

## **Pezzullo the Fox lays claim to being just one of the misunderstood sheep**

Surveillance by 'big tech' and private companies should worry "the citizenry" more than surveillance by government and intelligence agencies, according to the supremo secretary of the Department of Home Affairs, and Australian Border Force supremo, Michael Pezzullo (photo).

The very man responsible for the repressive laws and years-long, vulpine detention of refugee claimants in Australia over the past two decades is saying: "Look over there, don't look here!"

He was spruiking his official prying and spying mantra on an Australian Strategic Policy Institute (ASPI) webinar last month.

Pezzullo claimed that agencies that had used surveillance powers were subjected to far greater oversight mechanisms than private companies.

"Mr Pezullo should tell that to Witness K, Bernard Collaery, Richard Boyle, David McBride – the whistleblowers and others prosecuted politically in Australia," CLA President Dr Kristine Klugman said.

"And maybe he could have a conversation with journalist Annika Smethurst whose home was raided by the AFP for revealing a Pezullo-involved plan to expand the secret powers of the Australian Signals Directorate.

"Or, he could speak with the *ABC* and its journalists Sam Clarke and Dan Oates, raided in the same week over another story," she said.

"We know that companies abuse surveillance, misappropriate data and misuse databases because of their financial greed: what is the reason our government, including Pezullo-led agencies, chooses to persecute individual Aussie citizens for public interest disclosures and the like?" <https://tinyurl.com/32fn5ktm> <https://tinyurl.com/yc8tmcrcj>

## **Community, police work to help 'imprisoned' families**

Proactive community service, linked to a positive police attitude, could change the future for families of someone sent to prison in Australia.

In the UK, the Thames Valley Violence Reduction Unit – working with Thames Valley Police and the charity Children Heard & Seen – is piloting a way to rapidly identify whether the family of someone sent to prison needs extra help to tackle risk factors of young people being drawn into future crime or other problems.

Data from the UK Prisons Service database is being used by the police not only to track a prisoner's entry, movement through and eventual release from prison, but also to direct support to vulnerable family members left behind.

Notifications are passed to the local neighbourhood policing team, and a Police Community Support Officer offers a referral to support provided by the charity. If the family accept, the visiting officer makes the referral on their behalf, or they can self-refer in their own time when ready.

The charity works with the family to create a tailored package of one-to-one support with trained staff, volunteer mentoring, parent support, peer support groups for children, online activities for children, and family activity days. <https://tinyurl.com/7ncse3sd>

## **'Imprisoned' families: size of the problem**

Research in 2019 for the above program showed:

- About 312,000 children are impacted each year by parental imprisonment (England & Wales);
- 65% of boys with a parent in prison go on to commit a crime;
- Children with a parent in prison are three times more likely to commit anti-social behaviour; and
- 25% are more likely to develop mental health problems, underperform in education and suffer from the shame and stigma of a parent in prison.

A trial in the city of Oxford suggested between 200-300 children would be offered such support. <https://tinyurl.com/yc2777rz>

In Australia, among Indigenous communities, jailing of adults and children is so high in WA and the NT particularly that the numbers needing help may well exceed those needing help in the UK, CLA says.



## **Lucky ABF criminal cops mere five months jail for theft, forgery**

Fresh out of jail, most likely, is an Australian Border Force officer who 'earned' \$18,779.75 a month for five months behind bars.

The officer was convicted for theft and forgery covering about \$94,000...and sentenced to five months only. The ABF criminal, if he invested wisely, might have made a real profit on the funds involved as it took four years to catch up with him legally.

Pablo Olivares "misused a corporate card, forged medical certificates to take periods of sick leave and forged statutory declarations to substantiate charges made to the credit card", investigators reported.

Discovered in June 2017, he was allowed to resign in October 2017 (presumably, this allowed the man to retain employment benefits, and avoid formal 'black marks' on the record).

Resignation instead of sacking is a tactic used by police and similar agencies like ABF and the ADF so they avoid statistics revealing the number of criminals in their ranks, CLA says.

## **Recognisance of \$1000; good behaviour bond for 3 years**

On 23 August 2021, Olivares (above) was sentenced to two years and six months jail, with conditional release after just five months on a recognisance of \$1000 and being of good behaviour for three years.

Ordered to pay \$93,898.75, there has been no mention of any money repaid so far.

A nice little earner, at a very good rate, given the person was being paid as an ABF employee all the while he was thieving and practising forgery.

"The Department (of Home Affairs) and ABF have zero tolerance for staff engaging in serious misconduct, corrupt conduct or criminal conduct," their website claims.

That's not true, CLA says. If they did, they would sack people. And see alleged criminal employees face justice much earlier than four years later.

## **No one-off mistake**

This was no one-off mistake by Pablo Olivares:

"134 unauthorised cash withdrawals were made by Mr Olivares between July 2016 and June 2017. The withdrawals were for amounts between \$100 and \$1200 and totalled \$65,880," an Australian Commission for Law Enforcement Integrity (ACLEI) report, signed by Integrity Commissioner Jaala Hinchcliffe on 8 November 2021, says.

"Between 30 January 2017 and 21 May 2017, Mr Olivares used the ABF credit card on 35 occasions to pay for hotel rooms in various locations around Brisbane. The hotel charges were for amounts between \$100 and \$1674 and totalled \$27,640.89 for the period."

Mr Olivares also apparently forged 13 medical certificates and two statutory declarations, as well as hiring a transit van for a few days, costing \$377.86.

## **ODD SPOT: How to obfuscate officially**

One way authorities "hide" criminal conduct of their employees is by releasing information in busy periods: the above ABF revelation was made on 23 December 2021. <https://tinyurl.com/52jdccyd>

And the name of the investigation of theft and forgery in Brisbane was 'Operation Adelaide'. Deuced clever these ABF and ACLEI people, they know how to manipulate public opinion.

## **Credit card fraud on the rise in PS: is other fraud also increasing?**

There seems to be a wave of credit card fraud sweeping Australia's Public Service.

In Canberra a former army major has avoided jail after using a work-issued credit card for more than \$44,000 unauthorised spending on luxury hotel stays, an airfare for his partner and other personal expenses.

Tarek Elgayar, 47, was sentenced in the ACT Magistrates Court last month to a 10-month jail term, which was fully suspended upon him signing 18-month recognisance release orders.

Elgayar, a 28-year ADF veteran lost his job as a result of his offending, admitted making 99 unauthorised transactions on a Commonwealth credit card between December 2017 and August 2018. He was suffering from post traumatic stress disorder, the court was told.

Elgayar's release conditions include him being subject to supervision for 12 months, and paying \$200 in security for compliance with what are effectively good behaviour orders. <https://tinyurl.com/mvnddsvu>

## Privacy Foundation warns about sharing health info

The Australian Privacy Foundation has raised a red flag about a Victorian government proposal to widely share medical, pharmaceutical, hospital and health data under mandatory law.

APF's main concerns are a lack of consent, no independent oversight and a risk that the new scheme would get in the way of doctor-patient confidentiality, APF health committee chair Dr Juanita Fernando said.

"Given the proposed exponential expansion of the Victorian data collection, consent should be active, in the form of a clear, freely given, specific, informed and unambiguous indication of the individual's agreement to the collection, holding, management and retention of personal information by health authorities," Dr Fernando said.

"The bill erodes protection of the patient-doctor confidentiality, and so (erodes) the high quality patient care that requires patient openness, trust and confidence in their clinicians. This may prove disastrous in the context of mental health concerns and other conditions linked to the social determinants of health."

The APF's concerns are shared by the Australian Doctors' Federation, Liberty Victoria and Civil Liberties Australia.

CLA says there is already a national database to do the same job: it should be beefed up, provided with more safeguards and privacy protections, and also adapted to suit any special state or territory requirements. "Two 'honeypot' databases for hackers and trolls is one too many," CLA CEO Bill Rowlings said. <https://tinyurl.com/2p86hszm>

## Your turn to make the news

A new [online survey](#) is asking Australians living in regional, rural or remote areas how they access news as part of a federal parliamentary inquiry into Australia's regional newspapers.

The House of Representatives Standing Committee on Communications and the Arts chair Dr Anne Webster said 'over the past 10 years news outlets in rural, regional and remote communities have closed their doors which has resulted in a substantial reduction of articles covering local issues'.

"This survey provides an opportunity for these communities to express their views on whether the loss of their regional voice has directly affected them."

The survey takes less than 10 minutes. It is open to 11 Feb 2022.

## How police/ambulance handle Indigenous emergencies: lessons for all states

A Queensland coroner has made systemic recommendations to save the lives of Indigenous Australians.

State coroner Terry Ryan (photo) wants the police to review whether they should continue to use the controversial lateral vascular neck restraint (LVNR).

He also wants police and ambulance to establish a priority response system when the demeanour of a person in custody "rapidly declines from...heightened emotion and agitation to...apparent compliance".

Ryan believes the state government and First Nations reps should develop culturally appropriate referrals for Indigenous people in mental health crisis, rather than hospital assessment being the only option.

He was delivering findings in the case of Noombah, 39, who died in February 2018 after his partner called police, concerned he was going to kill himself.

After a struggle with two police officers, Noombah suffered a heart attack. Two ambulance paramedics who attended "did not optimise Noombah's chances of survival", the coroner found. Neither of the paramedics continues to practise. <https://tinyurl.com/2p8utw8c>



## Police car chases: can you believe what police say?

*Thursday 30 December 2021 ABC report:*

"A man in his 50s has died after he was hit head-on by a car moments after police had called off a pursuit with (a) vehicle on the Monaro Highway, south of Canberra." <https://tinyurl.com/5n8nt99w>

*Monday 3 January: ABC report*

"NSW police previously said they had called off the pursuit with (a) vehicle when the accident occurred, but on Monday said they had received more information that the crash occurred while police were pursuing the vehicle – (that is, chasing: Ed).

"Police said they first attempted to stop the Holden Commodore just south of Bredbo, but called off a brief

pursuit due to safety concerns. They said the car was later detected again near Williamsdale, where police again engaged in a pursuit. It was during this second pursuit that the accident occurred.” <https://tinyurl.com/dhx73d33>

The distance between Bredbo and Williamsdale is about 50km. The public would like to know for how many kilometres were the police driving dangerously themselves, on each of the two chase occasions, and so pushing the fleeing driver to drive even more dangerously.

## Police first response is to lie

CLA has been critical repeatedly over the past 20 years about the number of fatal and serious accidents that occur “moments after police had called off a (chase)” in every jurisdiction in Australia.

This tragedy proves that the first police response is to claim a chase/pursuit had been called off...when in truth it has not been called off. Police radio in that they have “just” called off the chase moments after a crash occurs.

## Police were in pursuit of car at time crash occurred



The incident occurred during the second pursuit from police. (Supplied: NSW Police)

Why police engage in “pursuits” and not “chases” is a mystery known only to police-speak PRs and newspaper sub-editors, CLA says.

WA continues to be particularly prone to the chase accidents and deaths problem. Cowboy police driving behaviour has been reined in over the past decade in some states by new internal chase guidelines and mandatory reporting to central communications senior officers.

Result in the above case: A 48-year-old man from Moruya on the NSW south coast is facing charges including; manslaughter, aggravated dangerous driving occasioning death, driving a motor vehicle during a disqualification period, failing to stop for police and causing bodily harm by misconduct in charge of a motor vehicle.

## BLAST FROM THE PAST:

### **Michael Kirby on having foresight about hindsight:**

An important lesson of the last six decades in civil liberties in Australia should always be remembered. We are often blind to the departures from civil liberties of our own time. Initially we were blind and silent for those wrongs affecting Australian Aboriginals; for women; for non-white Australians; and for gays. We must ask ourselves: What are the issues we do not see today that will seem so obvious 30, 40, 50 and 60 years from now?

Amongst today’s issues will probably be the treatment of refugees; the Australian response to climate change; the approach to global poverty and sustaining foreign aid; the reaction to animal slaughter and cruelty; and the existential dangers of the proliferation of nuclear weapons. We need to be braver and stronger in Australia than we have been of late.

– retired High Court judge Michael Kirby, 24 Nov 2017, annual dinner NSW Council for Civil Liberties

## ODD SPOT: ‘Where were you lot when you were needed?’: email to CLA

(Here’s our reply in 2020 to an email to CLA about Covid-19)

Thanks for setting us straight. Thanks for helping us to understand the “powers that be” so we can stop “cowering in the corner”. Thanks for telling us about the “biggest con of all time on the human race”.

Who’d have thought that 21.5 million people could get infected all around the world with a virus or that most of 770,000 people could die from traffic accidents and the like, as you say, in the space of six months or so, with “only a few” dying of “the covid”.

While you were drafting your email to enlighten us we were wasting our time holding a quarterly board meeting between 10am and 12 noon on a Sunday morning. That’s where “our lot” was – which you asked about – when you emailed us.

But, because of your persuasive email, I am going to insist that every one of our board members takes a 100% pay cut for all board meetings and activities in future.



So, please don't think your email hasn't achieved anything. It has. Not one of our board of directors, or any of the members and contributors to Civil Liberties Australia, will receive one cent for any of the work for civil liberties and human rights that they do this year or next year or the year after.

We are, as always, grateful for such positive insights as provided by our correspondents like you who frequently know so much more than we do that we're surprised they themselves don't instantly fix the problems and issues they comment on...which they insist that we fix on their behalf in our volunteer, unpaid contribution to society.

We would be even more grateful if our correspondents took up their complaints with the politicians and executive governments who make the decisions, unlike us, and who have the power to change things, unlike us. – Bill Rowlings, CEO, CLA.

## **Let down, abandoned by his own country**

Australian journalist and publisher Julian Assange can ask the top court, the Supreme Court of the United Kingdom, to hear his appeal against US extradition.

In December, the second-highest court, Her Majesty's High Court of Justice in England, ruled he could be extradited to face espionage charges.

Assange has been in Belmarsh prison since April 2019, when he was dragged out of the Ecuadorian embassy where he had lived for seven years.

In the USA, Assange may face 18 charges over the release of thousands of classified US documents, most about the wars in Iraq and Afghanistan. The US says the leaks endangered lives (mostly of their spies and diplomats, and also of soldiers who had committed war crimes but never been charged by the USA, as they should).

Supporters and CLA say the disclosures were overwhelmingly in the public interest. <https://tinyurl.com/mhcx2r2e>

The failure of the Australian government over decades to stand up for its citizen, Assange, is a national disgrace, CLA President, Dr Kristine Klugman, said. "The government seems to think moral fibre is something in breakfast cereal, not a core principle that should be intrinsic to their treatment of all Australian citizens.

"What is citizenship worth if your country won't stand up for you? Assange has been abandoned."

CLA wants a Citizenship Charter to spell out what our rights are, and what we can expect the government to do for us when another country wants to abuse their laws against us. In fact, such a charter should be included in a national Human Rights Act, which explains all our rights and responsibilities.

## **Territory ICAC might have its teeth pulled**

The NT is planning to gut its integrity commission, it appears, because of a series of scandals involving politicians, NT corporate heavies and even NT ICAC's own head honchos

The Labor government commissioned a secret review of the NT ICAC Act about a year ago. Former territory AG's department CEO Greg Shanahan did the review, behind closed doors, and Chief Minister Michael Gunner has sat on its contents for months.

Now a discussion paper has been released, with public comments invited.

Among the recommendations in the report are that politicians would in future not be able to be investigated by NT ICAC for unsatisfactory conduct; as well, any individual found guilty of misconduct would not be publicly named.

Under those circumstances, it would seem to be a waste of time have an ICAC, CLA says. Which may be what the government's end game is.

Public comment on the discussion paper – <https://tinyurl.com/2p9h49cn> – are requested by 5pm Friday 25 Feb 2022. <https://tinyurl.com/2b5mx2es>

## **AUSTRALIAN BRIEFS**

### **CLA calls for independent stun gun reviewers**

Victoria has decided to spend \$214 million up front and \$40.5m a year on top of that to arm all 6000 frontline police and protective service officers in metropolitan Melbourne from mid-2022 with 50,000-volt stun-gun shock devices. A NSW Ombudsman's inquiry a decade ago revealed that, at a time NSW Police stunned them, a third of people were suffering from mental illness and more than half were affected by alcohol or drugs. CLA calls on Victorian police minister Lisa Neville to include a member of Civil Liberties

Australia or Liberty Victoria in any inquiry following the inevitable deaths of some people whom police stun with the high-discharge weapons. <https://tinyurl.com/mry89n8c>

### **All Indigenous police contacts to be recorded**

NSW Police are now required to ask victims, persons of interest and suspects if they identify as Aboriginal or Torres Strait Islander, and their status must be recorded in the police system. Nadine Miles, the acting CEO of the Aboriginal Legal Service NSW & ACT (ALS) told *N/TV News* that the new rules would reveal how many Indigenous people come in contact with NSW Police. About 3% of the Australian population is Indigenous, but 30% of the prison population is Indigenous, Australian Bureau of Statistics figures show (In WA, it is 40%). Aboriginal youth comprised 40% of juvenile detention in Australia in May 2021. <https://tinyurl.com/2p94s5cv>

### **Clasps and stars to honour Defence service**

After taking a year, the Defence Honours and Awards Appeals Tribunal has reported on recognising members – and their families – of the Australian Defence Force injured, wounded or killed in or as a result of service. Basically, the report recommends a series of new clasps and stars, “Memorial” and “Gratitude”, to be worn, along with scrolls signed by the Governor General which can be framed and displayed. All who served, or their families, since September 1945 would be eligible. In thanking contributors to their report, the tribunal commented: “Others, like that from Mr Kerry Danes and Dr Kay Danes (a CLA member) (photo) who have long advocated for recognition of the sacrifice of service, provided more extensive analyses of the complex web of issues raised by our terms of reference and offered some detailed proposals for the many different categories of veterans and families that they perceived.” <https://defence-honours-tribunal.gov.au/wp-content/uploads/2022/01/Final-Online-Proof-Report-of-Inquiry-into-IWK.pdf>



### **Juveniles with nowhere to go are kept locked up in jail**

Aboriginal children have been kept in detention after being granted bail because child protection services did not know where to house them, the Aboriginal Legal Service has said. ALS of WA says eight children since June 2019 have been detained in Banksia Hill youth detention centre despite being granted bail, because suitable accommodation could not be found. In one case, a 14-year-old boy with just one charge was held in detention for three weeks despite being granted bail because the department did not sign his bail undertaking. <https://tinyurl.com/49zusz44>

### **Govt boasts about police inefficiency and ineffectiveness**

The Victorian government is boasting it is spending a record \$3.8 billion on police, including 3135 new sworn police officers, a new police training facility, new and upgraded police stations, automatic number plate recognition for all highway patrol cars, an expanded air wing, mobile technology and new police powers. Premier Dan Andrews made the claim in a media release just before Christmas. If Victorian Police were more efficient and effective, they could be lowering the costs to taxpayers each year rather than expanding the wastefulness, CLA says. If police were doing a good job, fewer would be needed year-on-year. Increasing expenditure is an admission of government and police failure. <https://tinyurl.com/2kmta4t2>

### **Members (and other relevant) letters:**

#### **‘Takes guts to be abused, threatened and insulted’**

It takes guts to speak out about injustice in Tasmania. Sue Neill-Fraser supporters come from all walks of life from around Australia and the globe. The common link is the injustice about Sue’s case with previously held beliefs about Tasmanian justice shattered. While supporters are respectful of those with differing opinions, the same cannot be said for some taking an opposing view. Abusive, threatening and insulting phone calls, discrimination because of supporters’ beliefs and road rage against those with supportive bumper stickers are common. Advocates seek no personal gain and continue out of concern and desire for an improved justice system. It’s time for government to hold a Commission of Inquiry into this case. – Fiona Peate, Huonville, *Mercury* Hobart January 2022.

#### **Vass wants to unburden fraught child memories**

Yet another Australia Day, marking the 13th year of the disappearance of Bob Chappell from the yacht *Four Winds* and the subsequent very questionable conviction of his partner Sue Neill-Fraser. It is overlooked that Meaghan Vass continues to try to provide her witness statement under oath, about events on that boat on 26 January 2009, for no financial gain, knowing that she will likely be subjected to very distressing, belligerent and bullying questioning by the prosecution. Why would she continue to put herself through that if she isn’t telling the truth? It’s time for her to be provided with legal protection so the truth can come out

and the actual perpetrators held to account. Remember, when an innocent person is jailed the true perpetrator remains at large in the Community. – Fiona Peate, Huonville, Mercury Hobart 26 January 2022.

*On Australia Day 2022, Det-Sgt Shane Sinnitt of TasPol, the policeman most intrinsically involved in the SNF investigation, was awarded an Australian Police Medal...as TasPol said, “the murder conviction was in part due to (his) ... professionalism and attention to detail throughout the investigation”. CLA here serves notice in advance that we will be asking for Sinnitt’s APM to be revoked if the conviction ultimately proves, in the High Court or elsewhere, to have been based in whole or in part on incompetent police investigation, unlawfully withheld or delayed police/prosecution documents, or Crown misbehaviour of which Sinnitt was aware, or should have been aware. <https://tinyurl.com/bdhv97z2> A request for leave to appeal to High Court is currently considering such matters.*

## **CLA’s main activities for January 2022**

**Human rights campaigns** – federal and state/territory: report by Dr Kristine Klugman

Concentration in January has been on preparing a “charter schedule” which could be added to a Health and Welfare Act under consideration by the ACT Legislative Assembly. CLA has provided the Assembly committee with an example of how to include a charter – at the end of any new Act which involves human rights – so that the rights involved in the new Act are spelled out.

The CLA “charter” would:

- explain in simple terms the rights in question under the new law;
- ensure the people’s ability to ask for review and/or compensation under the new Act is clear and transparent, and
- set out in detail the mechanisms (conciliation and/or small cases tribunal and/or Supreme Court) which can be accessed by an individual so that all rights in legislation come with an attached remedy written into the black-letter law.

CLA appeared before the Assembly’s Health and Welfare Committee on 25 January to answer questions on our proposals. Subsequently, we provided a written answer, as requested, to help the committee prepare its report.

Consulting re health and other emergency legislation. As part of our appearance before the above committee, we proposed that clauses be added to the proposed law – which is about what ACT government can do in a health emergency – so that community groups were consulted at key stages of imposing any regulations.

For example, CLA said community groups should be consulted before guidelines were written and also when harsh regimes were planned, like lockdowns or mandated vaccination in selected workplaces/roles. CLA believes such community consultations should be included in all the emergency and pandemic laws which will need re-writing over the coming five years in every jurisdiction.

### **CLA HR Campaign Manager Chris Stamford reports:**

The CLA campaign for a national Human Rights Act will be focusing over the next few months on the “no rights without remedy” review that CLA joined with other civil liberties groups to petition the ACT Legislative Assembly for last year. The review will provide a valuable precedent for the review of the national human rights framework promised by Labor should they win this year’s federal election.

- The national Human Rights Act campaign will also lobby individuals and groups that might be in a position to press Labor to keep its promise on the review.
- The campaign will also offer assistance to campaigns for state-based human rights acts, especially in Tasmania, South Australia and Western Australia.

### **Tas report: Need for open, public debate:** report by Richard Griggs

Background research – comparisons with other state and territory equivalents – continues by the CLA team so as to be ready to mount a new Human Rights Act for Tasmania campaign before the next election.

As part of those preparations, CLA notes that it should be the right of citizens to be consulted if important and mainstream entities are under consideration for disbandment in the lead-up to a state budget.

For example, if the government was planning to get rid of the Integrity Commission, there should be widespread public debate. In fact, most Tasmanians would want a stronger, tougher, boosted Integrity Commission (‘with teeth’, as the saying goes about Australia’s need for a federal equivalent body).

Similarly, there should be wide and open public debate before the state shuts down advisory social justice/legal advisory bodies.

**CLA's WOSP campaign** (Watch Over Security & Police): report by Dr Tony Murney

Work continues on the Afghanistan refugee situation which has been limiting my ability to focus on other mainstream WOSP initiatives. The situation for those being assisted remains grim.

The Minister for Immigration announced recently that a new quota will take up 15,00 Afghan refugees on humanitarian visas. On its face, this looks more generous than before...but it is spread over four years meaning only 3750 a year, not much better than the current unhelpful status quo.

A four-year time frame means that many of those seeking assistance from Australia will undergo unnecessary hardships and fall victim to Taliban predation when we could have whisked them away before any of this happens.

*Cartoon courtesy of John Ditchburn of Inkcinct, Ballarat Vic*

On the upside, the government has identified priority categories which now include not just direct employees of the military and embassy guards but also personnel from projects funded by Australia in the aid sector, which offers some hope for the 15 or so people I am working with.

The pure frustration of this campaign has taken its toll on some of the advocates with one prominent player hospitalised over Christmas due to the stress of having to experience his Afghan mates and their families living under serious threat while even his best efforts have no effect on our government helping them.

#### Submission on security

I have been able to break away from lobbying ministers and others on Afghanistan during the Commonwealth stand-down period to advance drafting a CLA submission on the PJCIS review of the first tranche of the Richardson Review legislation. The draft is nearing conclusion and raises serious concerns over the increased and unnecessary securitization of Australia with, amongst other things, a focus on government use of insiders to "independently" review intelligence and security policy which has been the case now since the Flood Review of 2004.

This is as opposed to using eminent and impartial jurists of the calibre of Justice Hope who led the Royal Commission into these matters in 1974.

The substance of the concluding recommendations will be to point out that the Richardson Review was neither impartial nor independent and, as retired Justice Michael Kirby points out, severely marginalised civil libertarian input.

We will circulate it to WOSP CLA campaign members, or indeed anyone who is interested, for comment. **If you would like a copy**, please email CEO Bill Rowlings (see top of this newsletter for details). Submission date is 16 February 2022 – the WOSP management team will finalise it by 14 February.

#### **WA report:**

Margaret Howkins (CLA VP) and Simon (CLA cinematographer volunteer) interviewed Brad Pettitt MLC (Greens, South Metrop Region), at Fremantle Prison in mid-January for CLA's upcoming documentary 'Trauma'.

He spoke about the traumatic consequences of WA's homelessness crisis. The cycle of deprivation for those constantly being 'moved on' from unaffordable rentals, or having to share accommodation with a dozen others, is exacerbating mental illness.

There is no social housing for prisoners who have completed sentences; no adequate appropriate foster-care for Indigenous children; no affordable housing for working families; no affordable flats for young workers or those with disabilities.

"No wonder our prisons are at bursting point," CLA VP Howkins said.





Letters from WA's prisoners to CLA, wanting to have new evidence of their innocence presented in appeals, are alarmingly convincing. The WA justice system is packing people away like never before, with shabby, aggressive, oath-against-oath, circumstantial evidence. VP Howkins has contacted the *Criminal Lawyers Journal* with a request to publish one of the letters.

WA AG Quigley's election promise to legislate a new Right to Appeal law, as in SA and Tasmania, appears dead-in-the-water. Why? Prisoners are costing WA taxpayers at least \$1 billion per year in police and courts and in housing them in sweltering, inhumane Prisons.

CLA in WA is setting up a crowd-funding website for financial support in production costs for our documentary film 'Trauma'. In addition CLA's *YouTube* channel is running short clips of interviews from ex-prisoners, human rights workers, politicians, lawyers and academics to reveal *examples* of the *trauma* we are hearing and seeing. Go to '*Civil Liberties Australia YouTube*'.

Anybody reading *CLArion* with relevant information to share is welcome to suggest an interview by contacting VP Howkins.

CLA member is off and running: Gerry Georgatos, long-term social justice advocate in WA, is standing to win election as an 'Independent' Senator in the (May?) federal election. He will head a ticket of human rights champions with an excellent track record, working for people, not corporations.

### Taylor honoured

From WA comes news that CLA member Jenny Taylor has been honoured for her 20-year service to the ALP through the Maylands branch and state and federal electoral councils. CLA congratulates Jenny on her award.

It is a timely reminder that the type of people who join and support CLA – from Labor, or the Coalition, or the Greens or independent candidates now or in the past – are the type of people who keep the nation running in all those voluntary, unpaid, usually thankless jobs that "somebody" has to do. "We salute all such CLA members...which is the overwhelming majority of them." – President Dr Kristine Klugman. Dr Tony Murney's WOSP report, above, shows how CLA people get "sidetracked" when other emergencies demand their special expertise, on Afghanistan in his case.



## INTERNATIONAL

### 'Innocence is not enough to be freed from jail'

The US state of Arizona is appealing to the US Supreme Court to send back to death row a man whom a US federal court believes should never have been convicted.

Barry Jones was accused in 1994 of the rape and murder of his girlfriend's four-year-old daughter, Rachel. She died after a rupture in her small intestine which developed into peritonitis.

Jones swore he was innocent. The case against him was flimsy, but he was convicted and jailed by the state of Arizona. More than two decades later, a federal court ruled he had incompetent legal representation and probably should never have been convicted.

US federal court judge Timothy Burgess in 2017 was told police did not investigate how or when the child suffered the fatal injury, or consider any other suspect. There was no real evidence the child had been raped.

The timeframe of peritonitis developing meant Jones could not have been responsible for the child's death, but no such available evidence was presented to his original or appeal courts.

When a federal judge overturned his conviction, and ordered Arizona to retry Jones or release him, that never happened. Instead, Arizona appealed the decision all the way to the US Supreme Court.

Arizona claims a law which limits the avenues for criminal conviction should mean Jones stays in jail, on death row. "Innocence is not enough," Arizona's lawyers told the Supreme Court in its final hearing of 2021.

One submission in the case, filed on behalf of former federal judges and state supreme court judges acting as 'friends of the court', called Arizona's argument "absurd". They warned that a ruling in the state's favour would make federal judges "complicit in the greatest miscarriage of justice of all – the imprisonment and execution of innocent people."

A decision is expected by mid-2022. The case is formally 20-1009, known as *David Shinn et al (ie, Arizona) v David Martin Ramirez and Barry Lee Jones*. <https://tinyurl.com/4kajt4k5>

## ODD SPOT: Killing pays well

Justin Farris, chief of operations at the department of corrections in Oklahoma USA, revealed recently what an executioner's pay is. The doctor who inserts the intravenous lines and helps oversee the lethal injections is paid \$US15,000 (\$19,900 Australian) for each execution attended, as well as \$1000 (\$1373 Aust) for every day of training, Farris said. <https://tinyurl.com/2p9xaest>

*Photo: Execution table, McAlester jail, Oklahoma*



## Rights die when autocrats re-shape truth

The Russian Supreme Court has ordered the liquidation of Russia's most prominent human rights organisation, Memorial International (MI).

Nobel Peace Prize laureate Andrei Sakharov and other dissidents founded MI more than 30 years ago. It was MI which collected the history of Stalin-era labour camp persecutions.

The court's decision is in line with President Vladimir Putin's drive to shut down voices of opposition — in the media and religious groups, and on social networks — critics say. Authorities are targeting activists and political opponents through harassment, jail or forced exile. <https://tinyurl.com/2p8c3ejy>

## Chinese women wary of promised better protection

China has announced a new law to better protect women's rights...but women are calling for positive state action to prove the authorities are serious.

An August 2021 analysis found that 93% of sexual harassment cases decided in China between 2018 and 2020 were brought not by the alleged victim but by the alleged harasser, claiming defamation or wrongful termination. <https://tinyurl.com/3p8ykk9x>

Women who have made public harassment claims have been forced to pay those they accused.

In December 2021, Alibaba, the e-commerce giant, fired a woman who had accused a superior of raping her. The company said that she had "spread falsehoods," even though it had earlier fired the man she accused. <https://tinyurl.com/2p8f9rj7>

## Is Australia heading in a similar direction?

"The central story of US politics since the 1970s is the takeover of the Republican Party by economic radicals, determined to slash taxes for the wealthy while undermining the social safety net," *New York Times* columnist Paul Krugman wrote in August 2019.

"With the arguable exception of George H.W. Bush, every Republican president since 1980 has pushed through tax cuts that disproportionately benefited the 1% while trying to defund and/or privatize key social programs like Social Security, Medicare, Medicaid and the Affordable Care Act." <https://www.nytimes.com/2019/08/05/opinion/republicans-white-terrorism.html?>

The Australian government recently allowed big corporations to retain \$38 billion of overpaid-by-mistake support during Covid-19's early days, but insisted the poor and needy repay mere thousands of dollars overpaid-by-mistake by individuals under Robodebt. The government is still insisting poor and needy Australians pay about \$10-15 for each rapid antigen test they need to run on themselves to be able to go to work or for mandatory attendances at public places, like government offices.

CLA is concerned Australia is heading away from a nation based on social equity and justice, as it used to be, to a corporation-led state where Executive governments further disempower the poor, prioritise wealth creation for the rich, and leave justice to wither unguarded and untended. Aboriginal people might claim that has been the state of the nation for them for two centuries.

## Spain targets male violence against women

Spain is moving to collate and analyse all major crimes against women and girls, the *Guardian* reports. Official statistics will be broadened to include killings of women and children by men whether or not there was a prior relationship between victim and killer.

"What is not named does not exist," said Spain's Equality Minister, Irene Montero, according to reporter Ashifa Kassam. "We have to recognise all of the victims and make visible all forms of violence — all *machista* [sexist] killings — so that we can put in place policies for prevention, early detection and eradication."

From 1 January 2022, the definition of gender violence has been broadened to include the murder of any woman or children in which gender has played a role. The statistics will be further divided into five categories ranging from killings linked to sexual exploitation, trafficking or prostitution to the killing of minors – boys and girls – if the crime is believed to have been carried out with the intent of harming a female.

<https://tinyurl.com/yckps5vt>

This approach should be adopted – nationally and uniformly across all police forces – in Australia, Civil Liberties Australia says.

## Interpol chief accused at tribunal of prisoner torture



Torture complaints have been filed in France against the new president of Interpol, Maj Gen Ahmed Nasser al-Raisi of the UAE.

William Bourdon, a lawyer for the Emirati human rights defender and blogger Ahmed Mansour, filed the complaint against al-Raisi in a Paris court under the principle of universal jurisdiction. Mansour is serving 10 years in the UAE for “insulting the status and prestige of the UAE” and its leaders in social media posts. Lawyers for two Britons who had accused al-Raisi of torture have also filed criminal complaints.

Al-Raisi began a four-year term as Interpol president in November 2021. He has been accused by human rights groups of involvement in torture and arbitrary detentions in the UAE. <https://tinyurl.com/yck7u596>

## ODD SPOT: Things you may not know about Interpol...

Interpol has 19 databases, with 114 million police records. It facilitates 9 million searches every day, with a response time of 0.5 seconds. And yes, Australian records are included...which means your photo, name and/or details may be held by a separate power elite not connected to the UN, run by the police forces of the world. It issues an average of 30 of its notorious “Red Notices” EVERY DAY, calling on police everywhere to provisionally arrest people it labels “fugitives” on the say-so of their home country. <https://tinyurl.com/4b3nwfns> “Authoritarian governments are often accused of using red notices to lend an air of legitimacy to the persecution of political dissidents, such as in the case of Melbourne-based Bahraini refugee Hakeem al-Araibi (a footballer – Ed.), who was arrested by Thai officials while on holiday in 2018,” the ABC’s Steven Cannane and Clare Blumer reported. <https://tinyurl.com/zuknpjut>

## Is US torture being taught to Australia military and security people?

The Senate Intelligence Committee's CIA Torture Report, released 9 December 2014, revealed that Guantanamo Bay detainees had been subjected to “rectal feeding”.

Lawyers describe the process as a form of rape, as part of the “torture regime”.

A prisoner’s “lunch tray”, consisting of hummus, pasta with sauce, nuts, and raisins was pureed and rectally infused,” says the report. <https://www.nytimes.com/interactive/2014/12/09/world/cia-torture-report-document.html> (With thanks to Fitch, legal blog Justinian’s man about Washington DC).

## Fancy being a beak? Apply online, Your Honour

Citizens of England and Wales are being encouraged to apply online to become a lay magistrate to process delays to thousands of criminal cases caused by the pandemic.

Justice Secretary Dominic Raab will double the maximum sentence that magistrates can pass to a year, and expand the judiciary by recruiting 4000 more part-time magistrates.

Courts in England and Wales have been struggling to clear a backlog of cases. In November 2021, 372,000 cases bogged down the magistrates courts and another 58,728 pervaded the crown court system.

The number of magistrates has halved over the past 10 years, from 25,170 in 2012 to 12,651 in 2021.

Unpaid volunteer magistrates sit for at least 13 days a year, hearing family and criminal cases from their local community. <https://tinyurl.com/58cb9wuu>

## International briefs

### Social media can turn watching sour

Canadian research suggests that social media based community-watch groups can decrease a sense of safety and increase suspicion based on difference. Even though these groups are similar to the community-led neighbourhood watch groups that became popular in the late 1960s, their negative implications are now amplified by the speed and reach of social media, as well as by the ubiquity of

surveillance technology, such as security cameras and smart doorbells. – PhD researcher Aimee Benoit, quoted by Ximena Gonzalez in *The Sprawl*, 13 Nov 2021. <https://tinyurl.com/43xnzpu5>

### **Bad wi-fi sends criminals to jail**

Some NZ criminals have to go to prison because their local wi-fi signal for electronic monitoring is not strong or reliable enough. The NZ Corrections Department has recently signed a \$180 million contract for new equipment, which it says will improve coverage so fewer people are disadvantaged. There are about 5800 people serving electronically-monitored community sentences or orders in NZ, including 1600 who are on electronically-monitored bail. <https://tinyurl.com/atn7v93a>

### **'Bill' hopes to Nick law in the bud**

An architect applied last month at the England/Wales High Court to change his name by deed poll to "Kill the Police, Crime, Sentencing and Courts Bill" in protest at punitive new anti-protest legislation being debated in the House of Lords. Nick Newman, 35, from London, was among many people and groups – including parliament's joint committee on human rights – who have criticised the bill. Among other complaints, they say it would criminalise causing "serious annoyance" into potential 10-year sentences for offenders. Newman said his friends and family could just call him 'Bill'. <https://tinyurl.com/nhff235v>

### **Assaulting democracy**

Some 34% of Americans say violent action against the government is justified, according to a Washington Post-University of Maryland poll. The FBI says more than 700 people have been charged over the assault on the US Capitol on 6 Jan 2021, and that more than 60 legal challenges tried and failed to overturn the result of the 2020 US federal election. <https://tinyurl.com/4d24e5su>

### **Guards infusiastic about new copying regime?**

Jails in Scotland now routinely photocopy mail to prisoners instead of handing over the originals. The reason? Psychoactive substances, including synthetic cannabinoids such as etizolam, known as street valium, can be infused into paper, cards and clothing. Prison authorities worldwide continue to deny that guards ('officers') are the source of most drugs in jails: of course, having photocopied the originals, the guards would then have access to the infused contents. <https://tinyurl.com/ya89muts>

### **Renters' privacy to be safeguarded**

NZ's Privacy Commission (NZPC) is about to crack down on property managers and landlords breaching the country's Privacy Act, after renters groups call the industry a 'wild west' with little regulation or oversight for how property managers and landlords conduct their business. Renters United spokesperson Ashok Jacob said landlords and property managers were doing what they thought they could get away with: tenants were being asked to provide information on their race, gender, sexual orientation, political affiliations and whether they intended to have children. The NZPC will start enforcing the law against errant landlords and property managers from March 2022. <https://tinyurl.com/4r5bf2sk>

## **DATES:**

**16 Feb, national webinar:** 80th Anniversary of the Japanese invasion of Portuguese Timor (now Timor Leste). It wasn't Australia that was invaded by the Japanese, but Timor. Darwin was bombed on the same day. The Timorese lost tens of thousands of people as a direct result of assisting Australian commandos.

19 February 10:30am commemoration of 80th anniversary at the Anzac Memorial, Sydney.

**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.

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*CLArion* is the regular e-newsletter of Civil Liberties Australia Box 3080 Weston Creek 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 27 Jan 2022.

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