

Parliament powerless to amend or stop draconian Covid rules

As of 3 March 2022, 675 separate legislative instruments have been made in response to COVID-19...without the Australian Parliament having a say.

The parliament cannot amend the regulations, disallow them or overturn some of their provisions: it is powerless. All power rests in the hands of the Minister for Health.

The table with the 675 regulations is contained in the 'Scrutiny of COVID-19 instruments' webpage of the Senate's Standing Committee for the Scrutiny of Delegated Legislation.

As the Scrutiny Committee itself points out: "During a human biosecurity emergency period, the Minister for Health may determine emergency requirements, or give directions, deemed necessary to prevent or control the entry, emergence, establishment or spread of the relevant disease in Australian territory".

His determinations "are **not** subject to disallowance by the Parliament". (highlight is in the original).

The Scrutiny Committee also points out that "many other Acts allow delegated legislation to be made relating to the COVID-19 pandemic". In other words, parliament has no control over hundreds of other rules and regulations made on the run.
<https://tinyurl.com/yjrb4a6d>

CLA believes the enabling legislation – "emergency" Acts, biosecurity Acts, etc – urgently need overhaul to ensure that:

- they are all human rights compliant,
- they are subject to scrutiny by parliament, and
- there is a clear, simple, easy and quick way for citizens to appeal against unforeseen draconian laws, regulations or interpretations by bureaucrats of all such laws.

CLA on YouTube:

CLA has filmed WA Senator Dorinda Cox explaining why national and WA justice reform is needed, 40 years on from the last Royal Commission into Indigenous injustice, and why Australia (and WA) need their own Human Rights Acts to underpin a fair and equitable society.

The filming was part of a 48-minute, made-for-TV-etc documentary being produced under a team led by CLA Vice-President Margaret Howkins "and crew"...with the crew contributing their significant expertise at no cost.

The "etc" part of distribution plan includes MPs, schools, police stations and training colleges plus a host of other outlets. Fuller details available shortly. Link to CLA YouTube presence:
<https://www.youtube.com/channel/UCg-lcxqo9tCwkqbAE6YUQdA>

The link also takes you to new online news - see later item.

11,000 massacred in Australia...and counting

Researchers have documented 416 colonial frontier massacres between 1788 and 1930, of which 403 were of Indigenous people and 12 were of colonists.

A total of 11,174 people died in the massacres, of whom 10,944 were Aboriginal people or Torres Strait Islanders. A total of 152 were colonist victims massacred by Indigenous people.

The long-term study is being done under an Australian Research Council grant. <https://c21ch.newcastle.edu.au/colonialmassacres/>

How is the new 'Right To Appeal' law faring?

South Australia first introduced the new right to appeal in 2013, Dr Bob Moles (photo) reports.



In the eight years since then, there have been three (3) successful appeals and five (5) unsuccessful appeals.

The successful cases include one in which the person had been imprisoned for over 20 years for a crime which never occurred.

One of the unsuccessful appeals involves a man who has been imprisoned for over 38 years. He has eight of the countries leading experts to say the evidence at his trial was false and misleading. He was still refused leave to appeal. That case is now proceeding to the High Court of Australia.

Tasmania introduced the new right to appeal in 2015. In the six years since then there has only been one application, which was unsuccessful. It involves a notorious case (Sue Neill-Fraser) which has been the subject of documentaries, podcasts and much media attention.

"There are many who take the view that if that case cannot be overturned there is no hope for any others," Dr Moles says.

Victoria introduced the new right to appeal in 2019. In the three years since then there have been three (3) successful appeals (two of which arose from the Lawyer X scandal), and four rather hopeless applications. There has been one additional case as a referral by the Attorney-General under the previous procedure.

There are links in each of the briefing papers to each of the cases referred to, and links to the papers discussing the need for Australia to establish a Criminal Cases Review Commission, at Dr Moles's *Networked Knowledge* website: <http://netk.net.au/AppealsHome.asp>

Figures confirm judicial criticism

The figures confirm what former High Court judge Michael Kirby said in an article in the CLJ – (2019) 43 Crim LJ 299 page 305 – that without some form of review commission, the obstacles facing a person wrongly convicted, whilst imprisoned and without external support, are overwhelming.

"I think there is also sufficient evidence to show that, even in some of the most deserving cases, the intermediate appeal judges (in Australia) are far more resistant to acknowledging deficient cases than their UK counterparts," Dr Moles told CLA.

Networked Knowledge and CLA are about to embark on a new campaign for a Criminal Cases Review (CCR) system for Australia, modelled on the England Wales CCR Commission.

Waterford nails downslide in PS relationships

Long-time political commentator in Canberra, Jack Waterford, last month summed up how the people and the government were being prised apart by trends in politics which are leading to the wrong type of "public" servants (PS).

"We have an increasingly sophisticated and educated workforce, less used to operating in authoritarian environments, and rightly sceptical about the calibre of military management and leadership as well as uncomfortably aware of how politicians have been politicising the use put to defence, without sufficient resistance from military leadership," he wrote.

"That's something compounded, of course, by evidence of the capture, by particular interest groups and ideological sects, of some intelligence, security, counter-terrorism and police functions.

“Service to the nation, like public service, is supposed to be something altogether different from being a praetorian guard to and striking force for the political interests of the government of the day.”

He also wrote about “the grossly over-staffed senior officer corps”.

Waterford highlighted “the spectacle of the relevant minister calling on homeless and possession-less people to contact Centrelink via the internet, or by the notoriously incompetent, inhuman and inhumane phone service”.

He also referred to the “public relations embuggerances” of government in general.

ODD SPOT: 18 months after report, no-one charged (other than McBride)

The Brereton Report – published on 19 Nov 2020, after an investigation lasting four years – found evidence of 39 unlawful killings of civilians and prisoners in Afghanistan covered up by the ADF.

Brereton found 25 Defence people contributed to the homicides, including some as accessories.

The unlawful killings started in 2009, but most occurred in 2012 and 2013 according to the report.

Australia’s current Governor General, David Hurley – “the standard you walk past is the standard you accept” – was Chief of the Defence Force from July 2011 to June 2014. He held an investigation into allegations to the same effect, and found nothing.



No-one has yet been charged...except, of course, the whistleblowing lawyer

David McBride who refused to allow the ADF to cover up vehemently alleged murder by soldiers. https://en.wikipedia.org/wiki/Brereton_Report

SIC committee heads down Kafka-esque path

Parliament’s SIC (security and intelligence committee) group is now recommending ways to “protect (university) students from threats to their freedom of speech, association and physical safety”.

The SIC committee, under its formal name of Parliamentary Joint Committee on Intelligence and Security (PJCIS), is just one step removed from imposing restrictions, censorship and mandatory reporting on the nation’s brightest students, and on their lecturers and institutions.

You can tell what they have in mind when their form of “protecting” involves “documenting and reporting incidents of harassment, intimidation and censorship resulting from foreign interference, as well as new penalties for foreign interference activities on campus, including reporting on fellow students to foreign governments”.

The SIC group has also called for:

- A risk-based audit which samples Australian Research Council grants over the past decade to determine exposure associated with participation in talent recruitment programs, noting the Thousand Talents Program is one amongst many.
- Adequacy of existing penalties, including grant fraud, should also be investigated.
- Banning government employees from participating in talent-recruitment programs.

- Training on national security issues for university staff and students.
- Communicating Foreign Influence Transparency Scheme requirements to foreign student associations operating at Australian universities and investigating possible cases of non-compliance.

Committee chair Senator James Paterson said that, while the sector has made progress in addressing national security concerns, foreign interference on campus remains a serious threat, and more work has to be done to safeguard our students and education institutions.

CLA has warned about how this committee virtually only consults the spook community, and therefore is disappearing up its own fundamental and ideological hates. – PJCIS media release 25 March 2022 Definition: Kafka-esque: unnecessarily complicated and frustrating experiences, especially with bureaucracy.

See report on PJCIS ignoring civil liberties, including CLA, under ‘CLA main activities for March’, below.

CLA Oz Day letter asks for fair deal for the ‘other viewpoint’

One of CLA’s Australia Day letters in 2022 was to the Prime Minister and the Leader of the Opposition.

We asked for a security committee in the next parliament chaired by a human rights advocate, with a majority of human rights members. Not basically a specially-selected group of spook cheerleaders, who have comprised the SIC group in the past.

No reply from either, yet.

Fatal shootings reach record numbers

The Australian Institute of Criminology has found that recently fatal police shootings had reached a record high since documentation began in 1989-1990.

The data showed there had been a 78% increase in fatal police shootings Australia-wide between 2018-2019 and 2019-2020.

Of the 164 police shootings since 1989-1990, 10 victims were Aboriginal or Torres Strait Islander people, representing 6.1% of incidents despite Indigenous people accounting for 3.3% of the Australian population.

There have been 500 Aboriginal and Torres Strait Islander deaths in custody in Australia since a royal commission aimed at preventing Indigenous deaths in the justice system was handed down in 1991. <https://tinyurl.com/2p8uk4cp>

Mass poisoning of Indigenous people attempted mere 40 years ago

Someone tried to mass poison Aboriginal people in Alice Springs 40 years ago, in 1981 – that’s one of 110 newly unearthed Indigenous massacre sites identified by academics last month.

The University of Newcastle’s Colonial Frontier Massacres Digital Map Project’s final findings added a further 113 sites, bringing the tally to 415 places where at least six people were killed in anti-Indigenous attacks since colonisation. Most sites were in WA and the NT, and half the massacres of Aboriginal people were by police or government forces.

Dr Robyn Smith, who worked on the project, told the *National Indigenous Times* an attempted poisoning massacre in 1981 killed two Aboriginal people, and put 14 others in hospital.

“A bottle of port or sherry was deliberately left on the grounds of John Flynn church, in Alice Springs, a known drinking place,” she said. “A group of 16 people started to drink from this bottle – two died and 14 were admitted to hospital.” <https://tinyurl.com/2p9fe83r>

Judge, barrister criticise how ‘forensic experts’ are allowed to give ‘evidence’

A Queensland judge and barrister have found holes in expert witness evidence and testimonies in several criminal and civil cases, urging defence lawyers to identify the qualifications of witnesses.

In a joint paper delivered to the Australian Defence Lawyers Alliance Symposium last month, Justice Peter Davis, with Joshua Jones, raised concerns with several cases across the state and questioned the viability of expert witnesses.

They probed, for example, evidence provided by a pathologist in one of Queensland’s biggest crimes, the murder of 15-year-old Janet Phillips in Brisbane’s bayside suburb of Wynnum in 1987.

In his address, judge Davis questioned that while the pathologist was an expert in forensic pathology and was clearly qualified to give opinion evidence about stab wounds, he lacked expertise in other fields, notably whether Phillips’ killer Lloyd Clark Fletcher raped her before or after her death.

“What was his expertise though to conclude that smudges of blood would be on the body if intercourse had occurred after the stabbing? He clearly wasn’t an expert in the field of intercourse with bleeding bodies,” the judge said.

The paper warned about significant over-reach and expertise over-claiming both by the supposed experts, and the dangers of judges allowing such false ‘expertise’ to be heard by juries, who would not have the skills to appreciate where the boundary to expertise lay.

Law gets first major overhaul in 135 years

Queensland’s Justices Act 1886 is about to be comprehensively reviewed for the first time in 135 years.

Retired District Court judge Michael Shanahan will lead the historic review of the Justices Act 1886.



“The Act is used every day in Queensland and is fundamental to our criminal justice system,” AG Shannon Fentiman (photo) said.

“This review is well overdue, it’s been 135 years since the Act was introduced. While the Justices Act has been amended and added to over the years, it has not been comprehensively reviewed, and many of its provisions carry the form and style of another era,” she said. <https://tinyurl.com/2p84b6rx>

The reality, CLA says, is that much Australian law is in a similar situation. “The entire state of justice in Australia needs reviewing...such a review has never been done,” CLA CEO Bill Rowlings said.

State may open sperm donor records

The rights of donor-conceived Queenslanders to access genetic information about their donors to manage their health and personal wellbeing will be considered by the Queensland Parliament.

Queensland AG Shannon Fentiman has asked Parliament to refer the sperm donor records issue to the Legal Affairs and Safety Committee for inquiry.

“Conception using donated sperm, eggs or embryos has given countless Queensland couples and individuals the precious gift of starting or extending a family,” the AG said.

“For those people who are donor-conceived, it is important that they can access information about their genetic identity to better understand their origins and to manage their health appropriately.

“That’s why the Legal Affairs and Safety Committee will examine this issue carefully, to determine whether a statutory register of donor conception information should be established.” <https://tinyurl.com/yckreyfn>

Police enlist people dobbing power

Queensland Police have introduced a new technology that lets people easily upload digital evidence such as video footage and photographs.

It will be specifically used so people can upload vision of car hooning.

Queensland claims Australia’s toughest and strongest anti-hoon legislation. Penalties for hooning include fines of up to \$5338 and jail for up to 6 months: hooners also face having their vehicle impounded or immobilised.

In 2021, Qld Police impounded, immobilised or confiscated the number plates of more than 4000 vehicles for hooning-related offences. <https://tinyurl.com/nhba89vv>

Health safety and speed stacked against privacy

Victoria wants to centralise the medical records of every patient in the public health system for simplicity and reliability of access, leading to greater safety and speed.

Opponents stress the dangers of a centralised system in terms of hacks and leaks, and say patients should have the right to opt out of the scheme, which is similar to those in NSW and Queensland.

Victoria’s Health Legislation Amendment (Information Sharing) Bill will permit the sharing of all health data through a central database. Doctors are generally in favour, saying that paper medical records in GPs’ offices and on local servers are probably much more open to abuse or misuse than a heavily-guarded state system.

Anyone caught abusing the data or accessing it without authorisation could be imprisoned for up to two years. <https://tinyurl.com/2p8s496p>

Patten wants more justice ‘reasonableness’

A Victorian parliament report has recommended the state change to a more modern and rehabilitation-focused approach to justice.

“We need urgent work to improve the way we deliver justice, to ensure community safety, and to find modern solutions to reduce offending and reoffending,” the chair of the Legislative Council Legal and Social Issues Committee, Fiona Patten (Reason Party, photo), said.



The committee heard evidence that there had been a 57.6% increase in Victoria’s prison population in the decade to 30 June 2020. Changes to the state’s bail system in 2013, and again in 2017-18 had led to a massive rise in the number of people on remand, almost tripled to just under 3000 by 2019.

The committee wants courts to impose home detention orders as an alternative to jail, and a review of the impacts of the Act’s mandatory sentencing provisions.

Report: <https://www.parliament.vic.gov.au/lsc-lc/article/4534> A 6-minute video report is also available. – media release 24 March 2022.

Lawyer gets off scot free, despite RC criticisms

The Royal Commissioner and former top Queensland judge, Margaret McMurdo said the conduct of the head of Victoria

Police's legal department "fell short of the commission's expectations for the most senior lawyer in Victoria Police".

"The Commission considers that he should have ensured that adequate disclosure was made to the DPP much earlier and much more comprehensively than it was," she said about his role in the Lawyer X informer scandal.

But the police legal boss, Fin McRae, has been absolved of wrongdoing by his peers – the Victorian Legal Services Board and Commissioner in a judgement CLA and most independent observers find puzzling.

Commissioner McMurdo headed the RC into the Management of Police Informants in 2018 after high-profile defence barrister Nicola Gobbo was revealed as a long-term police informant, even when defending high profile criminals in court.

It was during those proceedings she called out McRae's behaviour and formally referred him to the legal 'referee'.

The regulator released a statement saying after a thorough examination it found Mr McRae's conduct did not constitute unsatisfactory professional conduct or misconduct, and no disciplinary action would be taken. <https://tinyurl.com/yckkxeke>

...but not all people receive benign adjudication

Former lawyer Barbara Etter, who worked pro bono (for free) has been formally reprimanded by the Supreme Court of Tasmania's acting judge, Brian Ross Martin, over claims brought against her by the Legal Profession Board of Tasmania (LPBT).

Basically, for a lay audience, her "sins" were that she cared too much and put the interests of her clients well ahead, and above, of the interests of legal formality.

Despite extensive findings in Etter's favour, judge BR Martin ruled against her in one of the three claims, for her in one, and against her in one of seven other points in another, separate claim. In awarding costs – usually a good indicator of how parties behave, relatively, in such matters – judge BR Martin ruled Etter should pay 25%.

The LPTB, however, got its knickers well and truly in a knot. It has appealed, both the decision and the costs award...despite itself being funded from the bottomless pit of Tasmanian taxpayers.

Just how badly are the board's knickers knotted? In its formal appeal document, the LPBT has accused Judge BR Martin of being "illogical or irrational".

Now, to a lay person, that sounds like contempt of court. Perhaps the LPBT could be charged by the head judge of Tasmania, Alan Blow himself of the Sue Neill-Fraser forensic fiasco, with contempt?

PS: We call him Brian Ross Martin because there is/was a judge Brian Frank Martin. Strangely, one after the other they were the head judges in the NT, BF preceding BR.

DV criminals to get tracked

State and territory governments will share in \$20 million in federal funding to trial GPS monitoring of high-risk domestic violence offenders.

The funding is part of a \$104 million technology-focused package to help reduce family, domestic and sexual violence, Justin Hendry reported in *itnews*.

High-risk and recidivist domestic violence offenders will be the focus of the trials, which will be based on the Tasmanian Department of Police, Fire and Emergency Management's Project Vigilance.

Project Vigilance, jointly funded by the Tasmanian and federal governments, saw up to 100 GPS devices used to track and monitor repeat, high-risk family violence offenders. The trial ran from November 2018 to July 2021.

The technology was used to monitor the real-time location of both offenders and victims, creating "exclusion and buffer zones". <https://tinyurl.com/3nsvjynh>

Commissioner retires...blighted by 'Hine-sight'

At last, after 12 years, there's a chance that more positive reform might come to Tasmanian Police when the Commissioner of the past 12 years, Darren Hine, ends his stint in September 2022.

Like our comments (above) on David Hurley, now GG and ex-Chief of the Defence Force, Hine will have to live with the mistakes "on his watch" made by officers under his control. He will also forever be responsible for the gross error of a major systemic issue, forensics, he has endorsed and managed that is sub-optimal for justice in the state, and the perception of justice being seen as well as being done.

For example, the Sue Neill-Fraser case which CLA – and hundreds of mainland police, lawyers and commentators, plus tens of thousands of average Joes and Joannas – believes is a wrongful conviction and jailing, so far for 12 of 23 years, should haunt his retirement golf and skittles games.

Equally, allowing Forensic Science Service Tasmania to be inside TasPol is a justice mistake of the highest order. How can FSST's claims of 'operational independence' from Tasmanian Police be believed, when the body gets 'rum and rations' from TasPol and is listed in their police organisational chart?

FSST tells a very large 'white' lie online

FSST (see above) says on its website that it is "impartial and operationally independent of Tasmanian Police...(because it reports to the Secretary of the Dept of Police and Emergency Management".

Guess who is now, and will be in future, the Secretary of that Dept? The same person who is Police Commissioner.

Here is the wording in the current advertisement (24 March 2022) for Hines's replacement:

"The appointee (as TasPol Commissioner) will have concurrent appointments as Commissioner of Police and Secretary, Department of Police, Fire and Emergency Management."

FSST, by its own website, exhibits clearly the "independent impartiality" of its character., and demonstrates how it has a penchant for using weasel words to obfuscate.

Even in its public face, it tries to pull the wool over people's eyes. For all intents and purposes, as far as the lay person and people charged with crimes involving forensics are concerned, FSST is a an agency under the control of the Tasmanian Police Commissioner and the TasPol administration.

Failing to create FSST's true removal in all ways, and perceived independence, from TasPol is one of the failings of Hine's 12 years, CLA believes.

Jacquie Petrusma, Minister for Police, Fire and Emergency Management, said in a retirement puffery media release: "Commissioner Hine is held in the highest regard in Tasmania and across Australia."

Dear Jacquie: No, he isn't. Not by many people. Signed CLA.

ODD SPOT: Drug dog cost Justice nearly \$1m

WA's Department of Justice will pay a fine of nearly \$1m after a drug detection dog attacked its handler.

The fine of \$900,000 plus \$6404 court costs is the biggest ever for breaching workplace safety laws in the state. The department has been convicted of breaching these laws three times.

A drug detection officer had been undertaking normal dog handling at Hakea Prison in December 2018 when the German shepherd attacked, breaking the officer's left wrist and causing

cuts to both arms. The officer, with 30 years dog handling experience, needed 120 stitches and faces at least four surgeries, including to insert screws and wires. <https://tinyurl.com/mxmvd7tk>

Prisons in two jurisdictions in turmoil

NT: A disturbance at the Alice Springs Correctional Centre last month involved at least 50 prisoners. NT Corrections Commissioner Matthew Varley said staff were cleaning up after a group of inmates started fires and caused damage to doors, locks and windows in accommodation blocks at the facility.

United Workers Union NT Secretary Erina Early, whose union represents corrections officers, said at least 56 prisoners (out of just over 600) had been relocated to the police watch house after the disturbance.

"The staffing levels at Alice Springs have been at crisis level for a very long time and when you have something like this, it really hits home," she said. <https://tinyurl.com/za8srkbe>

WA: Ten prisoners have been charged in Perth over a riot at Acacia Prison in Wooroloo late in February 2022. Fires were lit, causing significant damage to various building as well as property damage and graffiti.

Those charged are all males aged 18 to 26 years. They have been split up between Acacia, Hakea and Casuarina Prisons.

In August 2021, several prisoners barricaded themselves inside the medium-security Acacia Prison (capacity 1500), forcing armed Special Operations Group police to reclaim control of the privately-operated men's prison. It is run by Serco under a long-term contract. The WA government has recently re-negotiated the Serco contract, despite it being against Labor Party policy.

AUSTRALIAN BRIEFS

FOI gets a top man at last

Leo Hardiman PSM QC has been appointed as the national Freedom of Information Commissioner, a post left vacant for years. He was previously deputy chief general counsel and national leader of the office of general counsel with the Australian Government Solicitor, a group legal practice many hundreds strong inside the Attorney-General Department. In the FOI job, he'll face a 40% increase in cases in the past year and a 419% increase in FOI complaints to the Office of the Australian Information Commissioner since 2018.

Driver licences go digital

Queenslanders may lead Australia in going digital with their driving licence in 2023, with a contract to deliver the Digital Licence App to Queenslanders now signed after a successful trial of the app in the Maryborough-Hervey Bay area in 2020. The next stage of the roll out would see the Digital Licence App trialled in the Townsville region later in 2022. Transport Minister Mark Bailey said Thales ANZ would finalise the development and delivery of the app, which will go statewide next year. <https://tinyurl.com/bddfcht4>



Police: how much, how many?

Funding for police services (Australia) 2020-2021 \$14.1 billion
Number of operational police 2020-21: 73,000 Source: ROGS
<https://tinyurl.com/5a54ktb4>

Brassy barristers

"Our profession boasts a generous variety of personalities but with a tendency towards the bolder end of the spectrum. If we made music rather than submissions, most of us would be in the brass section with many jockeying to play the trumpet." – Philip Walker SC, Blackburn Chambers (barristers) ACT

Members (and other relevant) letters:

Why were we in Afghanistan?

I have been following the Ben Roberts-Smith case assiduously. After every update I ask myself the same question: What were the ADF doing in Afghanistan in the first place? – John Rodriguez, Florey ACT.

CLA's main activities for March 2022

Human Rights

Activity has amped up on two human rights legislation fronts during March.

As the federal election nears, CLA is working hard behind the scenes to lay the best-possible groundwork for early implementing of a national Human Rights Act (HRA) if supporters are elected as MPs.

Since the previous CLArion report, we've met with senior political figures, bar association representatives, and others on possible federal legislation.

The work CLA began and is continuing on creating new, model human rights legislation in the ACT is also entering a busy and critical phase.

A 500-person petition which was successful presented to the ACT Legislative Assembly has generated formal hearings by the parliament's Justice and Community Safety committee. That committee has asked for submission by 7 April before holding hearings in person three weeks later.

To help prepare our submission, during March the CLA HRA campaign team has met with the ACT Attorney General Shane Rattenbury, ACT Human Rights Commissioner, Dr Helen Watchirs and her senior legal staff, as well as the head of the ACT Civil & Administrative Tribunal (ACAT), Graeme Neate.

We have also encouraged the ACT Bar Association to make a submission, and we understand one has been authored by Dr Doug Hassall.

Photo CLA's HRA campaign manager Chris Stamford, Dr Kristine Klugman and Bill Rowlings (right) meeting with ACT Human Rights head, Dr Helen Watchirs (centre), in March 2022, about a new 'No Rights Without Remedies' proposal to further advance rights and liberties in the ACT.

WA: CLA produces the news, and doco

WA's group leader, CLA Vice-President Margaret Howkins, has confirmed the usefulness of converting CLArion stories into YouTube news-reads by producing the second trial edition of *CLARION NEWS*.

Read by new newsreader, Bianca Gimondo, the audio

items with a focus on WA are being appreciated by CLA members before we go out to a wider audience. Video link: <https://youtu.be/P309PkapYSI>

...and, as reported on page 1, CLA has filmed WA Senator Dorinda Cox explaining why national and WA justice reform is needed, 40 years on from the last Royal Commission into Indigenous injustice, and why Australia (and WA) need their own Human Rights Acts to underpin a fair and equitable society.

The filming was part of a 48-minute, made-for-TV-etc documentary being produced under a team led by CLA Vice-President Margaret Howkins "and crew" ...with the crew contributing their significant expertise at no cost.

WOSP:

The CLA campaign entitled 'Watch Over Security and Policing' continues in the background with research while campaign leader, Dr Tony Murney, is heavily engaged in trying to secure more places and visas for Afghanis who supported Australia while we were engaged in the Afghanistan conflict for nearly two decades.

We made a major submission to the SIC group, the Security and Intelligence Committee (the PJCIS) in late February...and were ignored again.

There were 10 submissions to the 'Review of National Security Legislation Amendment (Comprehensive Review and Other Measures No. 1) Bill 2021'.

But, when it came to public hearings, the SIC invited only the Law Council of Australia, not CLA or the other civil liberties group which made a submission. So, who did it hear from?

It listened to all the usual security pushers and promoters of more repressive laws: IGIS, the ineffective security monitoring agency of government; the Dept of Home Affairs, which runs surveillance (including electronic) as well as "intelligence" and national security policy; ASIO, the domestic spy agency; the Australian Signals Directorate, the eyes and ears in the sky who can monitor, and has access to, all the phone and data they like, including anywhere worldwide; and the Office of National Intelligence.

Referring to CLA, its report said:

It is noted that Civil Liberties Australia, *Submission 7*, did not address the Bill in any substantive way. It did raise a question about the desirability of the proposed amendments in Schedule 8

What CLA's submission did do was address the entire system of jiggery spookery that lies behind such a Bill...but, of course, the PJCIS won't address the regime, just individual Bills.

It's head is buried so deeply in the sand that it cannot possibly breathe in, or hear fresh ideas, or even contemplate taking an overall mindful view of changed "terror" circumstances.

Even with the Law Council of Australia, the PJCIS is dismissive because "what would the Law Council know?":

- The Committee notes that the Law Council could not have had access to sensitive information on how operations are run by the intelligence agencies. This is not a criticism of the Law Council in any way, it is simply stating the fact that they would not have certain information available to them. (Report, page 41)

The know-alls of the SIC committee have no interest in hearing what groups like CLA, who more represent the people, want to say about the entire security system. They only want to hear from the echo chambers of the spy cellars and secret cadres inside 'The Community', as the 6000-7000 spooks and eavesdroppers, mostly occupying unmarked building in Canberra, call themselves.

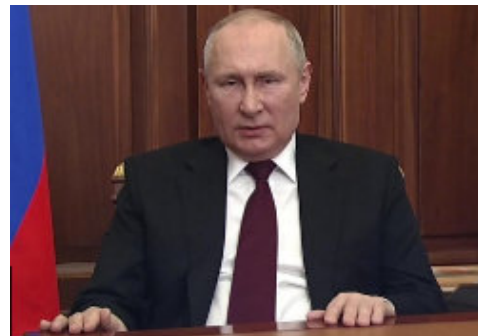
Why, for example, does ASIO get its time to respond doubled because it fails to meet deadlines? Surely, the failure within ASIO should be addressed, and it should improve its performance, not have the response time stretched, CLA argues. No-one has ever said ASIO is under-staffed: quite the opposite.

INTERNATIONAL

Free speech is first war casualty

Russian President Vladimir Putin has called for a "self-purification" to rid his country of anyone who questions his invasion of Ukraine.

Putin went on TV (photo) to excoriate Russians who do not back him in the attack on Ukraine, blaming NATO nations for using instigators to stir up opposition to the war.



"[Russians] will always be able to distinguish true patriots from scum and traitors and will simply spit them out like a gnat that accidentally flew into their mouths," he said.

"I am convinced that such a natural and necessary self-purification of society will only strengthen our country."

The speech appeared to be a warning that his authoritarian rule – which had already grown tighter since the invasion began on 24 February 2022, shutting down Russian news outlets and arresting protesters – could grow even more repressive.

Authorities announced the first known criminal cases under a new law that allows for 15-year prison terms for posting what is deemed to be "false information" about the Ukraine war. That law itself was stiffened considerably late in March when President Putin introduced a new law of jail terms up to 15 years for publishing "fake" information about any of Russia's actions abroad, anywhere. <https://tinyurl.com/2p8sjd74>

World's top cop accused of torture, barbarism

French prosecutors have opened a preliminary inquiry into alleged torture and barbarism by the head of international police, Emirati General Ahmed Nasser al-Raisi, according to *Al Jazeera*.

In November 2021 al-Raisi was elected president of Interpol. Al-Raisi's "day job" is as a high-ranking official at the United Arab Emirates interior ministry.

The Gulf Centre for Human Rights claims al-Raisi is responsible for the inhumane treatment in the UAE of Ahmed Mansoor, an opponent of the Emirati government. GCHR lodged its complaint in January 2022 with the French anti-terror prosecutors unit whose brief includes handling crimes against humanity.

Allegations of torture had already been levelled at al-Raisi by human rights organisations when he ran for president of Interpol, saying they feared the agency would be at risk of exploitation by repressive regimes.

There were also accusations that Abu Dhabi had abused Interpol's system of "red notices" for wanted suspects to persecute political dissidents offshore, as they face instant arrest and jailing – without any proof of misbehaviour – on arrival at Interpol-supporting countries where they can spend months or years awaiting an extradition hearing.

The UAE donated \$72m to Interpol in 2017 – almost equivalent to the required contributions of all the organisation’s 195 member countries which amounted to \$90m in 2020. <https://tinyurl.com/mwx7udca>

CIA recruits bashed detainee for training

A naked detainee at a secret CIA detention site in Afghanistan was used as a living prop to teach trainee interrogators, who lined up over two hours to take turns at knocking his head against a plywood wall, leaving him with brain damage, according to a US government report.

Details of the torture of Ammar al-Baluchi, a 44yo Kuwaiti, are in a 2008 report by the CIA’s inspector general, declassified now by lawyers seeking an independent medical examination for the man.

al-Baluchi is one of five defendants before a military tribunal at Guantánamo Bay charged with participating in the 9/11 Twin Towers aircraft crashes plot. The case has been in pre-trial hearings for 10 years, mired in a dispute over legal admissibility of testimony obtained by torture. <https://tinyurl.com/2p9x3srx>

UK liable for quizzing detainee under CIA torture

UK intelligence services, who allegedly asked the CIA to put questions to Abu Zubaydah as they tortured him in “black sites”, were subject to the law of the UK and not that of the countries where he was being held, the England and Wales Court of Appeal has ruled.

Three appeal judges decided the man, who was subjected to extreme mistreatment and torture at secret CIA “black sites” in six different countries, may sue the UK government in England.

He was captured in March 2002 in Pakistan, and claims that between 2002 and 2006 he was unlawfully rendered by US agents to six named countries, then in 2006 he was rendered again to Guantánamo Bay, where he has been held without trial ever since. <https://tinyurl.com/4rheaub8>

Medical treatment is child abuse, says Texas

Texas has declared medical treatment for trans-gender children is child abuse.

At least three children and their families have been reported to the Texas Department of Family and Protective Services (DFPS) for alleged abuse or neglect based on gender-affirming care for minors.

State Attorney General Ken Paxton issued a non-binding legal opinion in February that transgender medical care for minors, such as puberty blockers and hormone treatment, is child abuse: Texas governor Greg Abbott told DFPS to investigate parents of trans children.

He also ordered state agencies to investigate licensed medical facilities prescribing gender-affirming treatment for trans youth, and said doctors, nurses and teachers should report such medical care.

The American Civil Liberties Union and Lambda Legal are suing Abbott and the state’s child welfare agency to stop the state’s prying into parents seeking gender-affirming care for their children.

A Texas state district judge granted a temporary restraining order early in March, and an injunction blocked state actions until a full hearing is held. <https://tinyurl.com/4usttfa5>

Control, not funding, is the police problem

Law enforcement spending across the USA’s 50 largest cities rose slightly as a share of general expenditures to 13.7% in 2021 according to Bloomberg CityLab, even as many cities cut spending in other areas due to Covid-19.

Since the start of the pandemic, violent crime is up in big cities and small towns across America. But the solving of crime by

police is down: just 40% for violent crimes, like murder, by Miami-Dade Police Dept, one of the biggest in the nation. By contrast, the M-DPD budget went from \$US707m in 2020 to nearly \$US800m in 2022,

“In short, there is no pressing, national need for greater police funding. If anything, police departments and their allies have skilfully used anxiety over “defund” (public campaigns) to successfully lobby for even larger budgets, despite the striking inability of many police departments to solve crimes and clear murders,” according to Jamelle Bouie in the *NY Times*. <https://tinyurl.com/yc275v4b>

“There does remain, however, a pressing, national need for police accountability. In theory, the police are subordinate to elected officials. In practice, police departments in many areas exist beyond democratic control.

“Few police officers are held accountable for killings. Even fewer have to answer for more common forms of abuse and bad behavior. And too many cops act with impunity, as if they were above the laws that govern the rest of us. We don’t need to fund the police (American law enforcement has more than its fair share of cash); we need to control them.”

Licensing, requiring renewals, is the answer

Police officers should be individually licensed, with renewal every five years by examination, an independent review of policing in the UK recommends.

The Strategic Review of Policing in England and Wales, chaired by Sir Michael Barber and carried out by the Police Foundation think tank, has 56 recommendations urging radical reform to police culture, skills and training, and organisational structure. Police chiefs said the report was “thorough and thought-provoking”.

Among the recommendations are a “licence to practice” for police officers, administered by the College of Policing, the professional standards body. Every five years, every police officer would have to demonstrate professional development through relevant qualifications, passing an interview, or presenting a portfolio of activities and achievements.

Any officer who fails the assessment could receive further support including mentoring, but successive failures would see their licence removed and they would no longer be able to work, the report proposes.

Barber also calls for improved training and support for sergeants and inspectors so they are equipped to provide stronger supervision, tackle poor conduct and call out bad behaviour among officers.

Among other recommendations are the creation of a new Crime Prevention Agency and the merger of back-office functions across the 43 police forces of England and Wales, which Barber argues would save hundreds of millions of pounds. <https://tinyurl.com/4jwmcccd>

Officers tasked to call out sexist and misogynistic police behaviour



Policing attracts some men who want “to exert and coerce” vulnerable people, the new UK national police lead on violence against women, deputy chief constable Maggie Blyth (photo), has admitted.

Six months into her new position, she urged police officers on International Womens Day 2022 to create a “call-out culture” to tackle sexist and misogynistic behaviour.

Blyth heads the campaign to prevent violence against women and girls (VAWG) at the National Police Chiefs’ Council. She

said that policing, like other jobs with access to power, could attract people who wanted to “use their power in a corrupt and criminal way”, the *Guardian* reported.

“There will be some attracted into working in policing, because of the powers that it offers them, the powers to exert and coerce other people, particularly vulnerable individuals. I think we shouldn’t be naive to that,” she said. Fellow officers had to be “upstanders, not bystanders” and feel supported and obliged to take action if they witnessed unacceptable behaviour.

She insisted that an increasingly vocal and confident majority of police officers wanted to change discriminatory cultures – 42% of new recruits were now women, a record level, while 11.8% were from minority ethnic backgrounds.

“I see a workforce really angry and upset at the misogynist, racist, disrespectful behaviours of some of their colleagues and I see officers really wanting to demonstrate how different they are,” she said.

The UK government has dictated that VAWG be given the same importance as counter-terrorism and serious organised crime as a strategic policing requirement. *Guardian UK* <https://tinyurl.com/yckr9p3z>

Justice goes out of sight

Journalists in the UK are protesting a new regime which will eliminate most public hearings in magistrates courts with the first allegations from prosecutors, seeing the defendant in the dock, and knowing contemporaneously if the defendant admits or denies a crime, why any bail conditions were imposed, and why the crown or magistrates’ court was chosen for the case moving forward.

First court appearances would become online and administrative only.

The Judicial Review and Courts Bill will allow first magistrates’ court appearances to provide information about what happened in online plea and allocation hearings, but not as immediately as if they were being covered live.

Evening Standard courts correspondent Tristan Kirk has organised a protest letter from 100 journalists and most of the major mainline media outlets in the UK to try to stop the parliament passing the legislation. <https://tinyurl.com/yuadh3zp>

‘Take a knee’ man backs more autopsies

A group founded by the former NFL quarterback Colin Kaepernick, known for being the first sportsman to “take a knee” against racial injustice, is offering free secondary autopsies for families of people in the USA who died under police-related circumstances.

With certified autopsies costing about \$6000 or more, families have had to rely on the official inquiry conducted by a medical examiner or coroner. Second autopsy advocates say that forensic pathology is not an exact science: medical experts can have differing opinions sometimes coloured by bias.

Not having the means for an independent autopsy — a second opinion, in medical speak — prohibits one’s access to equal justice, supporters of Kaepernick’s initiative said.

“There is definitely a deep-seated subconscious bias — and in some instances a conscious bias — on the part of medical examiners vis-à-vis police-related deaths,” said Dr Cyril H. Wecht, a famous US forensic pathologists and one of the board-certified examiners who will conduct autopsies as part of this effort. <https://tinyurl.com/ykfk5s3n>

International briefs

Trailing your uterine inquiries

US online magazine *Mother Jones* is warning women that: ‘When it comes to reproductive rights, your digital trail matters

more than you think.’ Article by Lil Kalish, 16 Feb 2022 <https://tinyurl.com/54hzt62c>

Despite promise, Saudis continue killing spree

Saudis locally executed 81 in one day recently, for reasons and “crimes” ranging from murder to taking part in human rights demos. The toll is higher than in 2019, when 37 were killed, and in 2016, when 47 were executed. Crown Prince Mohammed bin Salman, the country’s de facto ruler, had earlier promised he was overhauling the nation’s justice system and limiting use of the death penalty. Of course, Saudi and its proxies since 2014 have “executed” hundreds each month for years in neighbouring Yemen, including women and children, through bombing raids and famine in a religion-inspired war, CLA says. <https://tinyurl.com/bvmt2am4> <https://tinyurl.com/bdd25d38>

Female benched for first time

Radwa Helmi has become the first female judge to sit on the bench of Egypt’s state council. Helmi was among 98 women appointed in 2021 to join one of Egypt’s main judicial bodies, which set up in 1946 as an independent body to adjudicate in administrative disputes and disciplinary cases. Women gained the right to vote and run for public office in 1956, but their personal rights have remained overlooked. Most women have no authority over their children or their personal lives, with such responsibility often delegated to male guardians, under sharia-inspired law. Women currently hold about a quarter of cabinet posts and 168 seats in the 569-member parliament. AFP/The Guardian UK <https://tinyurl.com/4nna3wkp>

Police let themselves off domestic violence

Critics have accused UK police of a failure of leadership in tackling internal domestic violence wrongdoers. The Bureau of Investigative Journalism has revealed survey results showing that 1080 out of 1319 British police officers and staff who had been reported for alleged domestic abuse during a three-year period were still working. Just 36 or 2.7% were dismissed, while 203 either resigned or retired or left for other reasons.

Disciplinary actions, which can include written warnings or suspension, were taken against 120 officers and staff, 9.1% of the total. The conviction rate of police officers and staff for domestic abuse in the UK is 3.4%, which is lower than the 6.3% in the general population. <https://tinyurl.com/2p9heyrr>

Terror threat level wound down

The terrorism threat level in Northern Ireland has been lowered from “severe” to “substantial” for the first time in 12 years. The NI Secretary, Brandon Lewis, said: “This is the first time the threat level has changed since 2010 and shows the significant progress that Northern Ireland has made, and continues to make, towards a more peaceful, more prosperous and safer society.” The level is set by the Joint Terrorism Analysis Centre (JTAC) and MI5. Australia’s threat level is “Probable” where it has been since 2014. <https://tinyurl.com/yckhvjuk>

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 any other originating 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 March 2022.

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