

## First plank laid for proactive HR Acts with teeth

Civil Liberties Australia is celebrating a significant win in the ongoing battle throughout Australia to ensure all jurisdictions have an active, accessible, workable Human Rights Act (HRA) which protects the average citizen.

Last month, the nation's only Human Rights Minister, Tara Cheyne of the Act, tabled the *Human Rights (Complaints) Legislation Amendment Bill 2023*. It is expected to pass soon, as both the ruling Labor-Greens coalition and the Opposition Liberals support it.

The absolute fundamental principle that the new law incorporates is 'No Rights Without Remedy'.

ACT citizens – who believe their human rights spelled out in the ACT HR Act have been breached – will be able to have a complaint heard and resolved under three pillars:

- for conciliation, to the ACT Human Rights Commission; and/or
- for a legal and binding ruling, to the ACT Civil and Administrative Tribunal (ACACT); and/or
- for finality, to the Supreme Court of the ACT.

From 2024, the 20th anniversary of the ACT Human Rights Act (the first in Australia), the conciliation option will be open to all: previously, the conciliation option applied to only claimed disability breaches.

From probably 2025, the ACAT option will be open, with a further "appeal" claim available to the Supreme Court likely (the details of ACAT staff, and appeal rules, will be worked out during 2024).

Currently there is an existing right to take a case to the Supreme Court (but not to ACAT). However, the direct route to the top court is expensive and very time extensive.

## CLA expects six-month resolution, hopes for expansion to other states

We expect complaints under the new ACT HRA could be resolved within six months in most cases.

First avenue of appeal will be to the bureaucratic area causing the complaint, which will probably have 30 days to resolve the matter.

If no resolution, the complaint can go for conciliation to the ACT HR Commission (ACT HRC), for resolution within a further three months in most cases.

If a complainant wants to pursue the matter further, and the ACT HRC approves doing so, the matter could be lodged with ACAT immediately. Depending on the type of case, and precedent, and ACAT workload, the matter could be resolved within a total elapsed complaint period of six months.

Complex cases may well take longer, of course.

## 'No Rights Without Remedy' provides model for national HRA

CLA began a strategy to achieve a national HR Act, including a 'No Rights Without Remedy' (NRWR) core, in 2019. It began with an ACT push, and involved an ongoing initiative in the federal sphere.

The first part of the strategy was to lock in NRWR in the ACT as part of its review of its Act and celebrations of the Act's 20th anniversary in 2024.

We engaged with key local groups to achieve the 500 signatures needed to raise the issue on the agenda of the Justice and Community Safety Committee of the ACT Legislative Assembly. The groups were: ACT Council of Social Services, Canberra Community Lawyers, Australian Lawyers for Human Rights, the Human Rights Law Centre and Civil Liberties Australia, with the conceptual support of the ACT Human Rights commission.



The JACS committee, chaired by Liberal Peter McCain (photo), and with Labor member Dr Marisa Paterson and Greens member Andrew Braddock, invited submissions, held a series of hearings and produced a unanimous recommendation for the changes proposed to go ahead.

The Labor-Greens government decided to support the proposals.

CLA hopes that Victoria, whose equivalent Act began in 2006, and Queensland (2020), will follow the ACT lead. Come 2024, the NRWR principle will be in place and operating in at least one jurisdiction, providing a model approach for a proposed federal HRA.

## Federal HRA hearings continue: CLA to appear

The federal Attorney-General gave a reference to the Parliamentary Joint Committee on Human Rights (PJCHR) to inquire into the existing “framework” of HR protections operating at the federal level.

The current framework was established in 2010, after the Brennan Inquiry in 2009 held 64 consultations throughout Australia on the possibility of a HRA...and recommended Australia have one. Instead, the then-Labor federal government brought in a series of lesser initiatives comprised stepping stones for the future (one of which was the formation of the PJCHR, and the requirement that all Bills before parliament include a statement of compatibility with human rights).

Now, PJCHR chair Josh Burns (Lab, Macnamara, Vic) is investigating whether the framework should be expanded and, particularly, whether Australia should have a HRA. The committee reports by 31 March 2024. It has received 331 submissions – including one from Civil Liberties Australia – and has held hearings in Melbourne, Brisbane and Sydney, as well as one preliminary hearing in Canberra. CLA will appear at a Canberra hearing of the PJCHR on 20 October 2023.

We will highlight developments in the ACT over its HRA and, particularly, that a model now exists for a federal HRA which includes NRWR.

## AHRC also plumps for NRWR model

The Australian Human Rights Commission produced a major report in early 2023, *‘Free and Equal’*, calling for a federal HRA.

The HRC’s proposed model would protect the human rights of all Australians, and provide ways to seek justice if people’s rights are breached in some way in keeping with the NRWR principle.

It would increase the responsibility that governments have, to consider how their laws, policies, and actions might affect people’s human rights, and provide options for people to challenge decisions and opportunities to go to court if their issues can’t be resolved through conciliation.

The report included the need for NRWR provisions in close keeping with the new ACT HRA provisions.

<https://humanrights.gov.au/free-and-equal>

*Apart from the national push, promoted by CLA, for a Human Rights Act for Australia, the biggest two running issues nationally are linked, strangely, by Walter Sofronoff KC, former Queensland judge.*

## Sofronoff 1 – FORENSICS

“Forensic science remains in an intractable state of crisis”.

– this is a statement in an article about the *‘Sydney Declaration’*, by Claude Roux (photo), Centre for Forensic Science, U. Technology Sydney (President of the International Association of Forensic Sciences); Chris Lenard, School of Science Western Sydney U; Alistair Ross, Victorian Institute of Forensic Medicine and eight other world forensic science leaders, 21 January 2022. <https://tinyurl.com/344u5fzz>

It is important to note that development of the Sydney Declaration article was “equally contributed to by several others,” most notably Simon Walsh (of the AFP) and Linzi Wilson-Wilde (then of Forensic Science SA).

The Sydney Declaration is a definition of forensic science and seven fundamental principles that emphasise the pivotal role of the trace as a vestige, or remnant, of an investigated activity. The *Sydney Declaration* also discusses critical features framing the forensic scientist’s work, such as context, time asymmetry, the continuum of uncertainties, broad scientific knowledge, ethics, critical thinking, and logical reasoning. It is argued that the proposed principles should underpin the practice of forensic science and guide education and research directions. Ultimately, they will benefit forensic science as a whole to be more relevant, effective and reliable, the statement says.

<https://www.sciencedirect.com/science/article/pii/S0379073822000123>



## Wright lowers boom on ‘massive error’ missed by inquiry

Kirsty Wright (photo), one of a very few forensic scientists to speak up and out about the abysmal state of forensics in Australia, has called for re-opening of the Sofronoff inquiry into forensic problems in Queensland.

Retired judge Walter Sofronoff was much praised for his extensive inquiry and recommendations for improvement to the state’s major laboratory and legal-scientific system.

However, in hindsight Sofronoff's work was a monumental failure...according to Wright, a Defence scientist.

In a lay nutshell, the Qld lab was inundated with forensic samples to test. They looked for an 'automatic' machine to 'condense' the samples for testing. They chose one, but altered the way it operated from the recommendations in the manual.

The result was apparently a 92% reduction (that is correct: 92% reduction) in the 'quality' of the sample able to be checked for DNA. This reduction was reported to be "comparable" to the manual method, which was what gave the "100%" quality.

In analysing what went wrong in the Qld lab, Wright alleges, Wilson-Wilde completely missed the fact that what was described as a "comparable" sample outcome in the executive summary of the report was in fact specified as a 92% reduction in the body of the report.

The outcome is that results from tens of thousands of DNA samples are questionable, which means – like in SA – murders and rapists have probably gone free and some people convicted have been innocent, she believes, as reported extensively in *The Australian* in late-September. <https://tinyurl.com/yc8hrfdk> Article 25 Sept 2023 *The Australian* See also: <https://tinyurl.com/5n8942j6>

*It is important to say that Sofronoff himself was not responsible for the alleged failure of his forensics report, CLA says, as he relied on people advising him of technical details. In items that follow, the problems that are resulting from the DPP–AFP contretemps, failure to disclose information and other matters in the ACT may well be at least partly ascribed to Sofronoff himself.*

## Sorting out Qld forensics mess to take decades: CLA

It will take decades to sort out the Qld forensics mess, CLA believes.

For example, a 30-year failure of forensics in South Australia, roughly from 1970 to 2000, has still not been assessed, corrected and put behind that state. Likely innocent people are in jail (Derek Bromley is one) and murderers and rapists have got off scot-free (including possibly people who bashed children to death).

No-one has even tried to address the problems caused in SA, which are ongoing – the Bromley 'murder' case from 40 years ago is currently on appeal in the High Court of Australia. (The High Court itself has also refused to investigate the long-standing forensic problem in SA, which is a failure of the High Court in relation to its own operating principles).

The SA situation is relevant, because the forensic scientist installed to "fix" Queensland this year, Linzi Wilson-Wilde, was Director of Forensic Science SA over the two years before taking up her new Qld post.

Wilson-Wilde showed no public indication of tackling the historic forensics problem in SA: it is not obvious why she should then be chosen to tackle the long-standing Qld problem, which dates to at least 2007.

## Wilson-Wilde appointment throws up questions

The situation may be even more puzzling.

An online source (Standards Australia) says she "spent more than 15 years with various state and federal police forces in Australia and NZ as a forensic science and criminalistic expert...She has also spent many years working at crime scenes as a blood stain pattern interpretation expert.

"In 2008 she became General Manger of the National Institute of Forensic Science at Australia New Zealand Policing Advisory Agency and took over as Director in 2015.

"She has been instrumental in the development and publication of forensic science standards for the Australian and International community, investigating new DNA techniques and national approaches to forensic education and training."

It is notable that her NIFS period – NIFS is one of the oversight bodies for forensics in Australia – overlaps significant deleterious changes in standards being implemented in Queensland, as well as alleged police laboratory problems in the Sue Neill-Fraser case in Tasmania and a wholesale disaster in a WA pathology lab culminating in a major inquiry in 2017. What did NIFS do?



Wilson-Wilde (photo) came up through the police side of forensics, working for several police bodies. It is police who control forensic science in Australia. They should not: it isn't their expertise.

CLA called for a National Forensic Science Regulator and regulatory authority in an Australia Day letter in January 2023 to federal Attorney-General Mark Dreyfus. Along with other elements of managing security and policing matters, he handballed the CLA letter and the problems to Home Affairs, the AFP and a police forensic scientist.

At time of writing, the departmental secretary of Home Affairs, Mike Pezzullo, is stood down over an alleged propriety issue.

Wherever you look in relation to forensics in Australia, there is one conclusion:

“Forensic science – in Australia – remains in an intractable state of crisis”. – CLA and online sources

## **Dirty DNA linen gets a chance for a worldwide airing**

The problems with forensic science in Australian and worldwide should get a major airing in November when the 23rd Meeting of the International Association of Forensic Sciences comes to Sydney.

Held in conjunction will be the 26th Symposium of the ANZ Forensic Science Society.

The program shows a smorgasbord of issues will be discussed. CLA hopes they will include what to do about the wholesale mess in Australia...and will culminate in backing calls for a separate-from-police, independent, forensic science regulatory body.

Endorsing the Sydney Declaration – see above – is likely to be high on the agenda of the councils that run forensics in Australia and throughout the world.

Details: <https://tinyurl.com/344u5fzz> Conference program: <https://iafs2023.com.au/>

## **Sofronoff 2 – FAILURE TO DISCLOSE**

### **‘Sue-per’ party in the ACT: everybody lawyers up**

In the ACT, the self-same Walter Sofronoff was charged with acting as a Board of Inquiry (like a Royal Commission) into matters surrounding the Bruce Lehrmann trial which involved a sexual assault allegation by Brittany Higgins.

The trial was aborted when a jury member brought inappropriate material into the jury room. The ACT DPP, Shane Drumgold, decided the trial could not be re-started because of possible mental health issues in relation to Higgins.

Around that very basic and usual legal situation, all hell had broken loose in the lead-up to, during, and immediately after the trial.

The DPP accused ACT Policing, a branch operation of the AFP, of leaking to the defence. The defence accused the DPP of “failure to disclose”, or of not providing it with all the relevant evidence he possessed.

The Victims of Crime Commissioner in the ACT was accused of doing the wrong thing by walking into and out of court each day right next to the complainant...so that her very title could be interpreted as a judgement of sorts.

Sofronoff was due to deliver his report to the ACT Chief Minister, Andrew Barr, and the Attorney-General, Shane Rattenbury, when...

### **Sofronoff himself leaks copiously, he admits**

In one of the most naive judicial judgements CLA has seen, Sofronoff decided he could trust journalists by commenting on details to them directly during the inquiry, and by leaking – giving at least two of them advance copies of his report – before he had even given it to the ACT government..

Well, guess what happened? *The Australian* published the report’s juicy bits sooner than you could say ‘Rupert Murdoch’s a retiring proprietor’.

The ACT govt threatened to sue Sofronoff. Lehrmann sued. Sofronoff was reported to be considering suing. DPP Drumgold sued the ACT govt.

### **The case that keeps on giving gives to judge K**

A Victorian judge is being imported to the ACT in 2024 to adjudicate on what the former director of public prosecutions, Shane Drumgold, claims are wrongful findings.



The rebound legal action is a spin-off from the Walter Sofronoff Board of Inquiry’s damning findings in relation to the aborted Lehrmann-Higgins matter, its lead-up and wind-down.

The ACT’s head judge, NSW-import Lucy McCallum, said it was inappropriate for any local judge to hear the claim. Victoria’s judge Stephen Kaye will adjudicate.

Drumgold (photo) resigned as DPP after Sofronoff slammed his conduct in the case.

He wants Sofronoff's entire report quashed or, alternatively, that conclusions made in relation to him (Drumgold) be invalidated.

Drumgold, represented by barrister Dan O'Gorman, has withdrawn planned legal action against Attorney-General Shane Rattenbury. But there are probably half a dozen entities wing-waiting who could pop in a legal claim at any time, CLA observes.

NOTE: Drumgold was represented during the Sofronoff Board of Inquiry by Mark Tedeschi, the former NSW DPP.

Tedeschi's record includes prosecuting Tim Anderson, Kathleen Folbigg, and Gordon Wood, all of whom were later found to have been convicted in error. Other cases he prosecuted include Simon Gittany and Dr Brian Crickitt, both of whom have active wrongful convictions cases being worked up.

According to Wikipedia, Tedeschi has been criticised by the chief judge Murray Gleeson of the NSW Court of Criminal Appeal, for failure to check material, and by the same court by chief judge Peter McLellan for relying on fiction and dangerous reasoning, and because "the prosecutor reversed the onus of proof". The NSW Bar Council said that Tedeschi had sent emails to state prosecutors which presented a "fundamental misunderstanding of the independent role of prosecutors". – see Tedeschi Wikipedia entry.

### **Costs rising...**

The cost of the Sofronoff inquiry, and what follows? So far, many millions, probably \$7m or so.

Sofronoff, who had emerged smelling like a rose from the Queensland forensics inquiry, which now has an alleged odour around it, suddenly seems like he might need some from fresh aftershave personally.

All those jurisdictions throughout Australia where the AGs had said: "Check Sofronoff's availability next year" may be having cold feet.

Such is the state of the law, the legal system and justice in a nation that has not had a national inquiry into the state of justice, ever. CLA strongly recommends one for Mark Dreyfus's next term as AG, if the current federal Labor government is re-elected.

### **Blight has high quality to live up to**

Attorney-General Mark Dreyfus has appointed Jake Blight the fifth Independent National Security Legislation Monitor (INSLM).

Blight is an associate professor in the National Security College at ANU. He is a former deputy and acting Inspector-General of Intelligence and Security. <https://tinyurl.com/y3z868yc>

The outgoing INSLM, Grant Donaldson SC (photo), was appointed in 2020 and has done an outstanding job in holding a microscope up to some of the excessive demands of the security sector in Australia. It's ironic that the staff of the new INSLM is being boosted to eight people, based on the work and the workload that Donaldson achieved. Presumably Blight benefits as Donaldson retires exhausted.

CLA hopes Blight comes close to matching Donaldson for integrity, diligence, astuteness and outspokenness.



### **ODD SPOT: We all know the problem, so why can't SCAG fix it?**

"Participants noted the significant role that must be played by the Standing Council of Attorneys-General in achieving the justice Targets and Outcomes (10 and 11) under the National Agreement on Closing the Gap. Participants noted that Target 10 – to reduce the rate of First Nations adults in incarceration by at least 15% by 2031 – is going backwards, and that significant and transformational criminal justice reform will be required by all Australian governments to turn the tide on First Nations adult incarceration." – Communique (what SCAG calls minutes), SCAG April 2023 (Standing Committee of Attorneys-General of A and NZ)

### **More than 30 may be charged with war crimes**

The federal government has confirmed there are 33 active investigations into alleged criminal offences by Australian soldiers in Afghanistan between 2005 and 2016.

A four-year internal inquiry, conducted by judge Major-General Paul Brereton, found that 39 Afghan civilians were unlawfully killed by Australian special forces soldiers.

Only one Australian soldier, former SAS trooper Oliver Schulz, is before the court over his alleged conduct in Afghanistan. In March, he was charged with one count of the war crime of murder over allegations he shot dead father-of-two Dad Mohammad as Mohammad lay in a wheat field in the southern Afghanistan village of Deh Jawz in 2012.

## Roberts-Smith tries to restrict access to files

Victoria Cross winner Ben Roberts-Smith (BRS) is trying to prevent government war crimes investigators from accessing restricted and sensitive court files used in closed court during his failed defamation case. In the civil case, Judge Anthony Besanko ruled that newspapers, which BRS had claimed defamed him, had proven to a civil standard on the balance of probabilities that he was complicit in the murder of four unarmed prisoners while serving in Afghanistan, including kicking a handcuffed man, a father of six named Ali Jan, off a cliff before ordering him shot dead.

Roberts-Smith is appealing that decision to the full bench of the federal court, to be heard in February 2024.

The Australian War Memorial has installed a new 84-word plaque next to a Ben Roberts-Smith display to acknowledge he was found to be “involved and complicit in unlawful killings in Afghanistan” but “has not been charged” and is appealing. <https://tinyurl.com/3an44ud8>

## Gambling leads to suicide, report says

Gambling addiction has contributed to 184 suicides in Victoria over eight years, although the true figure could be much higher, a landmark study of coroner’s court data has found.

The research, led by Dr Angela Rintoul from Federation University and published in the Lancet Regional Health Journal, found the vast majority of cases involved men aged 17 and 44.

The Alliance for Gambling Reform’s chief executive, Carol Bennett, said the report demonstrated why gambling should be regulated like a public health issue rather than entertainment. “We must adopt a national public health approach to preventing gambling-related deaths consistent with the approach to other products that involve commercial determinants of health, such as tobacco, alcohol and other drugs,” Bennett said. <https://tinyurl.com/yc4fu2ja>

## Human Rights Ctee warns on privacy

Reporting on the Intelligence Services Legislation Amendment Bill 2023, the Scrutiny of Bills Committee is fighting a rearguard action for Australians to maintain their privacy.

“The committee considers it is unclear to what extent the privacy of Australians may be affected by defence officials engaging in ‘computer related conduct’ (for which this bill gives immunity from civil and criminal liability).

“As such it is not possible to conclude whether the remedies identified would be considered to be effective remedies under international law, and draws this to the attention of the minister and Parliament. “

– Scrutiny UPDATE, Report No 10 of the Parl Joint Ctee on Human Rights 13 Sept 2023

## Stand by for a drug solution test

On 28 October, new laws will come into effect that allow people in Canberra to possess small amounts of cocaine, heroin and methamphetamine for personal use.

Prepare for the world to end, if you listen to ACT Policing.

The ACT chief police officer, Neil Gaughan, has said that it would be “naive not to think people won’t come down (ie, from Sydney – Ed.), even for a weekend, to get on the coke and not worry about the cops ... it’s a reality we can’t ignore.” He believes methamphetamine use could raise the road toll, and that violence could increase between organised criminals, including bikie gangs, in a bid to capture a share of an expanding drug market.

But even the sometimes recalcitrant Gaughan has previously acknowledged we should treat drug use as a health issue rather than as a criminal issue.

ACT Health Minister Rachel Stephen-Smith said: “The government is committed to continuing to focus on disrupting drug-trafficking and reducing supply of drugs through the justice system.”

Under the new laws, anyone found with an amount of drugs that falls within the threshold would be fined, but not charged with a criminal offence. In the five years to 2020, more than 5500 Canberra seizures of drugs were below the threshold under the new law. More than half of those were for cannabis.

Stand by for a real-life trial that Australian states should watch and learn from. <http://tinyurl.com/3cmy7s5c>

## **ODD SPOT: Federal government extorts its police training from ACT**

Note: An AFP “business unit” runs police services in Canberra under a contract. In reality, the Australian government effectively mandates that the AFP “business unit” is the ACT police body, and the ACT

government has no choice other than to contract a police force that has no – zero – experience in community policing anywhere else in Australia. In reality, the federal government forces the ACT government to pay for training of the AFP in a critical aspect of policing it can't otherwise get. Some would call it official federal government extortion.

## **EDITORIAL**

NSW police were deployed to 64,000 mental health incidents last year.

In July in one callout, Judy Deacon's son Jesse 42, died from a police bullet. In September Krista Kach, 47, died after being shot by a police "bean bag" round.

There have been a spate of serious NSW incidents lately, month by month. In national terms, NSW represents about 40% of most issues, so the likely occurrence through Australia is about 150,00 mental health interactions a year.

Clearly, police – solely – should not be first responders to mental health alarms. Clearly, they should get help from someone fully trained to respond in the best possible way.

Clearly, the very last thing trained responders and/or police should do is use force. Standing back and observing, allowing heightened emotions to pass (even overnight) is a much safer way for police themselves and the people who suffer from the police force-control-dominate mentality.

Before any extra, mental health-trained resources are available, surely police can be schooled and trained to back off first, contain, and use force only if they or someone else is in imminent danger of physical attack. That did not appear to be the case in recent matters. Background: <https://tinyurl.com/mvvc4tm4>

## **\$300K ruling against 'jail from the hip' judge**

A man known by the pseudonym 'Stradford' has won more than \$300,000 after being wrongfully jailed for 12 months by a judge who behaved, a court was told, "like a character from Alice In Wonderland".

The sudden jailing happened during a normal family law property case in 2018, when Salvatore Vasta, a Federal Circuit Court judge, ruled Stradford was in contempt for not providing financial documents. The man said he was unable to provide them.

Stradford had an anxiety attack after being assaulted in a prison van and was threatened with rape in jail, before the sentence was overturned after six nights in detention, in a police watch house and the maximum security Brisbane Correctional Centre at Wacol. The full bench of the Family Court overturned the jail sentence on a quick appeal, describing it as a "gross miscarriage of justice".

In suing the judge, the Commonwealth and State of Queensland the man's lawyer argued it was a "sentence first, verdict afterwards" parody of a hearing, that resembled "the court of The Queen of Hearts in the jurisdiction of Wonderland".

Another Federal Court judge, Michael Wigney, found Salvatore Vasta was personally liable for the man's false imprisonment, and ruled the Commonwealth and Queensland also liable. He awarded the man \$309,450 damages along with costs.

Judge Wigney said the payout was for matters including deprivation of liberty, personal injury and loss of earning capacity. He said Judge Vasta denied the plaintiff procedural fairness and had engaged in a "gross and obvious irregularity of procedure". <https://tinyurl.com/3py9p8ts>

## **When will it be 'hasta la vista' Vasta?**

In 2019, the Brisbane Family Court ruled on Stradford's urgent appeal and slammed Vasta's handling of the original proceedings.

"The processes employed by the primary judge (Salvatore Vasta) were so devoid of procedural fairness to the husband, and the reasons for judgment so lacking in engagement with the issues of fact and law to be applied, that to permit the declaration and order for imprisonment to stand would be an affront to justice." <https://tinyurl.com/2s679sc2>

Appeal judges have been critical of Vasta in more than 20 cases, finding he had displayed "open hostility" to a witness, made threats to imprison parties in family law cases, denied litigants procedural fairness and made basic errors of law.

The federal circuit court previously placed Vasta under mentoring and removed administrative responsibilities, Ben Smee reported in *The Guardian*. <https://tinyurl.com/2p9jdvty>

Salvatore Vasta's actions have prompted criticism from the Australian legal community, and calls for a federal judicial commission to examine complaints against judges. Some barristers however believe judicial immunity should be improved.

## Second case on hold

A second case against Vasta, by Leigh Jorgensen through the same law firm, Ken Cush and Associates, has been temporarily on hold pending the 'Stradford' judgment.

Cush and co are now proceeding to sue Vasta personally for alleged false imprisonment which began when their client was before Vasta on a minor civil matter relating to alleged underpayments in 2018.

Believing he had breached freezing orders, Vasta found Jorgensen guilty of contempt of court and sentenced him to 12 months' imprisonment, though he was to be released after 10 days if he paid money to the Fair Work Ombudsman.

As in the Stradford case, the full bench of the federal court intervened after the man spent two days in jail. It found Vasta's trial of the man for contempt of court had "substantially miscarried for at least four reasons", including the "primary judge's excessive, unwarranted and inappropriate interventions".

The full bench described Vasta's behaviour as an "egregious departure from the role of a judge presiding over an adversarial trial"; and his ability to "objectively evaluate the evidence was fundamentally compromised". The court described his approach as "sarcastic, disparaging and dismissive of significant parts of Mr Jorgensen's evidence" and said his questioning was "aggressive and, at times, unfair".

## Blewer heads Griffith Innocence project



The director of Griffith U innocence project is Dr Robyn Blewer (photo left), who has four groups of students on cases while supervising PhD student, Ellen Carey, who is investigating the repercussions of true crime podcasts. Dr Blewer took over from Dr Lynne Weathered. Photo right shows one of Australia's best known wrongful conviction investigators, Estelle Blackburn (left) with Carey during a recent visit by the wrongful convictions author who helped free Button and Beamish.



## Ombo wants to ban spit hoods

The NT Ombudsman wants the government to pass a new law to ban spit hoods for people of all ages. His proposal comes in a 140-page report on the use of devices in police custody.

The use of spit hoods and emergency restraint chairs in the NT became a national issue after a 2016 *Four Corners* program. NT Corrections no longer use the devices. <https://tinyurl.com/ycyxhtka>

First response from the government was that it would not comply. However, if it does not, it faces payouts like the one below...

## Gassed kids gain about \$250,000 each compensation

A Supreme Court judge has ordered the NT government to pay almost \$1m in damages to four former jailed kids unlawfully teargassed at the notorious Don Dale youth detention centre.

The four – who were locked in their cells at the time – were entitled to exemplary damages after guards deployed CS gas, a form of teargas, to "incapacitate" another boy during a "serious disturbance" in 2014.

"The conditions which gave rise to this unlawful use of force perpetrated on youths in a detention centre for whose safety and wellbeing the defendant (the NT govt) was responsible must never be allowed to happen again," judge Jenny Blokland ruled.

"I accept the difficulties the youth justice officers experienced, however the defendant must take responsibility for putting them in that position or creating the conditions where they thought they had no option but to resort to unlawful unreasonable and excessive force.

"Young people in custody must be protected from exposure to such danger. This is fundamental. The court must demonstrate its disapproval of the Northern Territory allowing this to take place."

The ruling ends eight years of litigation. The four sued in 2015, lost, then lost an appeal. But the High Court of Australia ruled in their favour, deciding that the NT Correctional Services guards were not authorised to spray a CS gas "fogger" in a youth detention centre, only in an adult jail. <https://tinyurl.com/2s3a9av6>

## ODD SPOT: NT Senator believes stealing kids had no negative effect

"For 60 years between 1910 and 1970, it's estimated between one in 10 and possibly as many as one in three Indigenous children were removed from their families and communities. Analysis by *Guardian*

*Australia* shows between 11,000 and 14,000 Aboriginal people died in massacres across Australia between 1794 and 1928. It's estimated between 399 and 440 colonisers died in comparison.”

– *Guardian* journalists Tamsin Rose and Sarah Basford Canales, on 15 Sept 2023, in response to claims by Senator JN Price (Country Liberal Party, NT) that there were no lasting negative impacts of British colonisation.

## **Police confirm Rolfe investigator being investigated**

NT Police Commissioner Michael Murphy last month revealed there is a police investigation under way into how the force handled its evidence-gathering in the Constable Zachary Rolfe case.

Earlier police statements by others had suggested any inquiries had been shut down.

Rolfe was acquitted of a murder charge for shooting dead, with three shots at very close range, Kumanjayi Walker at Yuendumu in November 2019 after Walker allegedly used scissors to try to stab police.

NT Police have asked Victoria Police for an independent inquiry into the actions and/or inactions of Detective Senior Sergeant Wayne Newell.

Rolfe and his lawyers have complained formally about Newell's methods as the lead investigator on the case. They allege that the investigation included what appears to have become customary practices Australia-wide for police forces interacting with forensic investigators: “moulding” by police of the final forensic report after receiving early drafts for review, plus withholding material (including of a conversation with an AFP forensic officer, in the Rolfe case).

Regardless of the outcome of this inquiry, failure to disclose (FTD) – by police and DPPs throughout Australia – is one of the major blights on Australia's justice system, as CLA has been saying for years. FTD is a disease that is has been spreading like a secret mould throughout the nation's courtrooms.

## **CLA says mental health standards should be common, nationally**

Doubt permeates “vague” new chemical restraint guidelines under new Victorian laws which began on 1 Sept 2023, psychiatrists say.

The new Mental Health and Wellbeing Act was designed to protect human rights by regulating use of chemical restraint in mental health services. These are medications to control behaviour, rather than to treat an illness.

The (former) Andrews government has committed to stamping out seclusion and restraint in mental health facilities by 2031. This was a key recommendation of the state's mental health royal commission, which concluded some consumers had their human rights breached through compulsory treatment, seclusion and restraint. <http://tinyurl.com/vjjvvez>

The bigger issue, CLA says, is why each state has a different standard for such matters – human rights are universal, and treating mental health issues is a classic case where all state and territory, and the federal one as well, should abide by the same principles. CLA calls on health authorities to get that done, urgently, through the regular national Health Ministers' meetings.

We note that, despite last year's new Victorian Mental Health Act, rates of restraint and seclusion in Victoria are still higher than any other state. Something is wrong in Victoria other than the law.

## **Yoorrook produces new findings**

The Yoorrook report's second tranche of findings has made 46 recommendations, including raising the age of criminal responsibility to 14, establishing an independent police oversight body and wider and deeper bail reform.

Victoria's Yoorrook Justice Commission is Australia's first Indigenous truth-telling body. It has the same powers as a Royal Commission to investigate historical and current systemic injustices against First Nations people. Its final report and findings will come out by mid-2025.

Yoorrook last month recommended a separate child protection system for Indigenous Victorians, saying risk assessment tools used by child protection workers were affected by “racial bias”.

The report said Victoria police's internal complaints system was failing First Nation peoples, who were subjected to racial profiling and policing, pointing to the need for an independent oversight body. Victoria Police have previously rejected allegations of racial policing.

The Victorian government has committed to raising the age of criminal responsibility from 10 to 12 and to 14 within four years. But Yoorrook said it should be raised to 14 with no exceptions and that detaining children under 16 should be banned. <http://tinyurl.com/msdwy36b>

## Toothless TIC finds reason to not probe integrity...again

Tasmania's Integrity Commission (TIC) is refusing to investigate a bungled police surveillance operation inside Risdon Prison because a so-called "independent" inquiry has already been announced.

Nelson independent Upper House Member Meg Webb called for the government to refer a police operations breach to the TIC. A retired Solicitor-General has been hand-picked by the government to conduct an "inquiry" which limited terms of reference, and no guarantee of full public disclosure at the end.

Police illegally made more than 750 illegal, secret, video and audio recordings of meetings over two months in 2017 between lawyers and an inmate at Risdon Prison who were to discuss the innocence of wrongfully-convicted Sue Neill-Fraser. She is out on parole after serving the first 13 years of a 23-year sentence. SNF has nine more years of bracelet wearing and surveillance by the state to go.

TasPol had sought a warrant to secretly record one conversation only. But a Supreme Court judge found that even that application was illegal, because they did not fully inform the magistrate signing the warrant.

The initial recording was illegal. Then police left the recording switched on after the meeting for a total period of two months, recording legally-privileged discussions between a host of inmates and their lawyers and health professionals, as well as personal, family and other private advisers.

The independent Member of the Lower House for Clarke, Kristie Johnston, said the Tasmanian government needed to establish a Commission of Inquiry to investigate the police surveillance operation and all aspects of Neill-Fraser's conviction. <https://tinyurl.com/2wwe3cc2> (behind a paywall).

Tasmanian MLC spoke out about the inequities of the SNF case in the Tas Parliament last month:

<https://www.cla.asn.au/News/upper-house-mp-calls-for-independent-inquiry-into-snf-case/>

## Defamer launches an appeal...accusing judge

A forensic investigator who was found to have defamed former Perth barrister Lloyd Rayney after falsely saying he "got away with murder" has launched an appeal, claiming the trial judge failed to disclose a conflict of interest.

Senior investigating forensic officer Mark Reynolds was slapped with a \$438,000 damages bill after WA Supreme Court Justice Jennifer Hill found he defamed Rayney in 2014 during a public presentation exploring the evidence in the high-profile unsolved killing of his wife, Corryn Rayney. The defamation trial heard Reynolds stood up in a Curtin University lecture theatre and told the 100 people present there was no need for a cold case review because the offender "was identified" before revealing he was an investigating officer on the case.

His comments came two years after Rayney was acquitted of his wife's murder and just 12 months after the state's appeal against the verdict was dismissed.

A civil trial was held in 2020 after Rayney (photo) mounted a defamation action against Reynolds. Rayney was successful after Reynolds was unable to defend his comments.

But Reynolds has now called on the Court of Appeal to review whether Hill should have presided over the matter in the first place, accusing her of failing to disclose her 11 year-long working relationship with Rayney's lawyer, Martin Bennett. <https://tinyurl.com/3sckntbh>



## Jailed kids to 'enjoy' road trip

NT taxpayers will accommodate, feed and transport Alice Springs youth detention staff in Darwin for up to four months, when Alice Springs juvenile jail is refurbished.

Inmates from Alice will be housed in Don Dale Youth Detention Centre – aka the old Berrimah Jail, a hellhole condemned a decade ago – while the central Australian facility is renovated, according to a recently released government tender.

The government refused to disclose how many young offenders from Alice Springs would be sent to Darwin and the associated costs, the *NT Independent's* David Wood reports.

The Department of Territory Families, Housing and Communities' contract for staff is to run for 12 weeks, beginning in mid-to-late September, but with the possibility of an extension by a month, which will require all-inclusive 24/7 accommodation with room service, meals – including packed lunches – on-site shopping, laundry services, recreational facilities and gym facilities for staff health and well-being, and transportation from the accommodations to the Don Dale Youth Detention Centre.

The documents show the contractor is required to house up to 19 staff on fortnightly rotations from Alice Springs to Darwin, with the capacity to accommodate staff and service providers in a specific wing so they can “maintain contact with each other”. <https://tinyurl.com/43brpws5>

## Briefs

### Crime goes back up

In two years to June 2023, 9 of 13 major offence categories in NSW showed significant upward trends, with 4 stable. Mostly, the increase was a return towards pre-pandemic crime levels. The 9 upward trends were domestic violence assault (up 8.7%), non-domestic violence assault (+ 16.2%), robbery (+ 26.6%), break and enter dwelling (+ 10.0%), break and enter non-dwelling (+ 14.3%), motor vehicle theft (+ 23.0%), steal from motor vehicle (+ 6.7%), steal from retail store (+ 47.5%), and other stealing offences (+ 8.0%).

There was a 47.5% increase in retail theft, with counts are now equal to 2019 figures. The increase in retail theft most likely reflects a return to pre-COVID offending behaviour rather than being driven by inflation or emerging cost-of-living pressures. – BOCSAR, NSW crime analysis body. email: [bcsr@justice.nsw.gov.au](mailto:bcsr@justice.nsw.gov.au)

### Judge swap continues

President of the Court of Appeal of Qld, judge Debra Mullins was last month sworn-in as an acting judge of the Supreme Court of WA under the ongoing exchange program between the two jurisdictions. Mullins spent two weeks sitting in the WA Court of Appeal, hearing cases in both civil and criminal jurisdictions. The states have been exchanging judges July 2019, aiming to share information and experience to improve justice in both communities. – media release, WA Supreme Court.

### Mathew and Daniel head rights bodies in the ACT

Prof Penelope Mathew is the new President of the ACT Human Rights Commission, replacing Dr Helen Watchirs, who held the post for 20 years. Mathews comes to the job from being Dean of the Auckland U. Law School in NZ, but she has extensive experience as a human rights consultant and adviser in Canberra and Australia, as well as overseas. The new President of the ACT Civil and Administrative Tribunal is Mary-Therese Daniel, who has been on ACAT since 2012, and a presidential member since 2015. She was acting President for an extended period in 2021. The ACT HR Commission will soon gain the power to conciliate any claim under the ACT Human Rights Act in accord with the ‘No Rights Without Remedy’ principle adopted by the ACT government. ACAT is expected to gain the power to rule on human rights complaints in late-2024 or early 2025 under the same progressive government agreement.

### Safety inspectors take to body-worn cameras

Cameras that record audio and video footage are now being worn by SafeWork SA inspectors to improve workplace safety and evidence collection in investigations. The body-worn cameras will operate during worksite visits or compliance and investigation activities. The cameras will support inspectors safety of inspectors by mutually respectful interactions; reduce disputes and enable complaints to be easily investigated and resolved by reviewing relevant footage; and support transparency and accountability. The body-worn cameras will be fitted to the front of inspectors’ uniforms and will be clearly visible. <https://tinyurl.com/3rs6rf84>

### Webb wants privacy overhaul, licence photos withdrawn

Meg Webb, Independent Member of the Legislative Council for Nelson in Tasmania, is hitting the government in two key areas of information and privacy.

She is calling for an independent review of the *Right to Information Act 2009*, its objectives, implementation and administration.

As well, she wants the government to remove and delete Tasmanians’ drivers licence details on the national driver licence facial recognition database because there is no Commonwealth privacy protection and oversight legislation.

Webb, who is also a strong supporter of Sue Neill-Fraser, is a member of one of the government committees which is inquiring into corrective services and the justice system, including the jailing of adults and kids.

## Letters

### Where did all that Indigenous money go?

A letter writer on 11 September 2023 asks for an investigation of the ‘wasted’ ‘billions spent to improve the living conditions for Indigenous people. One explanation is that many of these billions have been given to

consultancies like the shamed PwC (Price Waterhouse Coopers), or our largest corporations instead of being spent by community-based, Aboriginal-run and -staffed services.

In 2014 PM Abbott established the Indigenous Advancement Strategy by stripping \$534m from legal services, Indigenous health programs, Indigenous language programs and so on, redirecting it to punitive strategies like the prison industry. Funding also moved from Indigenous applicants and programs to large non-Indigenous organisations.

Among the recipients of funding for the 'Advancement' of Indigenous Australians was the NT Cattlemen's Association, the NT Fishermen's Association and the NT Seafood Council so they could oppose Aboriginal land claims.

As late as 2021, 40% of the grant funding still went to non-Indigenous corporations, charities and organisations. More than half of that was allocated ten of Australia's biggest companies, including Crown Casino, Wesfarmers, Woolworths and Fortescue Metals to support an Indigenous employment program. Taxpayers should not be subsidising these profitable corporations to promote a more representative workforce.

Since 2015, PwC's Indigenous Consulting arm has been awarded \$44.58 million to provide 'advice to government' on 'Indigenous matters'. In 2022 alone PwC was given federal contracts of \$13.78 million.

That money would go a long way to financing a Voice drawn from Indigenous communities. Surely, it is a no-brainer that the people most affected by policies and programs should be involved in advising on those policies and delivering those programs, rather than city-based, non-Indigenous consultancy firms.

– Chilla Bulbeck, volunteer for Curtin for Yes campaign, Cottesloe WA (letter very lightly edited – Ed.)

### **To WA Homelessness Minister Carey:**

As an incarcerated person at Acacia Prison, I notice that prisoners on release are taken to the nearest bus stop or railway station and dumped on the street with only the clothes on their backs. Often, they are forced back into crime to survive, ending up returned to a prison system which is at bursting point. WA has the highest incarceration rate in the country per capita and successive governments have resisted legislating a human rights act despite over 75% of constituents supporting campaigns for one. The most vulnerable remain unprotected in this state on every level. Mental illnesses amongst most prisoners are at an all-time high. This is not being addressed at the most fundamental levels. Hopelessness prevails.

Suggested solutions:

- set aside state-owned land for provision of immediate basic accommodation in the form of converted dongas or steel sea containers, and
- organise released inmates to build small villages.

Many are qualified builders, welders, plumbers, electricians fallen upon squalid times who need to experience a sense of useful dignity; a second chance, a future. This would be a starting point to assist reintegration of ex-prisoners to society.

Homelessness is a common gateway to illegal behaviors; it makes no sense at all that Australia, the 5<sup>th</sup> wealthiest country in the world has chosen to ignore the importance of adequate, affordable shelter.

Anxiety, depression, alcohol and drug abuse, family malfunction and aggression are driven by homelessness.

– Simon M.R. Akkerman, Acacia Prison

### **\$650 for a bottle of whiskey? Or party all night for \$20?**

The latest outrageous government impost on smokers increased tobacco duties to the astronomical punitive rate of \$2026 per kilogram including GST, some \$1.36 tax on each and every "stick" as cigarettes are quaintly described by the prohibitionists, or 80% of the per-stick retail price.

The tax rate is linked to CPI, so the more inflation that government causes by printing money, the higher tobacco taxes increase by stealth, whether you like it or not. The Laffer Curve of state taxation theory predicts total tax revenue decreases when set above 50%, creating incentives for evasion and fuelling the black market.

If scotch whiskey was taxed the same per litre as tobacco is taxed per kilogram a 700ml bottle of 40% ABV/ 80 proof would cost more than \$650. Alcohol abuse costs the community at least as much long term as tobacco consumption is claimed to cost, (ignoring the rivers of gold flowing from both "sin" taxes), and in the short term is responsible for the majority of domestic violence. Why is one legal product taxed so disproportionately, when the only violence associated with smoking cigarettes is finger-wagging naggers remonstrating with smokers for enjoying their grossly overtaxed "sticks", even in the open air.

How is such selective-excessive taxation fair or reasonable, and how can such gross imposts be justified on equity grounds? One-eyed zealots display no sense of community, health or police-legal balance when the so inclined can party all night on \$20 worth of untaxed methamphetamine drugs. "Vaping" also now attracts such moral panic, because it "looks like" smoking and is an untaxed threat to tobacco revenue. None of these out-of-kilter taxes stack up on civil liberties grounds. – Mark Jarratt, Launceston, Tas

## Some CLA activities for September 2023

### National report

Our major achievement during September 2023 was the tabling of legislation to incorporate 'No Rights Without Remedy' into ACT Human Rights law – see lead item.

We are distributing a summary of Human Rights Minister Tara Cheyne's Legislative Assembly address on the new 'HRA Complaints' amendment to all interested parties. Her full speech is available here: <https://www.cla.asn.au/News/new-law-provides-remedy-to-fix-rights-breaches/>

Minister Cheyne reserved special praise during her Bill tabling speech for CLA and CLA's National Human Rights Campaign Manager:

*"I'd also like to thank Civil Liberties Australia for their detailed engagement with this issue, in particular Chris Stamford."*

Stamford and CLA also received special praise from Prof Rosalind Croucher, the federal Human Rights commissioner, for CLA's work on the HRA campaign:

*"Thank you, Chris Stamford and CLA for your significant advocacy for improving human rights protections in Australia – through reform to the ACT Human Rights Act and for a federal Human Rights Act as a major piece of national protections. Since Australia ratified the ICCPR in 1980, it has been a long and challenging journey to bring human rights protections 'home', through bedrock domestic legislation reflecting our promises to the world. The advocacy that you have provided has been crucial towards these landmark changes in Australia. We are not there yet, but with allies and champions like Chris and CLA, we may yet succeed!"* Prof Rosalind Croucher, President, Australian Human Rights Commission.

Chris Stamford attended a SA Rights Research Network workshop by Zoom early in September to maintain networks with HRA campaigns in other states, and also reviewed Brisbane parliamentary committee meetings online, and attended meetings in Sydney personally to prepare for CLA's appearance before the PJCHR in mid-October.

### Rally towards reconciliation

We joined thousands of others in the Canberra walk to support a Yes vote in the Voice referendum, and were inspired by the atmosphere of commitment and good faith. We are conducting our small local campaign in letters to the editor, wearing Yes T shirts, displaying signs and sending signs and T shirts to family members. We encourage CLArion readers to get active in these last few vital weeks. Photo shows CLA President Dr Kristine Klugman with her own sign.



### Cash availability and nursing homes

Held meetings with CLA members Thomas Mautner and Rosemary Jennings re current activities in relation to emerging issues.

### Wrongful Convictions, forensic problems and Failure to Disclose

CLA is working with a group of people, including CLA members Barbara Etter APM in Tasmania and Estelle Blackburn OAM in Canberra, and including Dr Bob Moles in Adelaide, in a concerted bid to:

- right wrongful convictions, including that of Sue Neill-Fraser in Tasmania;
- achieve a national review of issues and problems in forensics in Australia, with particular emphasis on historical problems in SA and current issues in Tasmania which have impacted on the SNF case; and
- Failure To Disclose (FTD) illegalities, usually caused by police and/or prosecutors, in courts throughout Australia.

These standalone issues are bound up in what CLA calls Australia's failed and failing justice system. We believe that, from bottom to top, the system needs a national Royal Commission of Inquiry which probes all

jurisdictions – federal, state and territory – and produces a national blueprint for better laws and legal systems to produce ‘Better Justice’ (the name of our campaign) for Australia.

### **CLA President given life membership of second museum**

Dr Kristine Klugman OAM was awarded life membership of the Museum of Fire at Penrith NSW in September. <https://www.museumoffire.net/history-week-2023> She already held a special similar status with the National Maritime Museum in Sydney, where she was on the interim (founding) committee. Surprisingly, she is not a life member of the The Australian Museum Trust, where she served for eight years on the committee and was the first female president of the body, which was founded about 1840.

### **Tasmania**

Andrew Urban’s book launch went very well indeed with more than 80 people attending and Fullers Bookshop in Hobart sold out within hours. *The Exoneration Papers: Sue Neill-Fraser* is available from Wilkinson Publishing for \$30. <https://www.wilkinsonpublishing.com.au/product/the-exoneration-papers/> SNF attended the event.

The long-running commission of inquiry into child sexual abuse handed down its disturbing findings late in September. Children were disbelieved and failed by state institutions, the headlines said. There are 191 recommendations, including closing Tasmania’s existing youth jail as soon as possible. The commission reported there was a “liver and current” risk of sexual abuse of children in Ashley Youth Detention Centre. <https://tinyurl.com/24fxvh98>

## **INTERNATIONAL**

### **Legal costs to be capped**

Legal costs will be capped in lower damages clinical negligence claims to support victims, speed up justice and protect taxpayers and NHS England cash.

During the past 16 years claimants’ legal costs have risen four-fold for claims of up to £25,000. The amount spent by NHS England on clinical negligence claims has also risen from £0.6 billion to £2.6 billion despite the number of claims remaining stable.

This has created a situation where the claimants’ legal costs are disproportionate and on average double what the claimant themselves receives.

These costs are funded from the core NHS budget. It is estimated introducing this system of fixed recoverable costs would save NHS England £500 million during the next decade which could be spent on patient care. <https://tinyurl.com/e9p3um3s>

### **Old care resident drugged to overcome mental illness**

Care facilities throughout NZ are sedating elderly residents with severe mental illness because of a lack of psychiatrists to treat them.

A survey by the College of Psychiatrists released in September showed 94% believed current resourcing was insufficient and the mental health system was not fit for purpose in all areas, from child and maternity to psychogeriatric.

Bronwyn Copeland, spokesperson for geriatric care and chair of the sub-committee for psychiatry of old age, said the shortage of appropriate facilities meant many people had to be treated "in the community".

"Often that means their equally elderly partners are having to care for them at home, or they are in rest homes where they don't have the specialist staff or resources to give them the care they need, and deserve."

Some rest homes had had no choice but to administer "dangerous and unnecessary" medications to help manage patients' symptoms, which could include distress and aggression. Alternatively, elderly patients with dementia were being housed in general psychiatric inpatient units.

"You can imagine a frail 80-year-old being surrounded by some patients who are much younger, stronger, and possibly quite agitated as a result of their psychiatric illness, so that's not very therapeutic," she said. <https://tinyurl.com/s9ja5hyw>

### **ODD SPOT: ~~Gunfight at the OK Corral~~ Jail-fight at the DC Capitol**

The twice-impeached Donald Trump will lock up political enemies if he becomes president again. Asked “If you’re president again, will you lock people up?” Trump said: “The answer is you have no choice, because they’re doing it to us.” Under four indictments, in 2024 the then-78-year-old who will be running for

president of the USA, will face 91 criminal charges related to election subversion, retention of classified information and hush-money payments to an adult film star. He denies wrongdoing. *Forbes* news outlet calculated he faced a possible 717 years in jail – but only one charge involves a mandatory jail sentence if found guilty. <https://tinyurl.com/ycyhhr9>

## International briefs

### Beware pedlars of cannabis test devices

Supposedly accurate quick tests on drivers for cannabis impairment are totally not fit for purpose, according to a Uni of Colorado Boulder communications expert. Associate Director Lisa Marshall reports that the science around cannabis “breathalyser” technology was in a similar phase of development to alcohol breath testing in the 1930-1950s period. “Our pilot research found that in regular cannabis users, their breath around an hour after use is not looking a whole lot different than their baseline measure on days that they haven’t used at all,” said Cinnamon Bidwell, asst prof in the Dept of Psychology and Neuroscience at CU Boulder. “That suggests this isn’t going to be easy, and a lot more careful research needs to be done to get it right.” Despite this, US firms are starting to peddle simple cannabis breathalyser test prototypes. <https://tinyurl.com/2s45v3wd>

### ‘Great Satan’s’ little helper can’t get hands on Dotcom’s kiddy images

In a blast from the past, the US are still trying to wrench IT billionaire Kim Dotcom’s personal hard drives and passwords out of NZ and into the hands of the “Great Satan’s” FBI. They want to prosecute him for copyright. Dotcom says the drives – which were originally illegally seized and illegally copied and given to the FBI by the NZ Crown – also contain videos and files of his kids’ births, children’s parties and family gatherings, and should not go to the USA without the personal stuff removed by NZ authorities, under Dotcom’s right to privacy. If you think you’ve heard it all before, you probably have: the FBI has been chasing the material since 2012. Dotcom was the proprietor of online storage service, Megaupload, which made his fortune. <https://tinyurl.com/2urtxytt>

## DATES

### 2023:

**5 Oct 2023, Sydney:** All-day Folbigg Symposium: The Unconscionableness When the Law and Science Head-but, Centre for Crime, Law and Justice at UNSW, Sydney Institute of Criminology at U Syd. Suggest paper to, details: [g.edmond@unsw.edu.au](mailto:g.edmond@unsw.edu.au) or [m.sanroque@unsw.edu.au](mailto:m.sanroque@unsw.edu.au) Register (it is free): <https://tinyurl.com/y2ft556e>

**11-12 Oct, Sydney:** ‘Accountability in crisis: the rise of impunity as a challenge to human rights’, A. Human Rights Institute at the U. of Sydney, online and ‘live’ sessions, with closing keynote address by AG Mark Dreyfus. Details <https://tinyurl.com/2b5bke4j>

**19-21 Oct, Gold Coast:** Australian Lawyers Alliance annual conference, Sanctuary Cove. Details: [events@lawyersalliance.com.au](mailto:events@lawyersalliance.com.au) or 02 9258 7726 Natalie Burt

**27-28 Oct, Canberra:** Continuity and Change: Public Law Weekend 2023, Centre for International and Public Law. Details: <https://tinyurl.com/5n7uat4h>

**20-24 Nov, Sydney:** 23rd Meeting of the International Association of Forensic Sciences in conjunction with the 26th Symposium of the ANZ Forensic Science Society: details: <https://tinyurl.com/344u5fzz> Conference program: <https://iafs2023.com.au/>

**11 Dec, Adelaide:** Former ACT Human Rights Commissioner Dr Helen Watchirs address to the SA Law Society on need for a HR Act in SA. Details: [email@lawsocietysa.asn.au](mailto:email@lawsocietysa.asn.au)

### 2024:

**May 2024, NSW and Van Diemen’s Land:** Bicentenary of the Supreme Courts (NB: VDL then = Tasmania now)

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### Election cycle for Australia:

2024: **Northern Territory:** 24 August 2024

**ACT:** 19 October 2024

**Queensland:** 26 October 2024

**Tasmania** (House of Assembly): by 28 June 2025

2025: **WA:** 8 March 2025

**Federal:** March 2025 likely

(Earliest likely is 3 August 2024 and latest possible date Saturday 17 May 2025)

2026 **South Australia:** 21 March 2026

**Victoria:** 28 November 2026

2027: **NSW:** 27 March 2027

*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 Sept 2023.

As we are not a law firm, and are not licensed to give legal advice, we do not deal with individual legal or similar quasi-legal cases: prisoners and others are advised we will not be responding to letters or emails asking for help with appeals, for legal advice, for recommendations of lawyers to write to, pro bono services to consult, or similar requests. We work to change laws rules and anomalies for the generic benefit of all Australians.

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