

## Wait for an Australian Human Rights Act goes on, and on

Attorney-General Mark Dreyfus has granted a last-minute extension to a year-long inquiry into how human rights operate in Australia, and how they should.

The two-month delay sends a clear signal from the Albanese government that individual human rights for Australians will feature on its agenda later, rather than sooner.

The next term of Australia's Parliament – if Labor is re-elected – may provide the chance to legislate a Human Rights Act (HRA) in the first few months, much as the National Anti-Crime Commission (NACC) became reality in the first months of the current parliament.

## AG Dreyfus grants two-month extension to Human Rights inquiry

In a letter dated 25 March 2024, Dreyfus extended the deadline for the Human Rights Framework report from 31 March to 30 May 2024.

Dreyfus wrote to the committee chair Josh Burns (MHR Macnamara, Vic) granting the extension after Burns had apparently asked for it in writing on 15 March.

“Noting the complexity of the Committee’s task, I am pleased to grant the Committee an extension to 30 May 2024 to report to both Houses of Parliament,” Dreyfus wrote.

HR advocates, including Civil Liberties Australia in particular, are disappointed that the reporting date is extended. AG Dreyfus tasked the Parliamentary Joint Committee on Human Rights (PJCHR) on 15 March last year to review how human rights operated in Australia (see below).

Submissions from the public closed as long ago as 1 July 2023. Normally committees are able to report on their allotted task within six months of submissions closing. Certainly, the committee held extensive hearings, based on the submissions, in a timely fashion.

## Death and new members may be partial cause of delay

The PHCHR lost one of its key members when Peta Murphy (Labor, Dunkley, Vic) died from cancer on 4 December 2023. She was one of the strongest supporters in parliament for legislating a HR Act.

Jodie Belyea (Labor) was elected to replace Murphy on 2 March 2024: she has not been appointed to the PJCHR.



Two new people were appointed to the PJCHR recently. On 29 November 2023, Henry Pike (Lib, Bowman Qld *photo left*) was named deputy chair and on 7 December 2023 Alicia Payne (Lab, Canberra ACT *photo right*) was added as a member.

The delay of two months will allow them to get up to speed with the wide range of matters being considered (see below).

The Australian Human Rights Commission may have been given early heads-up warning about the delay. The AHRC is running a major ‘marketing style’ conference on 6 and 7 June 2024, including a ‘Rights On Time’ high profile speakers’ panel on the night of 6 June (see DATES,

later). This is just one week after the new tabling date, which is serendipitous timing.



### **Here is precisely the task given to the parliament’s Human Rights Committee**

On 15 March 2023, under s 7(c) of the *Human Rights (Parliamentary Scrutiny) Act 2011*, Attorney-General Mark Dreyfus referred to the Parliamentary Joint Committee on Human Rights (PJCHR) the following matters for inquiry and report by 31 March 2024, to :

- review the scope and effectiveness of Australia's 2010 Human Rights Framework and the National Human Rights Action Plan;
- consider whether the Framework should be re-established, as well as the components of the Framework, and any improvements that should be made;
- consider developments since 2010 in Australian human rights laws (both at the Commonwealth and State and Territory levels) and relevant case law; and
- consider any other relevant matters.

The committee accepted submissions in relation to these matters, and in particular:

- whether the Australian Parliament should enact a federal Human Rights Act (HRA), and if so, what elements it should include (including by reference to the Australian Human Rights Commission's (AHRC) recent Position Paper);
- whether existing mechanisms to protect human rights in the federal context are adequate and if improvements should be made, including:
  - to the remit of the PJCHR;
  - the role of the AHRC;
  - the process of how federal institutions engage with human rights, including requirements for statements of compatibility; and
- the effectiveness of existing human rights Acts/Charters in protecting human rights in the ACT, Victoria and Queensland, including relevant case law, and relevant work done in other states and territories.

## Beware! The ATO plans to be Big Brother

The ATO is bidding to become the repository of all information on you. Yes, you.

The ATO is trademarking a new brand and logo, myID, in a bid to make it the digital tool for Australians to prove their identity without passports, licences, rates notices or utility bills.

The application is for a new stylised, barcode-like logo of Australia, and its associated typography. The ATO would become UberControl: if its system failed, national chaos would follow.



If your credentials – age, address, birthplace – are securely linked to the ATO-run myID app, they could be kept in a digital wallet, perhaps attached to your phone. You could buy, sell or trade anything using the app, including access to premises or even emergency funds during a national disaster.

The key word is 'securely'. CLA is anxiously awaiting proof of how the ATO, or the federal government, could guarantee security and privacy, and what payout it would make if anyone's myID registration was breached, stolen or otherwise misused.

The Australian Financial Review reported that government established a 'myGovID' brand four years ago. But 'myGov', which links services such as Centrelink, Medicare, and the ATO, has mostly caused confusion rather than simpler interactions with government.

The ATO plans to launch its new ID this year.

"Legal firm Ashurst has lodged an application to trademark the new myID brand name and associated logo on behalf of the Melbourne branch of the ATO. The application to IP Australia is due to be finalised by June, subject to any counterclaims," Tom Burton reported in the *AFR*. <https://tinyurl.com/yeyeu8dp> (paywall)

Banks and retailers are promoting their identity app, ConnectID.

No-one is offering cash to us consumers to use whichever logo. Use of one inter-connected ID system stands to save business and government billions of dollars.

## Judges acquit more often

Judge-alone trials produce relatively more acquittals than jury trials, according to a nine-year study by the NSW Bureau of Crime Research and Statistics.

BOCSAR compared acquittal rates, imprisonment rates, prison sentences and trial length for 5064 jury trials and 805 judge-alone trials finalised in NSW higher courts between January 2011 and December 2019.

They found that, compared with jury trials, judge-alone trials were associated with a 12 percentage point increase in the probability of an acquittal. This result held, even after controlling for extraneous characteristics.

Judge-alone trials also produced shorter sentences (down an average of 7.6 months). Judge-alone trials involving "prejudicial and complex offences" were two days shorter.

Executive Director of BOCSAR, Jackie Fitzgerald said: "Interviews with legal practitioners suggested the difference in acquittals could be because judges apply a higher threshold of what constitutes 'beyond reasonable doubt'.

"Judges must also provide detailed reasons for their verdict (which can be the basis for an appeal), whereas juries do not.

"Another possibility is that factors which make a case more likely to be heard judge alone may also be associated with weaker prosecution cases."

For trial length, interviewees unanimously believed that judge-alone trials were shorter, due to the increased use of written evidence rather than in-person testimony, flexible scheduling, and quicker presentations of evidence. Report: [www.bocsar.nsw.gov.au](http://www.bocsar.nsw.gov.au)

## **INSLM Blight signals ‘paring back’ may be on the cards**

Australia’s secrecy laws were tougher and more intrusive than other comparable countries, according to Australia’s Independent National Security Legislation Monitor, Jake Blight (photo).



Blight, speaking last month on *ABC Radio National*, said the excessive terror laws may need paring back.

He is examining whether Australia’s terror laws are fit for purpose or too draconian, with the first hearings of his public review held in Canberra last month, *The Guardian’s* Karen Middleton reported. <https://tinyurl.com/3dk2n7rh>

Blight told the *ABC* he wanted to guard against overreach in how the laws are applied. “In empowering our national security, police and law enforcement agencies to do their important work, we have to always be careful that the very democracy we’re asking them to protect isn’t getting undermined and that (we have) a democracy underpinned by freedom of communication, accountability, and which is supported by a free press.”

CLA President Dr Kristine Klugman delivered a direct warning to INSLM Blight about the dangers of terror law overreach in private briefing sessions held in Canberra earlier this year.

CLA warned that law-upon-law – well over 100 individual pieces of legislation – had been layered upon each other since ‘9/11’ (11 September 2001 aircraft attacks) in the USA...and virtually no clause had ever been totally removed or substantially wound back.

The world has changed, CLA said. The aircraft attacks were nearly a quarter of a century ago. Nothing like them has ever happened in Australia, or in any other country. New and different threats had emerged.

It was well past time, CLA told Blight, that a major review of all terror laws of the past 25 years were examined, reduced, rewritten...and incorporated into the Crimes Act where they should have been all along, instead of being treated as a separate ‘branch’ of the law.

## **Health suffering as rights decline**

A years-long evaluation by a global medical consortium has issued a stark warning that human rights are going backwards internationally, which has potentially major ramifications for human health.

The *Lancet* journal says in its 21 March 2024 issue that a commitment to human rights has motivated workers and administrators to demand access to affordable, quality, and respectful health services for all, especially the most marginalised, and to strive towards gender equality, social justice, and basic minimum standards of living commensurate with human dignity.

“(But), 75 years after the UN’s historic ratification of the Universal Declaration of Human Rights, the global commitment to protect the fundamental human rights of all people is under grave threat”, *The Lancet* says in releasing the report of a Commission of Health and Human Rights run by the International AIDS Society and the journal.

“(The report) explores the alarming deterioration of human rights over the past two decades globally and the serious implications of this trend for human health, particularly the health of the most vulnerable.

“The report examines the social, political, and environmental factors that are undermining the centrality of human rights and human dignity and develops recommendations to reverse the recent backtracking from this commitment.” <https://tinyurl.com/nhdn94sr> (paywall).

## **More difficult for a chief judge to pass on the eye of a camel?**

(Happy birthday from CLA, Sir Anthony Mason, 21 April)

There they were, two top judges, having a chat, as recorded by *Judicature International* (2024), an online journal. <https://tinyurl.com/bdfy327p>

Stephen Gageler, CJ of Australia’s High Court, asked by David Collins, a judge of the NZ Court of Appeal, who his role models were?

**Gageler:** I was very fortunate to have a number of role models whom I worked with. I started off my legal career as an associate to Sir Anthony Mason who was then a judge of this (Australia’s High) court. He had before that been Commonwealth solicitor-general and ultimately became chief justice of this Court. I have

stayed in touch with him over the years. He will be 99 in April. He, for me, was, and is, a role model. He demonstrated to me what it is to be a judge and what it is really is to be a judge of this court.

**Collins:** Yes. After lunch at (a) meeting (at Bond uni), I asked him how he copes with stress. He looked at me as if I was from a different planet, and he said, "I just inflict it on other people."

**Gageler:** Well, yes. There is a line that I am sure is apocryphal. It is attributed to Murray Gleeson, who was Chief Justice in the early part of this century here (in Australia). And the line is, "Stress is not something you get. Stress is something you give."

*Chuckle, chuckle. What a different angle it is to be a top judge, CLA notes. Sort of sideways, upwards?*

**Collins:** It must be something about Australian chief justices. When you retire, what would you like your legacy to be?

**Gageler:** When I was a well-remunerated barrister, I collected a little bit of art, and I collected one piece of antiquity. It is a Tang Dynasty porcelain camel; about 1,200 years old. I worked out that this is a little bit older than the common law itself. Although I purchased it and nominally own it, I don't see myself as doing anything other than having custody of it for a short time. It's my job to get the camel through the next few years and hand it over to someone who will care for it into the future. So, my true ambition is a very modest one. It is metaphorically to pass the camel intact onto my successor in office.

Poor Gageler, CLA notes. His remuneration now as CJ is a mere \$625,00 a year base salary. He is entitled to super and all sorts of benefits on top of that, of course. It's a wonder – with its jockey so poorly paid – that the Tang camel is not dying of thirst. Maybe it won't survive to the end of Gageler's tenure, on 4 July 2028.

## **Thorpe leads Independents to push Indigenous improvements**

Senator Lidia Thorpe, (Ind, Vic) has written to Prime Minister Anthony Albanese asking him to empower the Australian Human Rights Commission to oversee progress on the key Closing the Gap measures, as well as supervising implementation of recommendations made after the the 1991 Royal Commission into Aboriginal deaths in custody and the 1997 Bringing Them Home report.

Her letter was co-signed by Senators David Pocock, Jacqui Lambie, and Tammy Tyrrell, and MPs Andrew Wilkie, Kylea Tink, Zali Steggall, Monique Ryan, Kate Chaney, Zoe Daniel, Helen Haines, Sophie Scamps and Allegra Spender.

In mid-March, there had been 15 deaths in custody reported in 2024 – four Indigenous and 11 non-Indigenous – and 562 Indigenous deaths in custody since the 1991 royal commission.

Senator Pocock (Ind., ACT) said Indigenous incarceration rates were "of deep concern", saying imprisonment rates in the ACT were 25 times higher for Indigenous Australians, and calling the deaths in custody figures "a national disgrace". <https://tinyurl.com/2uwjs8bx>

## **Thorpe wants propriety now in Gnarlyament House**

The very same Senator Thorpe wants the government to hurry up on installing a new watchdog to hold politicians accountable for their bad behaviour in the 'gnarly' environment of Australia's Parliament House. MPs misbehaviour should have been dealt with "a long time ago", Senator Thorpe says.

The federal government says it is finalising plans for a workplace body with teeth to punish parliamentarians for misconduct. But the rate of 'finalising' is inexorably slow, CLA says.

Kate Jenkins' 'Set the Standard' report 30 months ago outlined how to lift respect and safety, particularly for women, within Parliament House, with a key recommendations being to create an enforcement body.

The 'Safe House' system was planned to start operating within 12 months of the report in November 2021. The government has just pushed the target start date back to 1 October 2024 due to argy-bargy between political parties on the punishments miscreant MPs should get.

Until implemented, the Parliamentary Workplace Support Service (PWSS), which has very limited power to punish – is in charge of overseeing conduct in parliament. <https://tinyurl.com/yhdt8w7k>

## **Engel is surprise appointment to replace Drumgold as ACT DPP**

Victoria Engel SC will become the next ACT Director of Public Prosecutions, from May 2024, the ACT Attorney-General Shane Rattenbury announced in March. <https://tinyurl.com/bdzzw5bk>

Engel moves to the ACT DPP role from a position as a barrister at the NT Bar.

Before that, from 2020 she was principal crown prosecutor and then deputy Director of the office of the NT DPP from June 2021 until recently.

She was appointed to that role during ‘Chaos in the (NT) DPP Shock resignations of director and deputy director follows mass exodus’, as Christopher Walsh reported in the *NT Independent* on 4 June 2021: <https://tinyurl.com/287rkm3m>

Brodie Buckland, President of the ACT Bar Association, said. “Prosecutors make up a significant proportion of the membership of ACTBA and, as the new DPP, I look forward to working with Ms Engel SC on matters of mutual interest and concern to the DPP’s office and the criminal defence bar.

“I also wish to thank and acknowledge (ACT deputy DPP) Anthony Williamson SC, who stepped into the role of DPP at short notice and has provided consistent, considered leadership since his appointment as acting DPP. His dedication and service have not gone unnoticed, and should be acknowledged.”

CLA is far less sanguine about the Engel appointment than is the ACTBA. Direct reports to us from legal ‘heavies’ in the NT indicate astonishment at the ACT selection panel’s decision. “Utterly flabbergasted,” was the comment of one senior NT lawyer.

“There would be hundreds of female prosecutors and barristers in NSW, Victoria and Queensland who would be stratospherically ahead of her. She does not have the experience for that job,” was a senior NT lawyer’s opinion. The lawyer told CLA CEO Bill Rowlings that current acting DPP Williamson “should not pack his suitcase”.

## **NT DPP’s office runs costly, failed case...which generates compensation payout**

The NT Office of the DPP was behind a years-long, attempted prosecution which eventually failed in March 2023, costing an unrevealed but large compensation payout in late 2023 and a specific cost over just that one case to the Office of the NT DPP of \$260,000.

The NT government reached a confidential settlement, announced in September 2023, with former Children’s Commissioner Colleen Gwynne that saw her resign.

The government – police and prosecutors – had spent more than three years surveilling Gwynne’s home, tapping her private and work phone, accessing her bank accounts and then charging her with abuse of office, according to *Sky News*’ Matt Cunningham.

The NT Supreme Court threw the case out in March 2023 when the Office of the NT DPP conceded it did not have enough evidence to proceed with the trial.

*Sky News* reported NT Police knew they did not have enough evidence at least 16 months before the in-court concession which, according to convention relating to “the Crown”, means the Office of the NT DPP was also aware of that fact.

Gwynne was accused of giving favourable treatment to a friend Laura Dewson when trying to recruit an assistant children’s commissioner, an accusation Gwynne always denied. Gwynne and Dewson were both former NT Police employees.

There have been strident calls for an independent investigation into all aspects of the failed attempt to have Gwynne prosecuted for abuse of office. <https://tinyurl.com/y3ttv3sx>

## **Acting DPP summoned to meeting with ACT AG**

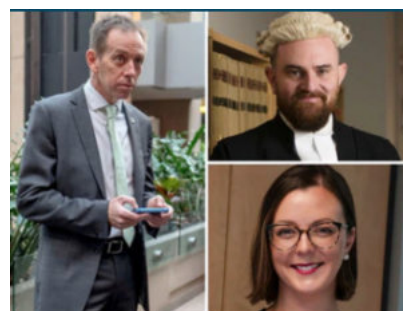
In strange goings-on in the ACT, as reported by *The Australian* on Monday 25 March 2024, two months before he was rejected for the position of ACT Director of Public Prosecutions, Anthony Williamson SC, who had been acting in the role for more than a year, was summoned to an extraordinary meeting with the territory’s Attorney-General Shane Rattenbury.

Photo, clockwise: As *The Australian* sees it: Rattenbury, Williamson, Engel

“In what lawyers have described as a highly unusual and disturbing intervention, Mr Rattenbury, the ACT Greens leader, told Mr Williamson he was concerned that the highly respected Acting DPP had terminated a number of recent sexual-assault prosecutions in Canberra.

“An angry Mr Williamson later told colleagues it was highly inappropriate that he should be ‘hailed over to (Mr Rattenbury’s) office like an errant little schoolboy to explain myself as an independent statutory office holder’,” *The Australian* reported.

Williamson explained to Rattenbury that dropping the cases followed stringent and formal assessments by a range of ACT DPP staff before he made the final statutory decision on the recommendations put before him.



### **Rattenbury in ranks: A-G’s ‘troubling’ intervention**

ACT Greens Attorney-General Shane Rattenbury told Anthony Williamson that he was ‘concerned’ he had terminated some sexual assault prosecutions, two months before the highly respected acting DPP was rejected for the permanent job. [SUBSCRIBE to read more](#)

The newspaper went on to explain more details about political and statutory office appointment shenanigans that appear to have been involved in leaks from the Office of the DPP in the ACT to the staff of ACT AG Rattenbury.

Both Rattenbury and ACT Chief Minister Andrew Barr have defended Rattenbury's conduct.

CLA is not convinced...over the propriety of the Williamson meeting or the astuteness of numerous appointments to senior judicial and semi-judicial positions in the ACT over the past decade. We have frequently and regularly made our dissatisfaction over appointments known to key players, including AG Rattenbury personally on several occasions.

CLA is also disturbed that fallout from the Robodebt Royal Commission remains unaddressed in the ACT.

## **Albrechtsen asks pertinent questions**

*Australian* columnist Janet Albrechtsen has also weighed in on the latest episode.

She has been severely critical for two years of all the schemozzle around the Brittany Higgins – Bruce Lehrmann aborted trial for rape, which Lehrmann has denied at every opportunity, and the bad practices that came to light in the subsequent Walter Sofronoff KC inquiry into what went down – in Australia's best-known non-trial – between the Office of the DPP in the ACT, ACT Policing and other players.

Rattenbury, says Albrechtsen, has questions to answer about his involvement in that case: "...the politician whose conduct deserves further investigation is ACT Attorney-General Shane Rattenbury," Albrechtsen says.

"Why would Rattenbury question Williamson about the discontinuation of specific cases?" she asks.

"Was Rattenbury sending Williamson a message that he was watching discontinuations carefully and that it could be a factor in his choice of a permanent DPP?"

"Though Rattenbury says a selection panel, and cabinet, picked Victoria Engel SC as the new chief prosecutor for the ACT, does Rattenbury's involvement mean that many might think the chosen person was regarded as more likely than other candidates to run as many sexual-assault cases as possible even if they have dubious prospects of success?" Albrechtsen asks.

## **CLA warned AG in advance that selection process was flawed**

During a meeting before the recent applications closed for the position of DPP in the ACT, Civil Liberties Australia warned AG Shane Rattenbury that the process he had agreed to for finding a new DPP appeared misconceived.

Either the AG's office, the ACT Justice and Community Directorate and/or the Cabinet had decided – for the first time ever with such a high level judicial-legal appointment, so far as is known – to employ a headhunting search firm to run the applications and shortlisting.

CLA's CEO Bill Rowlings pointed out to AG Rattenbury that the search firm apparently had no experience in headhunting government Directors of Public Prosecutions or like statutory public service legal jobs.

Rowlings said he had analysed the search firm's experience in legal matters as it boasted about its successes on its own website. While it had searched for, and "appointed", many lawyers at high levels in commerce and the corporate world, he could find no case where it had searched for and appointed a person to a position like the statutory authority appointment which is a DPP.

CLA's early warnings about seeming inexperience in searches/appointment relative to a role like that of the ACT DPP were ignored.

## **IT waste across government to be examined**

The Joint Committee of Public Accounts and Audit (JCPAA) has signalled a wider crackdown on failures in government IT programs.

It is expanding an existing inquiry into failed attempts to privatise the visa processing system and deliver new IT systems in Home Affairs, so it can examine public sector IT projects more widely.

Committee chair Julian Hill (MHR Bruce, Vic), said that "lessons must be drawn from both stages of the failed attempt to privatise and procure a new visa processing system for Home Affairs, and it's already clear that broader scrutiny of other large-scale public sector IT projects is warranted.

"We will get to the bottom of what happened with the visa processing debacle, and how and why nearly \$150 million was wasted."

The inquiry will now also consider other reports including:

- Auditor-General Report 12 of 2023-24 - Administration Parliamentary Expense Management System

- Auditor-General Report 7 of 2023-24 - Establishment of the Workforce Australia Services Panel, specifically on the implementation of a new digital services platform to support employment services.

The committee will also focus on:

- The Digital Transformation Agency's role in evaluating public sector IT investment.
- Department of Finance assessments of certain high value procurements.
- The Australian Public Service Digital Profession's role in building digital capability in the public service.
- Any lessons learnt from previous large-scale IT projects.

Closing date for new submission is 12 April 2024. <https://tinyurl.com/m2spsa89>

## Reveal the secret 'mafia' evidence in the Eastman case, CLA says

Next month will mark the 10th anniversary of the sealing of evidence – secretly, kept from the public – of an inquiry into why David Eastman was wrongly jailed for nearly 20 years by the ACT Supreme Court.

Eastman was eventually paid \$7.02m compensation by the ACT government for his wrongful conviction.



Judge Brian Ross Martin's inquiry, which handed down its findings on 30 May 2014 found Eastman had been wrongly convicted

As part of the findings, judge Martin (photo) "sealed" (that is, he did not release, and ordered to be kept hidden) a key section which he considered in deciding whether Eastman received a fair trial. The secret evidence and Martin's comment on it is believed to have related to whether or not there was Australian or international Mafia involvement in the murder of Assistant Commissioner of the Australian Federal Police, Colin Winchester.

Winchester was killed by two bullets to the back of the head as he parked his car next to his home in suburban Deakin in the ACT on 10 January 1989.

Despite massive police resources, detectives, forensics "experts", surveillance, phone tapping and every other technique – legal and harassingly illegal – known to police being thrown at the case, the AFP has never been able to convict anyone for the murder of one of their own, the highest ranking police officer ever killed in Australia.

The public deserves to know, CLA believes, what was in the secret evidence. It is time authorities released the sealed section.

We wrote on Australia Day 2024 to the ACT Attorney-General Shane Rattenbury, asking him to facilitate release of the long-held secret by the end of May 2024.

While Martin's findings were sealed in 2014, the mafia involvement allegation dates back to even before the original Eastman trial began on 16 May 1995, nearly 30 years ago.



## Archer and Pocock chosen

Tasmanian Liberal MP Bridget Archer (Bass, Tas – photo) and the independent ACT Senator David Pocock have been honoured as outstanding political leaders.

Archer was awarded political leader of the year in the 2023 McKinnon prize for her "rare" courage in standing up for her principles. Over her career Archer has crossed the floor against the Liberal party on 28 occasions.

The prize is a collaboration between the Susan McKinnon Foundation and the Uni of Melbourne, goes to people who have driven positive change through their vision, collaboration, courage and ethical behaviour.

Pocock was chosen as the McKinnon prize's emerging political leader of 2023 – open to elected members of less than five years experience– for engaging in good faith with competing perspectives.

In 2023, Foreign Affairs Minister Penny Wong, and independent MP Helen Haines won the awards. <https://tinyurl.com/27pdh6hd>

## Permanent pill testing hopes to save experimenting 'bunnies'

Queensland will become the first Australian state to back the pill testing on an ongoing basis by establishing the first of two fixed pill-testing clinics in Brisbane during 2024.

The Rabbits Eat Lettuce festival near Warwick, which runs through 1 April, is the first to conduct pill testing on site. In 2019 two people died after taking drugs at the festival.

The health minister, Shannon Fentiman, said nearly \$1m has been allocated to roll out the service. "In 2021 there were 2231 drug-induced deaths in Australia – five deaths a day," she said.

Queensland has contracted Harm Reduction Australia to deliver “several” festival-based services in 2024 and 2025 after an open market tender process. The government has also engaged the University of Queensland to conduct an evaluation of the services and to develop a statewide monitoring process. The first fixed-site clinic will open in Bowen Hills in April. The state government is now deciding where to establish the second one through a co-design process. Service will be free, voluntary and confidential. <https://tinyurl.com/24bm4nem>

In 2018 the ACT became the first Australia jurisdiction to conduct pill testing, at the Groovin the Moo festival. It established a fixed pill-testing clinic for use by the regular community in 2022 on a pilot basis.

### **State reduces double jeopardy protections...because of its own mistakes**

Queensland has extended its double jeopardy exemptions so that nearly 40,000 acquitted alleged rapists and pedophiles may be retried.

The new law, rushed through parliament, allows DNA samples affected by earlier failures at the state-run forensics laboratory to be considered “fresh” if new evidence is found during retesting.

Under previous double jeopardy laws, only people acquitted of murder could be retried, and only if there was “fresh and compelling” evidence, Lydia Lynch reported in *The Australian* on 7 March 2024 (paywall).

More than 103,000 forensic samples from 37,000 criminal cases, dating back to 2007, are being considered for retesting after catastrophic problems at the lab were uncovered by *The Australian's* podcast series *Shandee's Story*, and confirmed by two major public inquiries, the first under retired judge Walter Sofronoff KC and then another headed by retired Federal Court judge Annabelle Bennett,

CLA notes there is never any rush to correct the law when the reverse situation applies - people are wrongfully convicted, but prevented from obtaining justice because the “second appeal” rules are so tightly written and twisted against appellants.

### **Australia's richest state is apparently its most dysfunctional**

WA Police have admitted sexual abuse by WA Police staff is so bad they have opened an all-year, 24-hours-a-day helpline to report sexual predators in their own ranks.

WAPOL special sex unit has investigated nearly 100 police employees over the three years 2000-2023... and that was mostly before the internal police sex offender line began last July.

The situation is so dire that police management and the union have agreed to permit anonymous reporting to the helpline.

The underlying problem is that police covered up for other police when a report was made through “normal” channels. Women stood no chance against the internal police secret male culture when they tried to make a claim where they lived. Almost invariably, they had to report their allegations to the same police stations where their husband worked. – *The West* 6 Mar 2024

### **Not enough money – or political will – for sufficient prison staff?**

A man on remand, waiting for his day in court, died in his Hakea prison cell in Perth last month.

WA Prison Officers Union secretary Andy Smith explained prisoners may smoke so they have lighters. Setting bedding, books and other material on fire quickly creates a blaze.

He said Hakea was 40% under its full staffing: "Understaffing a prison creates an extremely stressful environment for prisoners and they become agitated," Mr Smith said.

He said there had been nine fires at Hakea over the past six months, five indecent assaults, 77 physical assaults, 12 attempted suicides and 160 incidents of self harm.

He said 45 weapons had been found and officers had used a chemical agent to bring an incident under control 28 times. <https://tinyurl.com/mnx5ywx8>

### **Richest state lives high on the hog**

There's nowhere near enough money to help Indigenous children, or staff prisons, but the WA government has been able to waste \$261 million on pork barrelling pet projects without verification checks.

Auditor General's Caroline Spencer reported last month that of the \$298 million the government allocated for community sport and recreation projects between 2020 and 2023, only \$36 million was properly evaluated as benefiting the community or effectively using public money.

"The practices used by government to select, assess and approve these projects were not transparent and therefore the public and parliament cannot be assured public money has been fairly and equitably awarded to communities," Auditor General Spencer found.



She revealed the government chose to allocate \$261 million without following normal funding guidelines used by the Department of Local Government, Sport and Cultural Industries (DLGSC).

She found the government gave money to organisations without them applying for it, and it was used to fund things that would normally have been funded through club fees and fundraising.

These included everything from coffee machines and trophy cabinets to soccer balls and, cricket bats and uniforms.

Six approved infrastructure projects, worth more than \$19 million, have not even begun construction three years later, "because prerequisites have not been met." The AG noted the projects gained funding approval without their feasibility being assessed. <https://tinyurl.com/267j8r6p>

## **Corruption Commission inattention facilitates its own internal, 'corrupt' affair**

The Corruption and Crime Commission of WA was so incompetent one of its own management team was able to have an intimate relationship with a CCC informant for more than four years, involving over 9000 audio contacts and phone calls, without anyone noticing something was awry.

An inquiry found the officer – responsible for overseeing a team of "handlers" who dealt with confidential sources – used her position for personal benefit by having "an extensive and intimate relationship" with a CCC source. She no longer works for the CCC.

Communications between the pair included 1905 audio messages and 7413 phone calls, of which only 960 were documented as required.

As the chair of parliament's Joint Standing Committee on the Corruption and Crime Commission, Matthew Hughes, tabled a report into the fiasco, he said the officer's actions highlighted broader concerns.

"This basic failure of protocol was evidently not identified or acted upon by the commission for four years," he wrote. "Her line manager's supervision was inadequate, the investigation exposes serious weaknesses in how the commission managed its misconduct risks and (employees).

"The parliament has conferred extraordinary powers on the commission to undertake its important work, and this parliament and the public generally have the right to expect the highest standards of behaviour from officers entrusted with these extraordinary powers," he said. <https://tinyurl.com/mrewy5be>

## **Who is responsible for 'serious weaknesses'?**

In the above case, as usual with the WA government, there is no report that anyone other than the woman has left the CCC despite a finding that a "line manager's supervision was inadequate".

This begs the question, CLA says, of what other internal workings of the CCC have been inadequate. If a line manager's supervision was inadequate, surely that manager's manager also failed in his/her job.

CLA can say with absolute confidence that the CCC's supervision of the WA Police Force has been inadequate for much longer than four years, despite a legislative requirement as to its direct responsibility.

The CCC people responsible for any ongoing "serious weaknesses" in how the CCC runs its systems and its people can be found here: <https://www.ccc.wa.gov.au/about-us/leadership>

Forty years ago, when Australia had proper standards as to political and statutory body responsibility, more than one love-struck woman would have been out of a job in the circumstances outlined above.

## **BRIEFS**

### **Legal centres feel the pinch**

Australia's Community Legal Centres are turning away 1000 people a day: they are under-funded and understaffed.

The centres provide support in family law, family violence, child protection, tenancy, consumer protection, social security, refugee rights and anti-discrimination. They also gave free legal help to nearly 180,000 people in 2022-23 but demand outstripped resources so that they turned away 368,000 people.

Nine out of 10 centres said demand for services had increased in the past financial year, according to CLC Australia chief executive Tim Leach.

They need 2000 more workers and an urgent injection of \$125m on top of their normal Budget allocation. <https://tinyurl.com/muds9j79>

### **TasPol faces complaints galore**

Tasmania Police has about 1300 officers. There were more than 400 complaints made against them last year, TasPol itself revealed in March.

There were 22 complaints relating to child sex abuse, covering the period 1998 to 2021, made about TasPol officers to the recent state Commission of Inquiry. – *The Mercury*, Hobart 20 March 2024

## LETTERS

### Cancel culture keeps refugees in legal limbo

Only unworldly bureaucrats could devise a nonsensical system in which Australia grants a visa then cancels it while the visa holder is travelling, leaving them stranded. Surely common sense would indicate doing the checks before granting the visa? The Ministers for Home Affairs and DFAT have ducked for cover. – C Williams, Forrest, ACT.

## CLA highlights for March 2024

### National

Activities for March 2024 (restricted by medical circumstances).

Planning meetings (two) for next evolution of the federal Human Rights Act campaign, with the report of the Parliamentary Joint Committee on Human Rights due for tabling before 31 March.



Meeting with Dr Helen Watchirs OAM, recently retired ACT Human Rights Commissioner: for update on HRA campaign (*photo shows Dr Watchirs and CLA National HRA campaign manager, Chris Stamford*).

Meeting with Alicia Payne (MHR, Canberra) at Parliament House, member of the PJCHR committee, re development in human rights.

### NT:

NT HRA group, two meetings: Objective: Confirm community-based HRA campaign group(s); identify potential key people and organisations, explore strategies, further plan targeting of candidates, refine campaign materials. Prime aim: gaining formal support to vote for a HRA for the NT from parties & independents running at the NT election 24 Aug 2024.

### Tasmania

The road to a Human Rights Act in Tasmanian may be harder than expected with a Liberal-led government retaining power in a consortium after the 23 March 2024 election. However, CLA is exploring whether there is a clear majority of Tasmanian House of Assembly Members who support a HRA.

It would appear that a collection of individual Labor, Greens, Independents and Jacqui Lambie Network Members may comprise a majority of 19 or 20 supporters of a HRA, without counting the two or three Liberal Party Members who may be supportive.

Something is needed to “reboot” democracy in the island state, and there is no better way to signify a whole new approach to serving the people of Tasmania than by giving the people formal human rights legislation.

Sue Neill-Fraser turned 70 during March. Securing a reversal of her wrongful conviction continues by the extensive collection of groups and people who have been working on it for more than a decade. All that is missing is Tasmanian government adherence to justice and the rule of law, CLA says...like responding to papers tabled in parliament, releasing RTI/FOI requested information, and coming clean about apparent tunnel vision and inadequacies in the police investigation.

### WA

Roebourne Prison in the north of WA has finally been hooked up to air conditioning, too late to cope with the worst summer on record in the Pilbara and WA, but a relief none the less, according to news from prisoners.

There is still a lot of work to be completed, but CLA is glad that its continuing advocacy over many years – and that of many other groups and individuals – is at last delivering more humane conditions for prisoners in Australia’s wealthiest state.

Meanwhile ‘Security 95’ inmates from Karnet “open” prison south of Perth have recently rejuvenated lumberjack cottages for the use of veterans needing peace and quiet in the bush to help their recovery.

Security 95 is a scheme whereby trusted prisoners can go out to work in the community to help out generally: the lumberjack cottage renovations have added to their expertise.

WA jails are also developing an enviable reputation for producing some of the best 'home-grown' fruit and vegetables reaching public markets in the state. – reports from prisons' sources.

## INTERNATIONAL

### Justice requires pardons, governor says

Massachusetts USA governor, Maura Healey, will pardon all simple marijuana possession charges from the state, liberating hundreds of thousands of people who have been caught by punitive drug laws.

“(T)his is the most sweeping cannabis pardon announced by any governor in the United States. The reason we do this is simple: justice requires it,” Healey said last month.

Healey said the pardons would re-balance racial justice in the state. A 2016 report from the American Civil Liberties Union of Massachusetts found Black residents made up 24% of marijuana possession arrests in the state, though comprising 8% of the state’s population. <https://tinyurl.com/24vrd898>

### Z-listed unis ‘undesirable’ according to Russia

Russia’s Ministry of Justice has labeled two Canadian unis as “undesirable organisations”.

Anyone affiliated with their international affairs schools “could be subject to criminal punishment, including a possible prison sentence,” if they travel to Russian territory.

Carleton Uni’s Norman Paterson School of International Affairs and the Uni of Toronto’s Munk School of Global Affairs and Public Policy have both been Z-listed (that’s X-listed by Russia).

An article by Carleton Uni says: “We strongly advise anyone affiliated (faculty, students, staff and alumni) to avoid travelling to Russia or Belarus and to curtail research and other partnerships with anyone based in Russia or Belarus at this time,”

Both universities, the Kremlin claims, are part of a broader Western campaign to “discredit the Russian Federation and incite anti-Russian sentiments.”

The statement claims both universities have met with leaders of “unfriendly countries with anti-Russian orientation.” <https://tinyurl.com/ynzp4kff>

### Shield may no long protect gun makers

The government of Mexico is suing US gun manufacturers for their role in facilitating cross-border gun trafficking that is exacerbating violent crime in Mexico.

The govt wants \$15 billion in damages and a court order to force the companies named in the lawsuit – including Smith & Wesson, Colt, Glock, Beretta and Ruger – to change their business model.

In January 2024 a federal appeals court in Boston decided that the industry’s immunity shield, which so far has protected gun-makers from civil liability, does not apply to Mexico’s lawsuit. <https://tinyurl.com/mrv3dr67>

### Black women murdered more than White in USA

In the USA, Black women aged 25–44 years are disproportionately murdered compared with their White counterparts.

In 2020, the homicide rate among Black women was 11·6 per 100 000, compared with 3 per 100 000 among White women. This inequity has persisted over time and is virtually unchanged since 1999.

The racial inequity was greatest in Wisconsin, where in 2019–20, Black women aged 25–44 years were 20 times more likely to die by homicide than White women.

Firearm homicide deaths are disproportionately concentrated among Black women in every region in the USA.

Funding for the study was provided by the National Institute of Mental Health of the National Institutes of Health. <https://tinyurl.com/5brvbmtr>

## International briefs

### Black star for Ghanaian human rights

Ghana's parliament recently passed a new bill imposing a prison sentence of up to three years for anyone convicted of identifying as LGBTQ+, and up to a maximum five-year jail term for forming or funding

LGBTQ+ groups. The bill passed with the backing of Ghana's two major political parties, will come into effect when President Nana Akufo-Addo signs it into law. He previously said that he would do so if most Ghanaians want him to. Gay sex is already against the law in Ghana - it carries a three-year prison sentence. <https://tinyurl.com/yc47e27e>

### Lawyers targeted for doing their job

The Turkish government uses overly broad anti-terror law to arbitrarily arrest and detain lawyers, a fact-finding delegation involving 26 human rights groups from the UK reported recently. Almost every lawyer the delegation visited in prison was arrested on terrorism charges for taking on human rights cases, the report said. They were convicted and sentenced after being deprived the right to due process and fair trial. Lawyers in detention are also subjected to torture and ill-treatment, and often held with limited contact with other individuals or the outside world. <https://tinyurl.com/rexv92w5>

### French entrenches right to abortion in constitution

France has become the first country in the world to include the right to abortion specifically in its constitution. (Australia could entrench the right to abortion in the law if it decides to introduce a Human Rights Act in 2025). French MPs revised the country's 1958 constitution to enshrine women's "guaranteed freedom" to abort by an overwhelming 780-72 vote. President Emmanuel Macron described the move as "French pride" that had sent a "universal message". <https://tinyurl.com/5n8n59eh>

### \$1.5 billion bequest: students can attend college for free

Former professor Ruth Gottesman (photo) has donated \$1.5 billion to Albert Einstein College of Medicine in the Bronx, New York, to make sure that tuition at the college is free forever. The college is currently training more than 100 Masters and PhD students in biomedical sciences and clinical investigation. Gottesman attended a Quaker high school: there is a Quaker high school in Hobart, Tasmania, but no such equally generous bequests are known to have been made by its alumni. [https://en.wikipedia.org/wiki/Ruth\\_Gottesman](https://en.wikipedia.org/wiki/Ruth_Gottesman) Also: <https://tinyurl.com/4jc3r7ja>



### ODD SPOT: Personal preference engenders panic

Within the past decade, one issue has entered the political spotlight with such prominence that a stranger to this planet might conclude that it is an urgent threat to humanity. That issue is gender. From Budapest to Brazil, right-wing leaders have become seemingly obsessed with the minority of their populations who are transgender, queer, or non-binary. In 2023, US state legislatures introduced more than 500 bills targeting LGBTQIA+ people, of which 75 were passed. – Angela Saini, in *The Lancet: 'Confronting the anti-gender movement'* <https://tinyurl.com/y9934mct>

### DATES

**3 April, Adelaide:** 10-11am *Working with Extremists and Terrorist Offenders: Research and Practice*, presented by John Young, Exceptional Needs Unit, SA Department of Human Services. S112, Engineering South Building, North Terrace campus, Uni Adelaide.

**12 April, Sydney:** 12.30 – 2pm *Responding to Repression and Strengthening Human Rights Systems*, in conversation with executive director of Human Rights Watch, Tirana Hassan (photo), and U. Sydney's Prof Ben Saul. Common Room, Level 4, Sydney Law School. Details: [https://law-events.sydney.edu.au/events/tirana\\_hassan](https://law-events.sydney.edu.au/events/tirana_hassan)



**16 April, Melbourne:** *New Legal Thinking for Emerging Technologies?* 2024 Ninian Stephen Law Oration. Uni Melbourne, 5.30-7.30pm, Science Gallery, 700 Swanston St Carlton. Details: <https://tinyurl.com/2xfzh27v>

**30 April, Brisbane:** Launch of the Australian Human Rights Law Association and address by its patron, Pamela Tate AM KC, on *'Proportionality under Australian State-level Human Rights Statutes'*. 5.15-7pm, Supreme Court Brisbane. Details/booking: <http://tinyurl.com/2mbcwvpe>

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

**15-17 May, Belfast & Dublin:** World Bar conference. Topics include: Cancel Culture, Free Speech and the Right to Offend; Law in the Era of Climate Crisis; Rule of Law Under Fire; AI Unleashed. Details: <http://www.worldbar2024.com> Hosts: Jointly, Bar of Northern Ireland, Bar of Ireland.

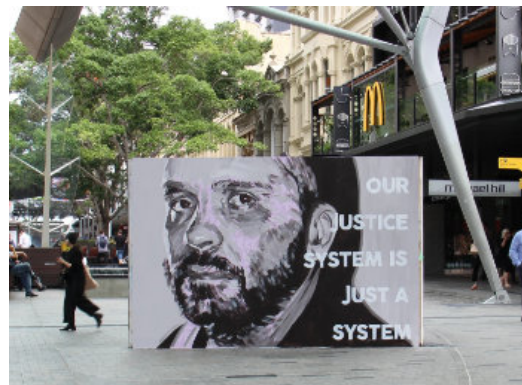
**10 May, Melbourne:** *'Science and Medicine in the Courts: Learnings from the Wrongful Conviction of Kathleen Folbigg'*, 12.45 - 6.00pm, Owen Dixon Chambers East, Level 5, 205 William Street. Details: Vic chapter, Aust, Academy of Forensic Sciences: [aafs.vicchapter@gmail.com](mailto:aafs.vicchapter@gmail.com)

**6-7 June, Sydney:** Free + Equal Human Rights Conference, Australian Human Rights Commission, including *Rights On Time* panel on evening of 6 June. Hyatt Regency. Details: <https://www.freeandequal.com.au/>

**24 July, Brisbane:** Supreme Court Library Qld webinar: 'Human rights and law making', second webinar in the 2024 Democracy in action webinar series. Created for teachers to enhance their knowledge and understanding of our democratic system of government. More info: <http://www.sclqld.org.au/>

**29-31 July, Darwin:** Australian Public Sector Anti-Corruption Conference (APSACC). Workshops (29 July) and conference (30 and 31 July) hosted by the NT ICAC Commissioner. Info: [info@apsacc.com.au](mailto:info@apsacc.com.au)

**22 Aug – 15 Sept, Hobart:** 'Denied', exhibition of Sky Parra's portrait series on Wrongful Convictions, Salamanca Art Centre, 67 Salamanca Place. The artist has painted Scott Austic, Derek Bromley (see photo right, in Queen St Mall Brisbane in 2022), Frank Button, Henry Keogh, Andrew Mallard and Lloyd Rayney, among others, with a new portrait likely to be unveiled for the first time in Hobart. Details: <https://www.skyparra.com/>



### **Election cycle for Australia:**

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

**ACT:** 19 October 2024

**Queensland:** 26 October 2024

2025: **WA:** 8 March 2025

**Federal:** March 2025 likely

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

2026 **South Australia:** 21 March 2026

**Victoria:** 28 November 2026

2027: **NSW:** 27 March 2027

2028: **Tasmania:** likely date is 27 May 2028

*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 26 March 2024.

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