

CLA promotes ‘No Rights Without Remedies’

The ACT government is holding an inquiry into the territory’s Human Rights Act (HRA), the first in Australia.

The Justice and Community Safety Committee is inquiring into Petition 32-21, which was tabled in the Assembly on 23 November 2021 with 518 signatories.

The petition, which was co-sponsored by Civil Liberties Australia, calls on the Assembly to amend the Human Rights Act 2004 to:

- ‘enable a complaint about any breach of the Human Rights Act to be made to the Human Rights Commission for confidential conciliation, and
- if conciliation is unsuccessful, enable a complaint about a breach of the Human Rights Act to be made to the ACT Civil and Administrative Tribunal for resolution.’

The change would supplement the ACT Human Rights Commission’s existing complaints powers, and give quick, easy, cheap and fair recourse to people who believe their rights have been breached.

“We are pushing for truly civil liberties-oriented and rights-friendly approach,” CLA President Dr Kristine Klugman said. “The catchcry is ‘No rights without remedies,’” she said.

None of the existing HRAs – ACT 2004, Victoria 2006 and Queensland 2020 – provide simple and quick access to resolving rights issues.



The ACT committee, newly headed by Liberal MLA Peter Cain (photo), is inviting submissions from people with an interest in human rights, including people in the mental health and disability sectors, public housing tenants, people with experience in the justice and corrections system, the LGBTIQ+ community, and the Aboriginal and Torres Strait Islander community.

Closing date is 7 April 2022. More information and the terms of reference are available on the committee webpage.

Vote for the most trustworthy to save more of our lives

Soon we will all vote for a national government.

If we choose to vote in a government that citizens can trust more, Australian lives will be saved.

That’s the finding of a *Lancet* medical journal paper, reported in the *New York Times*, which analysed why some countries did much better than others over the first two years of the Covid-19 pandemic.

“...the paper’s most striking finding: Moving every country up to the 75th percentile in trust in government — that’s where Denmark sits — would have prevented 13% of global infections. Moving every country to the 75th percentile of trust in their fellow citizens — roughly South Korea’s level — would have prevented 40% of global infections.

“When confronted with a novel, contagious virus the best way for governments to protect their citizens is to convince them to take the measures to protect themselves. Especially in free societies the success of that effort depends on trust — trust between citizens and their government, and trusts between citizens themselves.” <https://tinyurl.com/j4me67pp> Original paper: <https://tinyurl.com/2t6h578m>

Will your elected MPs back integrity and rights?

As noted above, trust in government is crucial to prosperity. That’s why CLA has been campaigning for more than two years for a new ethical infrastructure for the nation.

Australia needs a robust Integrity Commission (IC) – “with teeth” – and a federal Human Rights (HRA) with easily accessible remedies to fix the wrongs if your rights are breached.

The integrity commission would secure compliance with reasonable ethical standards by politicians, public servants and political staffers.

The HRA would give power to the “little people” of Australia, so they have somewhere to go to get quick and easy remedies for their rights through conciliation, or the right to take minor matters before a Civil and Administrative Tribunal (eg, VCAT in Victoria, ACAT in the ACT and similar bodies in other jurisdictions, like the State Administrative Tribunal in WA).

When you come to vote in the next few weeks, please consider whether the person asking for your vote will support public integrity and your personal rights.

VETERANS

DVA is not fit for purpose

The Department of Veteran Affairs is not fit for purpose, and should be disbanded.

It needs re-formation, with double the staff concentrating solely on helping veterans until an enormous backlog can be cleared, CLA believes.

That will take a decade, probably.

DVA last month reported it had been swamped with claims – 56,663 on 30 June 2021, which was more than double the 25,496 two years earlier, on 30 June 2019.

In 2015, it had a workforce of 1935 but that dropped to 1615 by 2020 (down nearly 17%).

So, as claims from stressed, physically and mentally ill and traumatised former Australian soldiers rose dramatically, the federal government slashed staff dealing with their concerns.

This appalling behaviour and attitude, proven by the numbers, is so far removed from claims of Ministers’ support for Defence personnel and MPs wrapping themselves in the flag that it deserves a Royal Commission of its own into government misappropriation of public resources related to veterans.

200 days for DVA to respond to call for help

The above unacceptable reality emerged from evidence to the Royal Commission into Defence and Veteran Suicide last month.

Top DVA executives admitted to the RCDVS in hearings last month that “non-urgent” claims had blown out to a 200-day wait.

The mother of an Afghanistan war veteran told the hearing it took six years for her son to access a DVA gold card, needed for vital surgeries for combat injuries and psychological treatment.

The DVA’s processing fiasco has been subjected to a secret \$1.3 million review by consulting group McKinsey & Co. The report is done, and was given to the government in December last year, but not made public. <https://tinyurl.com/69z5c9z2>

Backlog reaches 65,000 claims

Consultants conducting a \$1.3 million review of delays in veterans’ compensation claims spoke to only two families and received three submissions in investigating the troubled system, it has been revealed.

Department of Veterans Affairs officers told Senators during Estimates hearings in Canberra last month that the evidence that consultancy firm McKinsey gathered also included about 30 emails sent to new portfolio DVA Minister Andrew Gee's office with ideas to reduce delays in compensation claims for ex-services personnel.

The backlog in compensation claims continues to grow, Doug Dingwall reported in the *Canberra Times*.

Veterans wait more than 200 days for the department to process their applications for payments. DVA reported the backlog in claims had reached 65,000 by December 2021 last year, up from 56,000 in July 2021, <https://tinyurl.com/2p8d4a52>

A fit subject for contemplation come Anzac Day

Former Canberra Times editor in chief Jack Waterford writing his weekly column on 17 April 2021:

"Nothing much to commemorate or boast about, at the war memorial in particular, and certainly nothing justifying a high-cost low-rent military toy and medal theme park now being planned against the wishes of soldiers and most of the community.

"Afghanistan was a military, moral, social and economic disaster, having nothing whatever to do with freedom. It certainly has not secured it, and our involvement increased, not reduced, our exposure to Islamist terrorism.

"The \$500 million indulgence to Kerry Stokes is but a down payment on the long-term cost to the nation, one which is the more terrible given the want of anything that could be called glory, or success and the shadow of war crimes trials.

"A vast toll of casualties, particularly men and women with post-traumatic stress syndrome, incredible suicide rates, give far better witness to the futility of war, and the long-term costs of our foolish, poorly led, military adventurism.

"A fit subject for contemplation come Anzac Day."

...and now, a year on, a Royal Commission is under way into military suicides. What a legacy.

WOSP: Watch Over Police & Security

SIC committee wants to expand its own powers

The SIC committee of parliament has rubber-stamped more restrictions on the freedoms of Australians.

The Parliamentary Joint Committee on Intelligence and Security (Security & Intelligence Committee, or SIC for short), wants to expand the powers of the committee and the security arms of government behind the scenes. It does so by "consolidating" legislation.

Whenever a government tells you it is "consolidating", hold on to your wallet and/or your passport.

The new law expands the powers of the ineffectual body, the Inspector-General of Intelligence and Security (IGIS), to cover the intelligence functions of the Australian Transaction Reports and Analysis Centre (AUSTRAC) and the Australian Criminal Intelligence Commission (ACIC); and expand the oversight of the PJCIS itself to cover the intelligence functions of AUSTRAC.

The Bill forms part of the Government's response to the 2020 'Richardson Review' of intelligence legislation.

The SIC committee wants parliament to:

- expand IGIS and PJCIS coverage to also cover the intelligence functions of the AFP;
- expand the PJCIS oversight role over ACIC;
- review the scope and adequacy of laws and regulations over retaining and destroying intelligence material (which would ultimately allow the spook agencies to get rid of incriminating evidence early, CLA fears); and

- hold regular meetings of the heads of intelligence agencies to discuss coordinating their work and promoting integrity within the National Intelligence Community.

Of course, the regular meetings could also discuss how to keep information secret and hidden away from the Australian people, CLA notes. – from PJCIS media release 7 Feb 2022 <http://www.apf.gov.au/pjcis>

Gregoire explains the police state path we're on

Sydney Criminal Lawyers writer Paul Gregoire explains in an article posted in late-February 2022 just how Australia is being turned into a police state.

"The **Identify and Disrupt Bill** passed federal parliament in August last year, and despite (Peter) Dutton already having taken over the defence portfolio, the minister had drafted and introduced this legislation before he vacated his home affairs role.

"This bill provides a three-tiered warrant system that serves to permit AFP and Australian Criminal Intelligence Commission agents to add, copy, alter or delete data on an electronic device, trawl through an online account for evidence, or take over such an account, whilst locking out the owner.

"If these powers don't sound invasive enough, the domestic agencies are then permitted to call on the Australian Signals Directorate for help in infiltrating citizens and residents online accounts and electronic devices.

"The latest piece of legislation that progresses the creep of the ASD into the domestic sphere is a recently passed **national security amendment** produced by new home affairs minister Karen Andrews (photo), which goes a long way to removing ministerial oversight relating to intelligence agencies.



"This bill permits an ASD agent, under ministerial approval, to produce intelligence on an Australian person who's involved with or taken to be involved with a listed terrorist organisation while they're on Australia territory. This connection can be as vague as providing financial support or advocacy.

"Andrew's new law also empowers the defence minister to authorise an ASD agent to produce intelligence on an Australian person when acting in support of the AFP. This ASD ability to spy on a citizen or resident also applies to when they're on Australian soil.

"And the legislation further goes as far as to include ASD agents in the assumed identity regime contained in part IAC of the **Crimes Act 1914 (Cth)**. This means these international spies can now operate in Australia producing intelligence on citizens, whilst they use a fake identity.

"So, it seems that with these latest laws, the new home affairs minister has realised the dream of her predecessor in allowing the ASD to operate domestically."

Gregoire quotes an interview with CLA CEO Bill Rowlings two years ago:

"And as Rowlings warned back in 2020, our spies have now effectively turned 'into the secret police of authoritarian regimes'." <https://tinyurl.com/4fvpn3h7>

Rein in spooks by balanced committee: CLA

CLA has written to the Prime Minister Scott Morrison and the Leader of the Opposition Anthony Albanese, to ask that whomever is elected reforms the security committee of

parliament to ensure it has more human rights representatives on it, and fewer ex-military, security and police members.

The committee should closely examine, critique and if necessary criticise the work of the spooks, now grandiosely self-named as the “National Intelligence Committee”.

Instead, the stacked and biased historical performance of the PJCIS indicates it is a spook booster, not restrainer, CLA believes.

ODD SPOT: How to scare people...

H.L. Mencken (photo) wrote in 1918: “The whole aim of practical politics is to keep the populace alarmed (and hence clamorous to be led to safety) by an endless series of hobgoblins, most of them imaginary.”

Australia’s leading hobgoblin spotter, fearmonger and population puppetmeister is Michael Burgess, head of ASIO. Each year he appears, Casper the ghost-like and breathless, at a forum to spread fears of terrorism, protestors, cyber attacks and countries he doesn’t like which all emerge from his and the spook agency’s fervid imaginations, proof-less of course.

Nowhere does anyone in the real world have a right of reply, or any opportunity to demand he put up facts, dates, times, places, etc to back up his outrageous, unverified claims: it is time for an annual anti-furphy event to shoot down his nonsense, a bit like a ‘Budget reply’ speech.

Who do you think should be the Furphy Fingerer and Truth Speaker on behalf of civil liberties and human rights advocates in February 2023?



Burgess goes too far

The scaremonger Burgess (see above) went too far with his claims about Chinese infiltration of political parties this year.

When the rabid fear-pushers of parliament got hold of Burgess’s words, they fired them off at opponents in the federal parliament willy-nilly.

Burgess was forced to walk back his outrageous posturing to rein in the polities. But he shouldn’t have gone there in the first place, producing vague, unsourced, unproven, fact-free claims about evil people in the background of political parties. (Of course there are! Does it take ASIO to work that out?)

As a public circus, it was a bit like Act Two was a reverse of Act One, with Burgess as the leading clown.

Police boss Kershaw: supports drug traffickers?

AFP Commissioner Reece Kershaw appears to be supporting drug traffickers, health reformers claim.

“(He) would have been advised to have heeded the advice of his fellow agency head, (ASIO’s) Mike Burgess, before Senate estimates when Kershaw slammed the ACT’s proposed decriminalisation of drug-taking,” Family and Friends of Drug Law Reform President, Bill Bush, said.

“The AFP as much as ASIO should be above politics, particularly when it has a conflict of interest. Its own budget prosperity is deeply embedded in the prosperity of the drug trade (and) its efforts to suppress that trade serve to stimulate its budget.

“Drug supply and use thrives under the system Kershaw wants continued,” Bush said. “Look no further than the boom in heroin and crystal methamphetamine (ice) under the criminalisation that the ACT wants to end”.

In 1953 when, to appease the USA, the Commonwealth banned importing heroin, the then president of the national doctors’

body observed that “Heroin/addiction is not a problem in Australia.”

At the time it was used as a first-line analgesic and in cough mixtures. Then, some 5.25 kgs per million was consumed – all of it legal. Half a century later, by 1999, the National Crime Authority reckoned Australia was consuming about 35kg per million – all of it illegal.

“Impotence of the AFP efforts are evidenced by continuing easy availability of drugs, their stable or declining price and their increasing purity,” Bush said, as he suggested Kershaw stops playing politics. – media release, FFDLR, 17 Feb 2022

Fix Australia’s appeal rights, says Kirby

In some Australian jurisdictions, attorneys-general still rely on forcing wrongfully convicted people to consider an archaic ‘governor’s mercy’, or request for parole approach, which may get people out of prison, but does not acquit the wronged person.

Australia should be better than that, says former High Court judge Michael Kirby. Australia’s laggard states and territories should enact a right to a second appeal as passed in SA, Tasmania and Victoria, he says in an article in the *Criminal Law Journal*.

“To do nothing and to persist with the flawed facility of seeking Executive consideration of a complaint behind closed doors constitutes a breach of Australia’s obligations under the ICCPR. “Ironically, the creation of a national or multi-jurisdictional Criminal Cases Review Commission (CCRC)(could be a more cost-effective response than the continued investment in royal commissions and special inquiries that have marked the Australian scene so frequently in recent years.

“Doing nothing to improve our institutional arrangements is a stain on Australia’s reputation as a country of equal justice.

“It is a blight that is too often demonstrated by fresh evidence and argument. It is an intolerable burden on thoughtful judges, prosecutors and other lawyers who regard participation in a demonstrable miscarriage of justice as a nightmare.

“The provision of redress is urgent. The enactment of a right of a second or additional appeal is the least we should do. Reform is long overdue. And when a second appeal is enacted throughout Australia, we should turn our attention to creating a properly resourced and equipped CCRC.

“Protection against miscarriages of justice in criminal cases is no less important and necessary in Australia as it is in Britain and New Zealand.

“What is it about our country that always sees us limping behind [UK, NZ and Canada] where justice is at stake, whereas we can move with astonishing speed to diminish civil liberties, increase official powers and raise levels of incarceration, with no parliamentarian raising a murmur...”

– Editorial: ‘A New Right of Appeal as a Response to Wrongful Convictions: Is It Enough? Guest editor: The Hon Michael Kirby AC CMG*(2019) 43 Crim LJ 299 page 305

SEE article: *Background to CCRC...on the CLA website, now*

Porn access may depend on your looks

Media reports say the Office of the eSafety Commissioner is working with the Digital Transformation Agency (DTA) to expand trials of age verification technology to porn websites for all Australian users.

Restrictions are currently limited to online gambling and purchases of alcohol online.

The anti-porn trials, from April through June, may try using facial recognition technology, according to Senate Estimates notes prepared for eSafety commissioner Julie Inman-Grant last October.



Samantha Floreani (photo), program lead at Digital Rights Watch Australia, told *VICE* that the government should consider the fact that most age verification technology isn't all that accurate, and is easily bypassed with the help of a VPN (virtual private network).

"Online age verification is not the same as flashing your ID at the bottle shop. Almost all of the current ways to verify a person's age online require them to upload extra personal information, to use invasive and error-prone facial recognition technology, or, in this case, to interact with a government agency," Floreani said. <https://tinyurl.com/2msnf8ac>

Federal govt prepares to spy on citizens

Welfare recipients who don't update their employment or relationship status could suffer covert spying as Services Australia – infamous for Robodebt – brings in a new regime of bureaucratic terror to ramp up secret surveillance by private investigators.

Based on previous experience, there will be serious harm to vulnerable individuals.

Services Australia is advertising for private eyes to undertake optical and covert surveillance from July 2022. They would also tail and monitor possible partners of benefit recipients.

Recipients suspected of defrauding the support system could be monitored in secret by investigators using cameras while locations could be bugged to determine movements and patterns by the recipient.

Presumably, all Services Australia's efforts will focus on people identified by algorithms, which were the root cause of disaster for hundreds of thousands of Australians previously.

A year ago the federal government lost a class action suit over its problematic debt recovery program, known as "Robodebt", forcing it to pay nearly \$2 billion back to about 430,000 recipients.

The program raised compliance notices against more than 430,000 current and former welfare recipients using an "income-averaging" system to spread a person's reported taxable income across every fortnight of the year. – Canberra Times 21 Feb 2022

Law Council wants new privacy right to sue

In its submission to the review of the Privacy Act 1988 (Cth), the Law Council of Australia has come out in support of a new statutory tort of serious invasion of privacy.

"If an individual is harmed by a serious invasion of their privacy – such as someone's private activities being watched or recorded, or private information like medical records being made public – there is currently no tortious right of action," Law Council of Australia President, Mr Tass Liveris, said.

"This limits a person's ability to pursue compensation or an injunction. Technological advances have increased the risk of these types of breaches, while limiting the capacity for our current legislative framework to keep pace."

The LCA stance backs the Australian Law Reform Commission's conclusion contained in its report '*Serious Invasions of Privacy in The Digital Era*', that the design of legal privacy protection must be sufficiently flexible to adapt to rapidly changing technologies and capabilities without needing constant amendments. <https://tinyurl.com/462aew63>

Election alert: South Australia goes to the polls on 19 March 2022

Will SA become next Human Rights Act state?

The Rights Resource Network of SA, led by Dr Sarah Moulds, is awaiting responses to their Election Question: *Do you support a Human Rights Framework for South Australia?* sent to candidates.

They have also been busy with other rights related projects, including:

- making a submission to the SA Parliament's COVID-19 Response Committee raising rights concerns, including those relating to protecting the right to vote during the upcoming SA Election;
- supporting Equality Australia's campaign with respect to the Religious Discrimination Bill; and
- making a submission to the federal inquiry, raising rights concerns relating to the experience of people on bridging visas in South Australia.

Other Network members are beginning work on two issues impacting the state:

- women's rights and consent to medical treatment (including in childbirth settings)
- victim's rights in sexual assault matters

Anyone who would like to research and brief on these issues can contact Sarah via CEO CLA.

'Police behaviour is the PITs', says former police integrity commissioner

NSW should stop the practice of police investigating themselves (PIT* – see **ODD SPOT**, below), a corruption guru said last month.

Former oversight commissioner of the Law Enforcement Conduct Commission (LECC** – see **ODD SPOT**), Patrick Saidi, said the state government must set up a special body to investigate the racing industry connections of senior police.

"A proper and adequate investigation should be carried out so that either their conduct is condemned if it occurred and if it's wrong or inappropriate, or they may be proven to be completely innocent and above-board," he said. "That would be far preferable than the police investigating themselves."

Saidi called for an independent investigation into what he described as "serious allegations".

"There's very little doubt, given the inherent dangers of involvement in the racehorse industry and indeed the gaming industry generally, that declarations should have been made," Saidi said.

"Whether it be Mr Fuller or the head of any agency, disclosure is a very important part of maintaining the integrity of an organisation."

He was commenting on an ABC investigations report that recently cited NSW Police Commissioner Mick Fuller (photo) had failed to disclose his involvement in racing syndicates which included people profiting from contracts with the NSW Police.



A web of at least five other police force leaders joined with high profile, police-connected business names as well as newspaper and sporting personalities in racing syndicates. The story, with all its personal links and fortuitous connections (including to the ex-policeman husband of a current NSW Police assistant commissioner) has all the hallmarks of a throwback to the dark days of NSW some 40-50 years ago. <https://tinyurl.com/57yyab4f>

Former top NSW cop misses racing possie

The ABC news story (above), by Sean Rubinzstein-Dunlop and Dylan Welch, opens with the claim that the former police commissioner was in line to have a big, formal say in running racing in NSW.

The story forced the government to abandon the idea, the ABC later reported.

"Former police commissioner and Racing NSW board hopeful Mick Fuller did not declare to the state government his co-ownership of racehorses with two wealthy businessmen who became embroiled in criminal investigations or won lucrative police contracts.

"An ABC investigation into Mr Fuller's gambling and racing interests has discovered he submitted no conflict of interest declarations to the government until last year, raising concerns he breached anti-corruption rules."

Fuller was one of NSW's highest-paid public servants, earning more than \$665,000 a year as the head of Australia's largest police force, from 2017 before retiring (in January 2022) after a 34-year career in law enforcement.

The story says "a businessman who co-owned a racehorse with Mr Fuller went on to win a \$3 million catering deal with the NSW Police.

"Mr Fuller told the ABC he had not 'breached any policy' by not declaring the shares," the story said.

However, the ABC quotes NSW MP David Shoebridge (Greens MLC) as saying Fuller's insistence he did not breach any rules "comprehensively fails the pub test".

"The fact that the most highly paid bureaucrat in the state, a former commissioner of police, can't see a conflict of interest when it's staring him in the face, I think that's a very troubling matter," Shoebridge told the ABC.

"On any view of it, it's a breach of his obligations to list actual and potential conflicts of interest."

The ABC claims Fuller was among a cadre of high-ranking NSW Police Force officers — mostly from Sydney's Sutherland Shire — referred to within the force as the "Punters Club" due to their love of gambling, horse racing and rugby league.

ODD SPOT: Is it the PITs, or does such police behaviour give you the PIP?

*What Saidi calls the 'PITs', CLA calls the 'PIP' – Police Investigating Police (see items above). We have campaigned against it for most of the past decade. By any other name, the practice has a track record of condoning errors, omissions, failure to abide by the law, cheating and lying (see below), physical and sexual abuse including in police domestic violence cases, as well as other major and minor misbehaviours by police throughout Australia, CLA says. None are transparently investigated, acted upon or reported.

** The inelegantly-named LECC replaced the more accurately-name Police Integrity Commission in NSW.

More twin tales of police chase ending in death

The father of an Aboriginal boy was told two different stories by police about whether they were chasing him, or not, as his son lay terminally ill in Royal Prince Alfred Hospital last month, according to the ABC.

The first version, said Lachlan Wright, was from a senior police officer who told him that his son, Jai, was being chased by police before the unmarked police car turned in front of the teenager, causing him to fall off an allegedly stolen motorbike in inner-Sydney Alexandria.

Lachlan Wright said he then had a meeting with a police investigator who told him there had been no police

"pursuit" (it, chase) and that his son had lost control of the motorbike before running into the unmarked police car which was parked on the road.

Sydney City Police are self-investigating the circumstances.

Jai's family is calling for an independent investigation at arms-length from the NSW police force.

"Any parent wants to know how their little boy has died," Lachlan Wright said. "To be an independent investigation, you can't be a police officer. You can't be a police officer investigating other police officers. That just doesn't make sense to me.

"That's my kid. I am never going to see him again. I just want to know the truth." <https://tinyurl.com/m3yv5t98>

in the February *CLArion*, we reported that NSW Police had provided two similarly contradictory stories about a police car chase between Williamsdale and Bredbo, south of Canberra, when a 50-year-old man crashed.

If police told the truth, there would never be two versions of any police chase death. "Infuriating, senseless, deliberately sanctioned police violence on the roads, which appears to be on the rise," was one comment on the increasing number of police chases around Australia.

New lying allegations against police

Victoria Police have been newly riven by further allegations of widespread corruption in their ranks, following on but separate from the Lawyer X Royal Commission.

Almost 90 criminal charges about lying on oath stem from accusations against a police sergeant who was until recently a director of the state's police union.

Some 15 Victorians will have to be let out of jail, have their current cases abandoned, and/or be compensated by the state, according to investigative journalist Nick McKenzie, writing in *The Age*.

The investigation is into allegedly corrupt activities of veteran police officer Calum McCann. Other long-serving officers have been suspended.

McCann is facing 86 offences, including conspiracy to pervert the course of justice, perjury and intimidating witnesses after integrity probes by the internal affairs unit, the Professional Standards Command.

Allegedly, while their investigation was under way, a small network of police tried to undermine the anti-corruption investigation into McCann and other police suspects. A detective-sergeant from PSC has been accused of working secretly to leak information to the inquiry targets: he was charged alongside McCann in October 2021 with misconduct in public office and conspiracy to access police information.

Four veteran officers alleged to have facilitated the allegedly illegal behaviour have also been suspended and may yet be charged with the offence of misconduct in public office, McKenzie reported. <https://tinyurl.com/yvs3w2rh>

PRISONS REPORT

State fails on prison reform through inspections

Queensland is going half-cocked into prisoner human rights, determined to spend bugger all on inspections at the longest-possible intervals between formal visits to jails.

That's the take-out of a parliamentary report recently tabled: the Legal Affairs and Safety Committee's examination of the Inspector of Detention Services Bill 2021.

"it is a depressing read," national prison reformer and CLA Vice-President Margaret Howkins says. "It consists of multiple pages

of excuses to stakeholders about why OPCAT recommendations can't be implemented."

OPCAT is the international prisoners convention, including mandatory jail inspections, to which Australia has agreed and against which individual jurisdictions are fighting with all their might to avoid implementing.

"No lessons whatsoever are being implemented from the failures of prison inspectorates in other states," Howkins said. The Bill is a lazy, waffly, minimally \$\$ cheap attempt at providing a spot of time for Queensland's Ombudsman to hire a sidekick to drop into a prison... occasionally.

"There is no mandate to fix or even address specific cruelties, merely an instruction to foresee what could be improved to forestall mayhem so nothing rebounds on the government. Fail-fail-fail."

[Legal Affairs and Safety Committee—Report No. 21, 57th Parliament—Inspector of Detention Services Bill 2021](#)

Caged kids endure 40 degree heat without relief

A West Australian children's prison has been accused of human rights violations so dire that a Perth judge would rather send 17-year-olds to a maximum-security prison for adults.

There have been increasing reports before WA courts that Banksia Hill Detention Centre's staffing shortages have forced 10 to 17-year-olds into repeated lockdowns for 22 hours a day in the Intensive Supervision Unit (ISU), known as "the cage" due to concrete walls, wire roofing and no natural sunlight.

WAtoday journalists Aja Styles and Lauren Pilat reported that the Aboriginal Legal Service of WA would investigate lodging a civil lawsuit over human rights violations and breaches of the Young Offenders Act.

Last month, the President of the Children's Court, Hylton Quail, granted the wish of a 17-year-old boy to serve his time at Hakea Prison, an adult remand facility in Perth's south, rather than return him to WA's only juvenile jail.

National Suicide Prevention and Trauma Recovery Project volunteers Gerry Georgatos and Megan Krakouer, who were called in to de-escalate a riot last September, saw "a lot of the kids in the ISU and there was at least eight cells".

"Boys in ISU were lucky to get half an hour sunlight, so they're in there the whole time," Georgatos said.

"The back of Banksia is worse than any other back of a prison of any adult prisons – it's the smallest, the darkest and the most isolating. It's cruel."

Stiles and Pilat reported that over summer, with no fans in their cells, the children at Banksia Hill have been unable to sleep through Perth's record-breaking 11 days of 40C heat. <https://tinyurl.com/45yp9vsb>

'Treating damaged child like animal', says court

Referring to the case of a 15-year-old boy suffering severe trauma, court president Quail said the child spent Christmas in solitary confinement during a heatwave that hit 42 degrees, breaching state law.

Quail said the boy spent 79 of 98 days held in a "fishbowl" cell at Banksia Hill Detention Centre, where he wasn't even given the right to exercise or breathe fresh air for 33 of those days.

"When you treat a damaged child like an animal, they will behave like one and if you want a monster this is how you do it," judge Quail told the court.

See nothing, know nothing, do nothing

Banksia Hill is a tinderbox, the WA prison officers union says.

The Community and Public Sector Union warned the Department of Justice about the dire situation in June last year. Last month, CPSU branch secretary Rikki Hendon said officers

were at the lowest staffing levels in over a decade. On a recent weekend there were only 26 staff available, whereas it requires at least 65 staff to run a shift safely, the union said.

When asked about children locked down for days on end, after the facts were cited in the Perth Children's Court, Corrective Services Minister Bill Johnston said he had no knowledge of it happening. <https://tinyurl.com/4u3ayjz5>

Will the Minister and/or the WA government be held corporately responsible when the deaths start occurring at Banksia Hill, CLA asks?

The disgrace in WA prisons is being elevated to federal level, with Senator Dorinda Cox (Greens WA) inspecting jails and detention facilities in the Pilbara recently. She believes the situation has escalated to where a case could be taken to the UN Human Rights Commission that WA and Australia was not meeting international human rights standards,

AUSTRALIAN BRIEFS

Timorese PM coming to support Collaery



Prime Minister Taur Matan Ruak (photo) contracted COVID last month, delaying a trip to Australia to personally convey the unanimous support of the Timorese Parliament to lawyer Bernard Collaery. Collaery is charged in relation to Australian spooks bugging of the Timor Leste Cabinet rooms while the tiny, new,

impoverished nation was negotiating an oil and gas deal over jointly owned assets with Australia. – personal note, Sister of St Joseph, Dr Susan Connelly, Feb 2022

Alleged DV non-report causes action...against top cop

Queensland Police Assistant Commissioner Brian Codd has been suspended, but is still being paid, according to the *Courier Mail* for failing to report a domestic violence claim involving someone close to him. Codd was appointed to the new Domestic, Family Violence and Vulnerable Persons Command in March 2021. <https://tinyurl.com/mr43hxzu>

Archer is first coroner

Ken Archer has been appointed the first dedicated coronial magistrate in the ACT. A barrister since 2003, he was president of the ACT Bar Association 2016-18.

CLA activities for February 2022

Western Australia:

A 48-minute made for an by CLA documentary on 'Trauma' is nearing completion. The project highlights the impact of police misbehaviour coupled with inhumane prison conditions – both against a backdrop of mall-administered "justice".

CLA Vice-President Margaret Howkins is also producing a monthly 'CLA News' 4-5 minute audio report of main civil liberties and human rights issues to the state's citizens, with most of the information sourced from the monthly CLArion newsletter. Email the secretary if you would like to listen to it.

Tasmania:

CLA is investigating apparent threats by Centrelink to cut people's welfare benefits if they join in fund syndicates so they can stand for public election.

Also, CLA continues to wait on the report of the Tasmanian Law Reform Institute into a proposed Human Rights ACT for Tasmania. CLA's HRA campaign team have provided full background materials from the ACT campaign to help TLRI come up with final recommendations.

We wish Richard Griggs and family the best after three of the four (including two young children) tested positive for Covid-19 last month, and went into home isolation...just as a building renovation project started on their house.

INTERNATIONAL

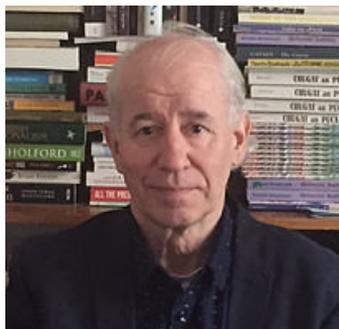
Irish want end to 'special' courts

The Irish Council for Civil Liberties is calling for abolition of 50-year-old "special" courts where you can be charged on minuscule grounds and convicted without benefit of jury by three judges specially selected by the state.

With overtones of the secret trials in Australia of Witnesses J and K, it is "a stain on our justice system and has no place in a peaceful democracy", the ICCL says.

Speaker at a recent rally, Osgur Breatnach (photo) was one of four men wrongfully accused and convicted – after confessions extracted under torture – of carrying out the Sallins Train Robbery in 1976.

"To this day, there has never been a public inquiry into how this dreadful miscarriage of justice occurred," the ICCL says.



A "Special Criminal Court" sits with three judges, appointed by the government from a selective panel of 19, and no jury..

Cases involving terrorism and organised crime offences are automatically brought before a Special Criminal Court for trial. Other offences are brought before or sent for trial when the Director of Public Prosecutions certifies that the ordinary Courts are, in her opinion, inadequate to secure the effective administration of justice and the preservation of public peace and order.

An appeal against a conviction or sentence by the Special Criminal Courts can be brought the Court of Appeal.

ODD SPOT: Cops enjoy on-job sex privileges

London Met police have paid \$432,000 for one of their undercover officers to have had sex for 15 months.

The sum was awarded to Kate Wilson, deceived into an intimate relationship between Nov 2003 and Feb 2005 by police officer Mark Kennedy.

She only found out he was a policeman in 2010. He had been tasked to spy on the environmental activist group she belonged to.

The Met has admitted 12 other officers did something similar. An inquiry set up in 2014 under former judge John Mitting is still sitting, and will hold more hearings in May 2022. <https://tinyurl.com/2p9b3yf2>

NZ opts for new crime bracelets

The NZ Corrections department wants the ability to monitor offenders' sweat for drugs and alcohol through its electronic monitoring bracelets.

The department will switch to new equipment next month, after signing a contract worth more than \$150m with UK company, Buddi.

When seeking bids for the contract, it requested technology that could continuously monitor a wearer's perspiration.

Programme Director David Grigg said the new bracelets would not track wearers' sweat at this stage, but Corrections wanted the option in future. <https://tinyurl.com/888ppa96>

Killer robots rule, OK?

The UN has failed to agree on a ban on killer robots, also known as autonomous weapon systems (AWS).

A recent UN Security Council report on the Libyan civil war says they may have been used there.

The 40-year-old UN Convention on Certain Conventional Weapons debated the question of banning autonomous weapons at its once-every-five-years review meeting in Geneva in December 2021, but didn't reach consensus on a ban.

AWS are robots with lethal weapons that can operate independently, selecting and attacking targets without a human involved in the decisions. Militaries around the world are investing heavily in autonomous weapons research and development. The USA alone budgeted US\$18 billion for autonomous weapons between 2016 and 2020.

"Meanwhile, human rights and humanitarian organisations are racing to establish regulations and prohibitions," according to Prof James Dawes of Macelester College, Minnesota, writing on *The Conversation*.

"Without such checks, foreign policy experts warn that disruptive autonomous weapons technologies will dangerously destabilise current nuclear strategies, both because they could radically change perceptions of strategic dominance, increasing the risk of preemptive attacks, and because they could be combined with chemical, biological, radiological and nuclear weapons themselves." <https://tinyurl.com/mt28bxf>

CCRC helps reveal massive Post Office wrongful conviction scandal

The Criminal Cases Review Commission in England and Wales helped untangle a major scandal that saw hundreds of sub-postmasters jailed and convicted for cheating the Post Office.

The CCRC referred 39 linked cases for appeal. They all related to former Post Office workers who blamed the Post Office's Horizon computer system for the offences for which they were convicted such as theft, fraud and false accounting. The basis of the argument was that each prosecution had amounted to an abuse of process and arose from issues with the Post Office's Horizon computer system.

These Post Office cases informed CCRC submissions about the issues with private prosecutions, The CCRC annual report says. "We have expressed concern about the status of an organisation that purports to be a victim and is also responsible for investigations and prosecutions." (Shades of the Robodebt problem in Australia, CLA says).

The proportion of older people (aged 60 and over) in the criminal justice system has trebled in the last 20 years, the CCRC report revealed. Older people now represent the fastest growing section of the prison estate and currently represent 11% of the prison population. – annual report CCRC 2020-21

It's the poor taxpayers what foots the bill...

UK taxpayers will now have to pay as much as \$1.9 billion in compensation to former Post Office workers wrongly convicted of theft due to the government agency's defective Horizon IT system.

The system, which was installed by the Post Office and supplied by Fujitsu, falsely suggested there were cash shortfalls, leading to 736 unsafe convictions for theft, fraud and false accounting in what is "one of the biggest miscarriages of justice in British legal history", according to a news report.

The Post Office has said it cannot afford to foot the huge cleanup bill for the scandal. The government, the service's only shareholder, confirmed the taxpayer would step in to fund the compensation payouts. <https://tinyurl.com/muj7htrz>

Court rules against media

The British Supreme Court (equivalent of Australia's High Court) has ruled against the media and for a US businessman named as being under investigation, but not charged.

Bloomberg News used a confidential letter which revealed a government regulator was prying into an allegation of corruption and bribery by the man's company. A series of judgments have now strengthened privacy law in the UK, according to the *Guardian's* media editor, Jim Waterson.

"The ruling clearly establishes that individuals suspected of criminal wrongdoing have a reasonable expectation of privacy until charged. It also makes it harder for journalists to publish stories based on confidential documents, even if the leaked material alleges serious wrongdoing" Waterson wrote. <https://tinyurl.com/ycyfnu36>

International briefs

'False narratives are a greater threat than terrorists'

A (US) National Terrorism Advisory Service bulletin released last month identified *the number one terroristic threat to Americans* as "the proliferation of false or misleading narratives, which sow discord or undermine public trust in US Government institutions." Australia's ASIO chief should take notice.

Republicans reinterpret 'riot' to mean 'free speech'

The Republican Party last month officially declared the 6/1 (6 Jan 2021) zealots' siege and attack on the US Capitol building, and the events that led to it, were "legitimate political discourse." After vacillating for a year – party leaders at first condemned the Capitol attack and President Donald Trump's conduct, then shifted to downplaying and denying it – the Republicans have now passed a formal resolution slamming Republicans Liz Cheney and Adam Kinzinger (photo) for taking part in the House investigation of the assault, saying they were participating in "persecution of ordinary citizens engaged in legitimate political discourse." <https://tinyurl.com/mke975hs>



British govt acts as BBC programming booster

The British government is asking the High Court to stop the BBC broadcasting a story about national security and breach of confidence that includes revealing the identity of a British spy. An interim hearing is due to take place on 1 and 2 March. "It will take place in public until – and to the extent – there's an order made that any part of the hearing should not be in public," judge Martin Chamberlain has ruled. <https://tinyurl.com/2p9dnw8n> Wonderful publicity for the doco, CLA notes: wonder if that's what the government intended?

Kiwis want to ban killer robots

NZ's Minister of Disarmament and Arms Control Phil Twyford has announced that NZ will push for new international laws to ban and regulate use of killer robots, known as autonomous weapons systems. Once activated they can select and kill people without further human intervention. "The prospect of a future where the decision to take a human life is delegated to machines is abhorrent and inconsistent with NZ's interests and values," Twyford said. "This is an issue with significant implications for global peace and security, and I'm optimistic New Zealand, alongside the international community, is well placed to push for action."

Manage greed to stop drug overdoses

2020 marked the deadliest year yet in the North American opioid epidemic: more than 100 000 drug overdoses were

recorded in the USA, nearly 76 000 of them attributed to opioids, up about 30% over 2019; in Canada, deaths rose 67% in a single year, to more than 6200. As investigative journalist Patrick Radden Keefe suggested in his book, *Empire of Pain*, "The opioid crisis is... a parable about the awesome capability of private industry to subvert public institutions". *The Lancet* said: "The risk of global spread is greater where COVID-19 has ravaged health systems, where pain needs in resource-limited settings go unmet, and where corporations look for new markets, but are left to self-regulate. To manage pain, greed must be managed as well." <https://tinyurl.com/yc7xw5ab>

Creative people suffer most with Covid

Creative industries worldwide lost 10 million jobs in 2020, says a new UNESCO report released last month. Artists' incomes disappeared due to Covid restrictions and most activity being done digitally. "All over the world, museums, cinemas, theatres and concert halls have closed their doors ... what was already a precarious situation for many artists has become unsustainable, threatening creative diversity," said Audrey Azoulay, the director-general of UNESCO. The global value of creative industries contracted by more than \$1.4bn in 2020, according to the report, which calls on governments to strengthen labour protection for artists and bring in a minimum wage for cultural workers. Ireland is introducing a basic income for arts and culture workers. <https://tinyurl.com/24a4pm3p> Ireland: <https://tinyurl.com/27k6n5v7>

'CIA more dangerous than America's enemies'

The Central Intelligence Agency has been secretly collecting Americans' private information in bulk, two Democrats on the Senate Intelligence committee revealed last month, according to *The Guardian*. Ron Wyden of Oregon and Martin Heinrich of New Mexico alleged that the CIA has long concealed the secret acquisitions from the public and Congress. Justin Amash, a former Republican congressman, said last month: "Rogue agencies like the NSA, FBI, and CIA are a more serious threat to liberty in America than the enemies they claim to protect us from." <https://tinyurl.com/373fhxjy>

No more forced converts

New Zealand has banned practices intended to forcibly change a person's sexual orientation, gender identity or gender expression, known as conversion therapy. The new law passed with 112 'yes' votes, with just eight votes against. Parliament received 107,000 public submissions on the bill, the highest number ever. <https://tinyurl.com/wkm29s22>

DATES:

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 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 26 Feb 2022.

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