National Cabinet”, meant the forensic evidence review was dropped. It has not been picked up again.

* The findings of SA’s then-head forensic scientist, Dr Colin Manock’s “could not be made out in the light of modern technology”, courts have been told. Dr Manock was not properly qualified as a forensic pathologist when he conducted an autopsy on the alleged Stuart Bromley “murder” victim in a situation which may not have been murder at all. <https://tinyurl.com/8jmcu3vr> Bromley is still in jail 37 years later...and counting.

Who is responsible for ruining our reputation?

Prosecuting the “whistleblowing” former spy Witness K and his lawyer, Bernard Collaery (BC), has cost the Australian government \$3.7m, so far. That’s a recent rise on the estimate in mid-2020 of \$2m.

These are the government’s external legal costs.



K and BC were charged with exposing Australia's bugging of tiny neighbour, Timor-Leste, during Timor Sea oil and gas negotiations in 2004. K was a former Australian Secret Intelligence Service (ASIS) officer morally disturbed by the bugging operation, which targeted the Timor Leste Cabinet negotiators to their detriment and to the commercial gain of Australia and its corporate partners, like Woodside.

After years of harassment, K has recently pleaded guilty to one charge of conspiring with his lawyer, BC, to disclose intelligence information to the government of Timor-Leste.

BC is fighting the charges against him. It will be some irony if the case against BC is not successful, because the guilty finding against K would not have a leg to stand on.

The Commonwealth Director of Public Prosecutions made an independent decision that it was in the public interest to prosecute K and BC. But that decision had to be approved by the Attorney-General: for years, George Brandis refused to prosecute, but a later AG, Christian Porter, approved...before succumbing to some legal claims himself and laterally arabesquing out of the AG role into an off-broadway ministry.

Independent Senator Rex Patrick says the prosecution is "unjust" and "hugely costly". "It sends absolutely the wrong message to potential whistleblowers: if you blow the whistle we will come after you with the full force of the government, and we will not spare any expense," Patrick said. <https://tinyurl.com/4wdeb58n>

Most Australians aware of the details of the case are thought to believe that the people who should be charged are those who authorised the amoral bugging: then-PM John Howard and Foreign Minister Alexander Downer, plus the bureaucrat heads of departments/agencies who have gone on to have glittering careers in the public service, and are now retired.

They, of course, have escaped scot free for ruining the international reputation of Australia as a trusted trading partner. The cost to Australia of their poor decision is almost incalculable, but would dwarf the \$3.7m spent on external legal costs so far.

IN LATE-JULY 2021, the Australian Bar Association called formally for all charges against Bernard Collaery to be dropped.

'Legal' board should withdraw: let lawyer continue pro bono work

The Legal Professional Board of Tasmania (LPBT), exhibiting arrogant, authoritarian, vindictive and vengeful tendencies in abundance, is continuing to muster and bluster all its legal might against former lawyer Barbara Etter, who is a member of CLA.

They are being aided and abetted by the supposedly independent Office of the Director of Public Prosecutions, which is notorious for putting false evidence before the jury in the Sue Neill-Fraser case.

The LPBT railroaded Etter out of the legal profession back in 2018 by demanding – unreasonably, CLA believes – that she hand over ALL documents she held in her home files over the Greer coronial case. The Greer case was bitterly contested – against each other, by elements within the family – over whether a death should have produced criminal charges.

Broadly, CLA understands, Etter said she was prepared to hand over all the relevant documents in the Greer case the LPBT legally needed and required, but not every document on file as some material was personal and private between her and the Greer family member Etter was representing pro bono (without charge).

The LPTB is dominated by four male lawyers well-connected to the island's establishment and its anachronistic attitude. The board's two females, apparently not legally qualified and

therefore possibly "token", seem unable to rein in or prevent what some observers believe is typical misogynistic harassment, which is a hallmark of the legal profession in Tasmania. (See earlier CLArions)

Etter moved to the state – after a career which saw her rise to the top as the most senior female officer in two police forces in Australia – charged with what appears in hindsight to have been an impossible task, to inject greater integrity into state politics, the bureaucracy and legal bailiwicks as CEO of the Tasmanian Integrity Commission.

The LPTB gives every appearance of producing most of its decisions in complete harmony with what might be perceived as the wishes of the heavies of the political, bureaucratic, legal and judicial end of town.

But that's Hobart, and Tasmania, of course, where even the local born say it's not what you know but where you were born and grew up that determines your rank in the strict, insular, social pecking order.

The LPBT should have the grace and good sense to withdraw all the unfounded allegations, and let Etter get back to representing people pro bono, which is sorely needed in the local "justice" system.

Mind you, the equivalent legal boards of every state and territory should be overhauled similarly as ill-suited anachronisms of when professions were thought to be peopled exclusively by men, of honour.

Creeping, mandatory QR codes infect Queensland court buildings

Queensland has expanded its mandatory use of the Check In Qld App to cover additional business sectors, including "public-facing government services, such as customer service counters in government buildings," not including courts...but including courthouses.

But, if you're a woman and you want access to a legal aid service, or male or female and you're after a birth certificate, using a Qld QR code is mandatory.

Is this just the start of the creeping, enforced use of check-in codes, under Annie Stasi Palacehook and the other state and territory premiers, CLA asks? If you can trace people you can keep them in their place.

The Qld government says: "While it is highly recommended that people check in to Queensland courthouses using the Check In Qld App, there is no authority to refuse entry or provision of court-related services to anyone who does not check in via the QR code. However, using the QR code to check in is mandatory for people accessing non-court services – such as the Women's Legal Service or applying for a birth certificate – within court buildings."

There is no mandatory check-in if you want to spend a penny in a Qld public convenience...yet!

For full details on the relevant public health direction, visit Check In Qld app: covid19.qld.gov.au <https://www.courts.qld.gov.au/about/news#a689032>

Emergency powers need reining in

Queensland's Council for Civil Liberties says there should be a limit to the extension of wide-ranging emergency powers granted to Queensland's Chief Health Officer, to avoid such powers becoming accepted as normal.

A parliamentary committee is considering another extension to the powers granted to the CHO to respond to the pandemic, in particular to quarantine people and impose lockdowns on the wider community.

The powers have been extended several times since they were introduced in early 2020, and each time, the government has justified its extension by saying the pandemic was ongoing and needed to be dealt with quickly and decisively.

The current extension will see the powers stretched to April 30 next year, which QCCL president Michael Cope said was too long.

"The more these sorts of restrictions stay in place, the more people get used to them," he said.

"I'm happy to bet a large sum of money that some time in the next few years someone will pop up and say Queenslanders accepted lockdowns during the pandemic and therefore they should accept whatever new restriction is being placed on them.

"We saw it with anti-terrorism laws. They were extended beyond terrorism to affect people's everyday lives, and that's why these pandemic powers need to be reined in before they are normalised."

Queensland's Human Rights Commissioner Scott McDougall echoed the concerns around the extension of the powers, despite acknowledging their need to manage the pandemic.

"We are becoming increasingly concerned that as the emergency powers continue to be extended, there appears to be little consideration of less restrictive measures, or to bring in further safeguards - such as a right to appeal exemption refusals," Mr McDougall said. <https://tinyurl.com/997z2zm8>

3600 police nationally involved in racist, homophobic, misogynist commentary

Queensland's ethical standards unit is investigating racist, homophobic and misogynistic comments in a private Facebook group involving police officers nationally.

"It frankly beggars belief," Commissioner Katarina Carroll said last month. A "minority" of officers engaged in "unacceptable things". She warned police may act against the 1700 Qld police apparently involved.

However, 3600 is nearly 5% of the total number of police in Australia: it is not a meaningless number where the attitudes involved are concerned, CLA says.

The page, named '*Defend the Blue*,' had about 3600 members across the country, including some 1700 current and former Queensland police officers, Ms Carroll said.

The group's administrator says the group offered support to "the blue family" who felt they "didn't have a voice". In other words, CLA says, the same old "them and us" mentality that infects police forces in Australia.

Speaking on Tuesday, Commissioner Katarina Carroll said it was "extraordinarily important" that the behaviour was called out early and investigated so that authorities could take action if necessary.

"In some of the comments that I have seen recently it is defamatory, it is concerning and I think ... it frankly beggars belief. There's a minority who say and do very unacceptable things. There's racist comments, there's homophobic comments and those are not in line with our values or the expectations of the community." <https://tinyurl.com/fa2skpyr>

Cops like car chases, ignore police report-in policy: death follows

In a total non-sequitur, CLA believes, a senior Queensland police officer last month told a Gold Coast inquest into a road death after a high-speed police chase that criminals deliberately drive dangerously because they know police will not chase them.

Sen-Sgt Aaron Ottaway was giving evidence in the inquest into the death of 18-year-old Logan Dreier, who died when the stolen ute he was driving flipped during a police chase in August 2019. (see coroner's court photo).



"They know, if they're driving like maniacs, the cops won't do anything about that," Ottaway said. But the police did, lots of them, from everywhere, and the outcome was the death in this case.

Insp Raymond Vine told the coroner he might have called off the chase if there had been the mandated communication from the chasing vehicles to controllers. He had not known that one motorbike cop was doing 173kph down the breakdown lane of the M1 motorway. <https://tinyurl.com/tb486x34>

'Deliberate attempt to circumvent police chase policy'

The Ethical Standards Command (ESC) officer, who investigated the incident, said the chase was authorised by police policy but there was no "command and control" during the pursuit.

Det. Sen-Sgt Cameron Herpich told the coroner that the chase should have been stopped when Dreier's vehicle veered on to the wrong side of the road at Southport.

Herpich told the inquest that "vehicle after vehicle" joined the chase, which showed officers had a "belief that the apprehension seems to be paramount". He said he did not know whether it was "a cultural thing", but that police on the road were not following policies put in place for car chases.

In a formal report to the coroner, he said there appeared to have been a "deliberate attempt" to "circumvent the policy" that requires officers to report back "situational awareness" during a pursuit, including speed and the road conditions. "It's quite clear to me, I could hear the [regional duty officer] asking [over the police radio] for situational awareness, but he just wasn't getting it," Herpich said.

He said "anyone involved in close proximity" and more senior officers listening in over the radio should have abandoned the chase because they could not get clear information about the unfolding situation.

He also told the court that continuing the chase had created an "undue risk to other road users" and that officers involved in the chase did not always know where the vehicle being driven by Mr Dreier was.

"Numerous concerning acts and statements were made during the incident that indicate current on-road practice, possibly developed over an extended period, has eroded a base-level understanding of the Safe Driving Policy, resulting in unsafe practice," Sen-Sgt Herpich's report to the coroner said.

The court heard a number of officers involved in the chase were also sanctioned after a disciplinary investigation by the ESC. <https://tinyurl.com/takz5kuw>

Police chase policy should be signed off yearly by each officer, CLA says

Exactly the same circumstances apply in every police force in Australia, CLA says. Police ignore chase policy, putting the public at risk repeatedly.

When a vehicle crashes, reports emerge that the chasing police “called off the chase 30 seconds earlier”.

The repetitive nature of the “30 seconds earlier call-off” claim is the most striking nature of police car chase reports around the nation, CLA 2020 President Dr Kristine Klugman said.

“CLA believes every police officer licensed to drive or ride police vehicles should undergo refresher training once a year in written police anti-chase policy. They should be required to sign that they have read and understood what the policy is, and what it means for their behaviour as drivers and their reporting to controllers,” she said.

“If they cannot communicate with control, they should be obliged to call off the chase.”

One state moves to reform alleged rape cross-examinations: what about others?

The Victorian Law Reform Commission will publish findings of its inquiry into how the state’s justice system responds to sexual offences next month.

In 2004, the Commission published its first report on the issue.

Although some reforms were introduced, in-court change has been “curiously” slow, according to Tony North, a federal judge for 23 years who chairs the VLRC.

He explained that traditional training for barristers was poor: “If you cross-examine a complainant? Well, what you do is you bamboozle, you confuse, you belittle, you drag it out, and you slut shame. You present her to the jury as easy pickings.”

<https://tinyurl.com/5z7bjvht>

ODD SPOT: How much does it cost to keep a child in detention in the NT?

NT Council Of Social Security (NTCOSS) CEO Deborah Di Natale on ABC Radio Darwin after the 2021 NT Budget was handed down: “Well, we know that if children are in detention, that costs \$2038 a day. So every time a child is kept in detention, we’re talking \$2038 dollars a day. If you times that by 60 kids, the numbers are starting to add up.” <https://tinyurl.com/5c6jd4aa>

Govt to pay \$34m compensation to youths

The NT government will pay \$35 million to settle with about 1200 young people seriously mistreated while in youth detention in the NT.

Federal Court Justice Debra Mortimer ordered last month that the payout figure be made public.

Two lead applicants launched a class action in 2016, claiming that they were assaulted, abused and falsely imprisoned while in youth detention facilities in Darwin and Alice Springs. The allegations included use of excessive force, handcuffing, strip-searching and isolation in cells.

The class action applies to those who spent time in NT youth detention centres between 2006 and 2017.

The NT government denied liability, but agreed to settle in May 2021. <https://tinyurl.com/drk24rre>

Lecturer to study better ways to teach prison inmates

Charles Darwin Uni lecturer Dr Adelle Sefton-Rowston will travel to Alabama from the NT on a Fulbright scholarship to research state-of-the-art prison education programs in the USA for three months.

She aims to help inmates express themselves through creative writing, to increase self-confidence and morale.

Dr Sefton-Rowston is a senior lecturer in Literature and a co-associate dean in CDU’s College of Indigenous Futures, Education and the Arts.

“I’m excited by the opportunity to teach literature and creative writing across 15 correctional centres in Alabama,” she said. She will work under the guidance of Kyes Stevens, director of the Alabama Prison Arts and Education Project at Auburn University. <https://tinyurl.com/f5zudc8w>

ODD SPOT: Whipper-snipping vigilante has 18-month sentence confirmed

WA’s Court of Appeal has confirmed a jail sentence for a lawnmower man who used a whipper-snipper to attack a man while yelling “run, fat boy”.

The pair got into an argument outside a suburban Perth deli in August 2020, *PerthNow* reported. The lawnmower man went to his vehicle, grabbed his “weapon” of choice and got his adversary on the run into a booze store for shelter.

The District Court took a dim view after the lawnmower man pleaded guilty to being armed in a way that may cause fear with intent to harm, and doing an act causing bodily harm, and handed down an 18-month sentence, which the lawnmower man appealed.

Last month, the appeal court rejected the appeal, commenting adversely on the lawnmower man’s actions, including that he had “acted out of some sense of vigilantism”. <https://tinyurl.com/j2y4kk8f>

Time to review CCTV guidelines and codes

The ACT is inquiring into its CCTV practices. All states and territories should do the same.

In the ACT, CLA worked with government officials some 15 years ago to incorporate guidelines and principles into a code of practice for operating CCTV. However, with the passage of time, and the arrival of hundreds of more CCTV cameras, the guiding ‘bible’ needs a major update.

The same is probably true throughout Australia’s major cities and regional centres.

The ACT Auditor-General has reported: “The ACT Government Code of Practice for CCTV (2009) 3.40 establishes requirements for the secure management of data captured through CCTV cameras including that ‘agencies will establish procedures for the monitoring, retention, storage and destruction of recorded images’. No policies or procedures have been developed for the collection, recording and storage of data for any of the CCTV systems considered as part of this audit... The lack of policies and procedures increases the risk that individual, specific practices that have been developed are not consistently and rigorously followed.” – ACT Auditor-General report no. 5 / 2021.

Australian briefs

Assange faces UK High Court

Julian Assange will face a new appeal in the UK’s High Court by the US government for his extradition there. In January a British judge ruled he could not be extradited on spying charges because he was likely to kill himself in the harsh American prison system. The 50-year-old Assange has been held in London’s Belmarsh jail since April 2019. Before that he was seven years holed up under diplomatic immunity in London’s Ecuadorian embassy, avoiding allegations in Sweden – promoted by US intelligence agencies, it is believed – of rape and sexual assault, which were eventually dropped. Last month, Ecuador stripped his citizenship, which they bestowed on him when he was under diplomatic immunity. <https://tinyurl.com/hct69xck>

New DPP

Nicholas Papas last month took up as acting Director of Public Prosecutions as the long-time DPP Jack Karczewski took extended leave before retiring later this year after eight years in

the role and a 37-year career in the NT justice system. Papas had been deputy commissioner to the NT ICAC. He is a former Victorian Chief Magistrate. Victoria Engel remains deputy DPP.

Stewart becomes chief turnkey

An ex-cop and then deputy Corrective Services Commissioner is the new chief executive for three years of the Queensland jail system. Paul Stewart – 10 years an assistant police commissioner – was appointed after a national search, and recommendations from an independent recruitment panel, according to a Premier's media release of 29 June 2021. He holds a Master of Technology Management and Bachelor of Science from Griffith Uni, and has studied at the FBI National Academy. <https://tinyurl.com/3bmfey92>

60 may use VAD law

Some 60 people in WA are expected to use new voluntary assisted dying (VAD) laws to end their lives by 30 June 2022. The laws took effect in WA on 1 July 2021, making the state the second after Victoria with VAD. South Australia and Tasmania have also passed VAD laws, but they are not yet in effect. <https://tinyurl.com/476hsfzz>

Is law on a downhill glide?

A report from a current law student has informed CLA that each new cohort of law students at Australian universities appears to get an increasingly shallow "run". This is because of the casualisation of lecturers, their increased workload and the lack of academic oversight. It's a case of "pile 'em high" and grab their money...as each university struggles to survive on decreased funding. The student said that there were even options where tick boxes sufficed for examinations. Lecturers are switching from lecturing in law to teaching other courses. A further round of redundancies is being announced across the nation. "Intelligence and justice have become irrelevant in a world corrupted by sub-standard lawyer-politicians," the law student observed.

Members' (and other) letters

Can anklets replace masks?

In my shopping visit to the Court of Commercialism this morning, the first day of the non-facial-recognition order, I noted most people wearing masks, even people driving by themselves. It made me think of when the White Knight in *Through the Looking Glass* claimed the anklets on his horse kept away the sharks. Alice noted "But there aren't any sharks here", and the knight responded "The anklets must be working then". I had my N95 mask with 'OBEY' written in Texta ready to wear, but nobody challenged me. This government intrusion is relevant to civil liberties, and the "we know best" approach of so-called public health, although the public they serve appears limited to elites, and the re-election prospects of panic-mongering politicians devoid of risk and cost benefit analysis skills. – Mark Jarratt, licensed security risk analyst.

Left-right-left

I always thought civil libertarians were lefties, but apparently not in NSW. – non-member Gary Sayer, Warrnambool Vic. (*No, Gary, CL people come from right, middle and left. Some of Australia's best civil libertarians have been from the right, such as John Dowd, former NSW judge and Member of the NSW Parliament. – Ed.*)

CLA's main activities for July 2021

The Board is continuing to focus on Human Rights Acts (HRA) opportunity – federally, in Tasmania, WA, the SA and the NT in particular – as windows of opportunity seem likely to emerge over the next few years.

Covid-19 will ultimately drive a complete re-evaluation of the rights (and responsibilities) of Australians.

Under question will be the full range, from traditional liberties and freedoms matters through to "passport-needed" definitions of what a citizen is entitled to in, say, leaving Australia when she or he wants, or gaining consular assistance when outside Australia.

As well, media and voters are shining a laser beam light on mismanagement at the federal level, bringing into question the competence of politicians and their handling of vaccines, grants, privacy and FOI, as well as whether the main injection needed in Australia is one of integrity at the political level.

The August Board meeting is expected to undertake a comprehensive review of how CLA can best position to take advantage of and fund fast-moving developments nationally and in a series of key jurisdictions.

With a reform mood building, there may also be better opportunities to achieve a federal ICAC "with teeth", relief for whistleblowers and people being prosecuted for their political/moral stances, as well as innovations in how parliament conducts its own business.

After 20 years of putting runs on the board – on the CLA website, see the History of CL in Australia, <https://www.cla.asn.au/News/history-of-civil-liberties-in-australia/> – it's time for a fresh look at how to build a better, free-er, more democratic society with rights and liberties underpinned by acts of parliament.



WA:

When should kids be criminally responsible?

Response from the Member for Maylands, Lisa Baker: Discussions about raising the age of criminal responsibility (*currently as young as 10: CLA*) are ongoing as part of the Meeting of Attorneys-General... changes would require resources and careful consideration to ensure that the small number of children who exhibit serious offending at a young age can be properly managed outside the criminal justice system.

The WA Government already diverts young people away from the criminal justice system where reasonable. The Olabud Doogethu Project in the Shire of Hall's Creek – a project party funded by the WA Government – has seen a 58% reduction in burglaries, 28% reduction in stealing and 35% reduction in stolen vehicles.

INTERNATIONAL

Time for US – and us – to end 'War on Drugs' and to withdraw

It took 20 years, until 2021, for the US to declare its 'War in Afghanistan' over, and failed, and to withdraw troops.

It is 50 years since the failed worldwide 'War on Drugs' was declared by President Richard Nixon. It is time for the USA to declare an end to it, many international experts believe...and CLA agrees.

"It is time that all the money wasted on police trying to enforce drug laws was put into helping users and solving the issue of drugs as a public health problem," CLA President Bill Rowlings said. <https://tinyurl.com/9ywmuh4u>

Paying bills outranks political concerns

A report by the rightwing Centre for Policy Studies, based on polling among the British public, has argued that while genuine differences of opinion on values existed between Conservative

and Labour supporters, the bulk of voters were more exercised by matters such as paying bills.

The study, compiled by the veteran US pollster and communications expert Frank Luntz, uncovered what he called “alarming” findings of discontent about UK politicians.

Asked to rank 18 descriptions of how British political leaders made them feel, split between positive and negative emotions, the top eight choices were disappointed, ignored, irrelevant, fed up, betrayed, forgotten, left behind and angry. <https://tinyurl.com/whu8vj9m> <https://tinyurl.com/8my4e9vk>

There’s no sense the rankings or words chosen would be different in Australia, CLA believes.

SISter spooks show ASIO how to mass surveil

The New Zealand Security Intelligence Service (SIS) has been remotely accessing – with the ability to control and manoeuvre – CCTV cameras in Auckland City.

It has enjoyed “round the clock access” to the network of cameras, thought to belong to Auckland Transport. They capture just about everyone and everything that moves.

A [review](#) from NZ’s Inspector-General of Intelligence and Security (IGIS), Brendan Horsley, found the service’s remote access and control of the CCTV cameras lawful.

He said the surveillance was targeted, and “in most cases” the people being watched were either SIS employees undertaking field surveillance, or the people for whom they had warrants to surveil. The cameras were not being used to carry out mass surveillance.

Pull the other leg, Civil Liberties Australia says. It is almost certain that the NZ SIS – and Australia’s ASIO and AFP, as well as state and NT police – have run similar mass surveillance trials to see whether it suits their purposes or not.

Multiple spook firm marketers will be trying to flog them super-cameras that can pick out a gnat on a nose from 1000 paces. Australia’s IGIS should investigate, as should ACLEI, the national police monitoring agency, CLA says. <https://tinyurl.com/m5ezw8fk>

AG halts federal executions

Attorney General Merrick Garland (photo) has stopped federal executions so the US Justice Department can review policies and procedures on capital punishment.



Garland said the review would examine the disproportionate impact of capital punishment on people of colour, and controversy over the drugs used to put people to death.

“The department must ensure that everyone in the federal criminal justice system is not only afforded the rights guaranteed by the constitution and laws of the US, but is also treated fairly and humanely,” Garland said. “That obligation has special force in capital cases.”

He said the department would review the execution protocols put in place by former AG, William Barr. A federal lawsuit was filed over the protocols – including the risk of pain and suffering associated with the use of pentobarbital, the drug used for lethal injection.

Former President Donald Trump resumed federal executions in July 2020, after a 17-year hiatus, and oversaw 13 killings of federal death row inmates. No president in more than 120 years

had presided over as many. US States killed 22 people in jailhouse executions in 2020. <https://tinyurl.com/c6ybf9v>

When Captain Cook died, prisoner rehabilitation was born

The aim of releasing prisoners from jail better than they went in began the year Captain James Cook died at the hands of the Hawaiians, nearly 250 years ago.

Rehabilitation is a concept enshrined in UK law since the Penitentiary Act of 1779: it made rehabilitating prisoners a function of all jails, but it is done very poorly in Australia, CLA believes.

“The way a society treats the least of its members is a kind of barometer of justice,” says forensic psychiatrist Gwen Adshead.

“Among prisoners in England and Wales, as many as 90% have poor mental health, including PTSD and depression. Perhaps only 10-20% of the most acute cases will ever get seen by a forensic professional.

“Recent studies in the UK and the US confirm that most convicted offenders have an experience of trauma, abuse and violence at least four times higher than the general population.

“People grow out of violence on what is known as the ‘age-crime curve’: most violent offenders will desist over time, with rule-breaking and harmful behaviours dropping off rapidly after 35.

“Treating younger people effectively in prison makes it less likely that they will return in later life,” she says.

Dr Gwen Adshead is a forensic psychiatrist and psychotherapist, and co-author, with Eileen Horne, of *The Devil You Know*. <https://tinyurl.com/us5yc5sp>

Amnesty calls for halt to govt surveillance

Amnesty International has called for a moratorium on the sale and use of surveillance technology.

The call follows allegations that governments have used phone malware supplied by an Israeli firm to spy on journalists, activists and heads of state, creating “a global human rights crisis”, Amnesty says.

Amnesty warned of “the devastating impact of the poorly regulated spyware industry on human rights worldwide,” and called for an immediate moratorium on any export, sale, transfer and use of surveillance technology “until there is a human rights-compliant regulatory framework in place”.

Pegasus software, produced by the NSO Group, is able to switch on a phone’s camera or microphone and harvest its data.

When a list of about 50,000 potential surveillance targets was leaked to rights groups, Amnesty and French media non-profit Forbidden Stories collaborated with several media companies, including the Washington Post, the Guardian and Le Monde, to analyse and publish the list. <https://tinyurl.com/e8vtcxkd>

Australian citizenship cancellation challenged

The legal right of the Home Affairs Minister to cancel the Australian citizenship of a dual national claimed as “likely” to have engaged in terrorist activities is being challenged in the High Court.

The challenge involves a 34-year-old Turkish Australian, Delil Alexander, who is imprisoned in Damascus, in citizenship limbo. His lawyers believe he is in “imminent danger of torture, serious bodily harm or death” after his Australian citizenship was stripped on 2 July.

Delil’s sister has filed High Court documents saying he left Australia for Turkey, then Syria, in April 2013. He was arrested by Kurdish militia in March 2018 and found guilty of unspecified offences by a Syrian terrorism court in January 2019 due to

admissions he says were obtained under torture. In July 2020 the charges were downgraded to "secondary involvement in offences". Alexander was sentenced to five years' hard labour but was later pardoned.

Delil said that he went to Syria to marry his wife Zehra and did not live in conflict areas.

According to the High Court documents, ASIO advised the minister Delil had "likely engaged in foreign incursions and recruitment by entering or remaining in al-Raqqa" after it became a "declared area" in December 2014. <https://tinyurl.com/kcxs7rw>

International briefs

Drowning in injustice

Undercurrent, CLA member Eve Ash's documentary series on the Sue Neill-Fraser 'Yacht No Body' case in Hobart, Tasmania, in 2009 is now available to patrons in the UK. Here's the link: <https://www.discoveryplus.co.uk/show/undercurrent>

Hunger killing more than Covid pandemic: Oxfam

Eleven people die every minute of hunger, according to a new report by Oxfam, which also found the number of those facing famine-like conditions globally has increased by six times over the past year. 'The Hunger Virus Multiplies' report (PDF) said the death toll from famine outpaces that of Covid, which kills about seven people per minute. The charity noted global military spending increased by \$68 billion during the pandemic – an amount that exceeds by at least six times what the UN needs to stop hunger. Global warming and the pandemic have caused a 40% increase in global food prices, the highest in more than 10 years. <https://tinyurl.com/4f3krhnc>

Headscarves may be banned

The European Union's top court last month ruled that employers may forbid wearing visible symbols of religious or political belief, such as headscarves. The court said that courts in the 27 member states should weigh up whether the ban corresponded to a "genuine need" on the part of the employer. They must also consider the rights and interests of the employee, including by taking into account national legislation on freedom of religion, it said. <https://tinyurl.com/3rw2ryeb>

ODD SPOT: Will kites, soaps and pigeons bite the dust?

The Taliban banned dozens of innocuous activities in Afghanistan during its 1996-2001 rule, including kite flying, TV soap operas, pigeon racing, fancy haircuts, and even playing music, AAP reports. Fears are growing they will be banned again if the armed group returns to power. <https://tinyurl.com/4s9uukta>

Lang may yer lum reek

Filing re Washington DC, our** man Roger Fitch reveals there were "liberal" 1st and 4th Amendment cases in the US Supreme Court's recently concluded term. The free speech case *Mahanoy v B.L.* affirmed a decision involving a school cheerleader's [Snapchat profanity](#), while in *Lange v California* the supreme court narrowed police powers to enter a home without a warrant. What is it with the worldwide Lange family? CLA asks. One of Australia's most famous cases – which at least temporarily gave us implied freedom of political communication from 1997 until new judge Simon Steward sent smoke signals out to other judges about it recently – was [Lange v ABC](#). That Lange was the NZ Prime Minister. ** *Fitch is legal journal Justinian's man, too.*

DATES:

2021:

11-12 Nov, COP26, Glasgow, Scotland: The 26th UN Climate Change Conference of the Parties (COP26) in Glasgow, Scotland.

Early Dec, Canberra: Prof Megan Davis of UNSW will deliver the annual ANU Geoffrey Sawer Lecture. Info: <https://tinyurl.com/u99bbks> A major international conference, held electronically around the same time, will mark the 60th anniversary of ANU Law and 30th of the Centre for International and Public Law at ANU Guest speakers are slated to include Prof Julie Suk of the City U. of New York and Prof Asmi Wood of ANU. <https://tinyurl.com/vfmsqaz>

2022:

EU: Applications for the European Master's in Human Rights (EMA) – details for the 2022 year. EMA is a residential and exchange program: the Feb to July 2022 semester takes place in one of the EMA participating universities within the member states of the EU plus the UK and Switzerland. <http://gchumanrights.org/>

21-23 Feb, Sunshine Coast Qld: 2022 National Indigenous Youth Justice conference. <https://www.icsconferences.org>

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.

CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. Responsibility for election comment in *CLArion* is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in *CLArion*, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: [Secretary\(at\)cla.asn.au](mailto:Secretary(at)cla.asn.au) Closing date for this issue was 28 July 2021.

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