

Labor elders want PM Albanese to aim higher

A survey of 10 influential Labor figures of the past strongly questioned the apparent tactic of Labor leader Anthony Albanese to shrink into a smaller target as a way of winning the 2025 federal election.

The election is likely in late-March or April. It must be held by 17 May.

“Albo needs to have a go to get another go,” one former senior ‘kitchen cabinet’ Minister said. “Yes, he has to promise reductions in the cost of living and big increases in housing, but that won’t be enough by itself,” the retired Labor heavy said.

Another commented: “The people, and the Labor Party, expect their Prime Minister to lead the way on social reform across the nation, from better treatment of Aboriginal people to delivering culturally and in lifestyle for the ordinary Aussie.

“So far Albo has failed to present a forward-looking program which will make Australians better off and enjoying a fairer go all round. If he isn’t articulating a more positive vision for a better Australia, how can your average punter believe he or she will enjoy ‘wins’ in a second Albo term?”

The general feeling among the retired office-holders was that PM Albanese has the silly (media) season of January and the first half of February to paint a picture of a refreshed Australia that citizens would want to live in...and vote for.

CLA pushes PM to commit to a HR Act in 2025

In a letter to PM Albanese, CLA’s CEO Dr Kristine Klugman has asked directly for an election commitment to passing a Human Rights Act by the Australian Parliament before the end of this year.

“It’s time,” Dr Klugman said, echoing the famous 1972 slogan which former Labor PM Gough Whitlam harnessed to win power after 23 years of Coalition governments.

Whitlam went on to transform the nation in just three years: Medi-bank/care, no fault divorce, free university, urban renewal, social justice, pay rises for public servants, equal pay for women, national land rights, TV license fees abolished, farm incomes rose, etc, etc.

“It was said of Whitlam that, in three years, he remade Australian forever,” Dr Klugman said. “It’s Albanese’s time to reshape the nation. He can start by legislating all the promises successive Australian governments have made to Australians by ratifying UN conventions.

“He can simply transform existing commitments and promises into Australian law by creating a Human Rights Act for all citizens.”

Dr Klugman said everyone would benefit. “Australians would be able to stand up for their rights against big government ‘Big Brother’ repressions like Robodebt and COVID lockdowns.

“The federal government would save taxpayer money and personal angst by getting the big society-shaping decisions right the first time around.

“Whitlam succeeded by foreseeing the positive effects of progressive change. Albanese can launch a new wave of Australian progress in social justice by passing a law to make the legal concept of a fair go the touchstone of life for all Australians,” she said.

PM can live up to his first speech, and a mother’s instilling...

When the 2025 election day comes, it will be 29 years since a fresh-faced young man gave his first speech to the Parliament of Australia, on 6 May 1996.

Here’s a few excerpts of what the young Anthony Albanese said, which would suggest he should be an avid supporter of a Human Rights Act to give Australians a legislated fair go:

First I would like to thank my mother, Maryanne Albanese, who raised me under very difficult economic circumstances. She instilled in me a strong sense of social justice and fairness.

The new Prime Minister (then Liberal John Howard – Ed.) clearly believes that as the residents of Hunters Hill have higher income levels they have more rights than working class people.

The bigots who criticise programs aimed at the special needs of sections of our community ignore the fact that there is not equality of opportunity across class, gender, sexual preference and ethnicity.

But there should be, PM, which is why CLA expects you to commit to introducing a Human Rights Act if you are re-elected in 2025. And, we think, campaigning for one would win your votes <https://tinyurl.com/5n86dr6a>

Keep your head down on Australia Day!

Although the worst holiday violence is likely over by now, public holidays still produce far more violence in the community than ordinary days.

Australia Day traditionally sees the second highest number of non-Domestic Violence assaults, with 89% more incidents than on a typical day. DV assaults also spike, with 62% more incidents than usual.

If you survive Australia Day, beware Anzac Day.

Non-DV assaults also spike on ANZAC Day with 78% more assaults than on a typical day. DV assaults show a smaller spike of 26% on ANZAC Day which makes it similar to a typical weekend day when domestic violence is 28% higher than on weekdays.

The figures come from a new study by the estimable NSW Bureau of Crime Statistics and Research (BCSAR).

The study shows domestic violence (DV) and non-DV assault peak on New Year’s Day, with more assaults of both types occurring then than on any other day of the year. Non-DV assaults on New Year’s Day are 166% higher than the typical daily median, while DV assaults are 118% higher. On New Year’s Eve, DV assaults are 45% higher than the typical daily median and non-DV assaults are 52% higher.

The peak times for assaults are the first three hours of New Year’s Day (12am-3am) and the hours leading up to midnight on New Year’s Eve.

Christmas Eve, Christmas Day, and Boxing Day all see elevated levels of domestic violence (DV) assault. On Christmas Day and Boxing Day, DV assaults are 78% higher than the typical daily average and on Christmas Eve, DV assaults are 45% higher than usual. In contrast, Christmas



Day has one of the lowest daily counts of non-DV assault, with incidents 20% lower than a typical day.

BOCSAR report: *'How much does crime spike over the holidays? The relationship between public holidays and assault'* by Nicholas Chan and Alana Cook. <https://bocsar.nsw.gov.au>

Canada leads Oz over wrongful convictions

Canada now has their own miscarriages of justice review commission, passed into law last month.

Australia is now the only comparable country without one. Here, it is not even up for public discussion, despite the numerous cases calling out for a review. "That's a disgrace!" says wrongful convictions academic expert, Dr Bob Moles.

In Canada, as of July 2024, 200 people had applied for miscarriage of justice reviews. "Only 30 were permitted to return to court for a retrial, and a mere 24 were successful," according to the independent Senator from Ontario, Kim Pate (photo). "Most were white men. Only seven, mostly reviewed in the last few years, were racialised men. Not one was a woman."



An analysis of major murder, rape and gross bodily harm conviction rates in England and Wales – a jurisdiction with laws, courts, police, prosecutors and defence barristers virtually identical to the system operating in Australia – shows Australia probably wrongfully convicts in about 6% cases.

That would mean about 33 major crime guilty findings each year are wrongful convictions, says CLA CEO Bill Rowlings, who undertook the analysis in 2022.

Cumulatively, over an average sentence for such crimes of a guessed 10 years, there would be more than 330 prisoners in jail throughout Australia for major crimes whose claims to be innocent are true, he says.

Given that the similarly-estimated wrongful conviction rate for "minor" crimes is about 10% – and the many thousands more minor crimes alleged to have been committed each year – at least 1000 or more prisoners in Australian jails for lesser crimes are likely to be innocent.

"There has never – not since federation 125 years ago – been an inquiry into the entire justice system in Australia. I believe we need a Royal Commission in Australia to fix what is a largely broken system, all the way from the High Court down to police watchhouses," Rowlings said.

"The very least the federal government can do is facilitate a Criminal Cases Review System which works across all Australia's legal jurisdictions," he said. <http://netk.net.au/Canada/Canada81.pdf>

Judge Melissa Perry adds a pump and grey matter to the debate on AI

"Unlike the Tin Man and the Scarecrow (from the Wonderful Wizard of Oz), our choice is not between a heart or a brain. When decisions are made impacting on the rights and interests of individuals, it is apparent that productivity, rationalisation and efficiency cannot overwhelm the need for a heart.

"Whether it is the dispensing of justice by courts or the making of decisions by the executive, we must never lose sight of the importance of the fundamentally human qualities and values

which underpin a just and stable democratic society governed by the rule of law.

"Nor must we suspend our own thought processes in the face of apparently convincing material produced by machines. The many incredible advances that can be achieved with the assistance of AI in science, medicine, engineering and a raft of other fields cannot be denied.

"However, equally it must be remembered that AI is indeed artificial, and it is not intelligent."

– from a speech by Federal Court Judge Melissa Perry, at the 2024 Australian Government Solicitor

Administrative Law Conference, Canberra, 3 December 2024. <https://tinyurl.com/mvjhakpu>

ODD SPOT: Beware vote skewed pro-nuclear

Reports say the proposed nuclear energy plan promoted by the Coalition would generate 880 barrels of highly radioactive spent fuel each year and require secure storage for hundreds of thousands of years.

Not to mention the danger of transporting nuclear material across the nation and through cities and towns to one "disposal" site, if unsafe for about a millennium into the future can be called "disposal".

What the reports fail to mention is that a storage site for even the minuscule – by comparison – medical nuclear waste that Australia uses is still up in the air, despite about 40 years of trying to secure a site.

A site was recently supposedly chosen, in SA, but only by a local plebiscite which refused to allow a close nearby Aboriginal community to vote. Instead, votes were taken from a town area dozens of kilometres away from the site, thus securing a slim majority of the more remote people in favour.

COVID 'illness' lingers for sufferers

Gross stupidity over more than three years – avoidable if NSW possessed a Human Rights Act – has now been corrected at a likely future cost to the state of about \$150m in refunds and a class action.

The 62,419 wrongful fines issued by NSW Police over the COVID-19 pandemic peak panic period from 2020 to 2022 have just been cancelled.

NSW has been forced to refund \$55m, so far. A rump of 23,539 COVID penalty notices are being withdrawn. People who have paid a fine will get a refund.

Now the state faces a class action which could cost it \$100 million or more in personal and public exemplary damages. Maurice Blackburn Lawyers intend to file a COVID fines class action. They claim it has been proven in court that state authorities were not permitted to criminalise the public and extort money during a public health crisis, as these actions were unlawful.

The fines and community restrictions all resulted from the panic of ministers and the stupidity of police, according to a report by Paul Gregoire for Sydney Criminal Lawyers.

"The significance of all the COVID fines being revoked is that the pandemic was notable for heavy-handed COVID policing, with fines usually amounting to \$1000 issued to civilians in an overly eager manner and in absurd circumstances, as the agency targeted the usual minority groups and poorer areas as is its tendency, when in most circumstances a warning would have sufficed," Gregoire wrote.

"If there had been a federal Human Rights Act, if there had been a NSW Human Rights Act, and both were properly applied, the hundreds of thousands of people who never

contracted COVID would never have suffered the type of administrative, financial and home lockdown 'jailing' that government inflicted on them," CLA President Dr Kristine Klugman said.

Redfern Legal Centre can take prime credit for winning a case for three clients when their COVID infringement notices were ruled invalid on 29 November 2022. <https://tinyurl.com/3uxpu5rm>

Tasmanians want their own HR Act, in this term

"Tasmanians need assurance that their rights, and especially the rights of vulnerable and marginalised people, are upheld, and that where breaches occur, legal mechanisms are in place to hold those responsible to account," three prominent locals wrote to celebrate International Human Rights Day in early December 2024.



The trio comprised a former UTAS professor, Terese Henning, public administration expert Dr Val Kitchener (photo), and advocacy and campaign coordinator for reforming the justice system, Patrick Burton.

Tasmanians may not suffer the atrocious human rights abuses of totalitarian regimes, but all is not well, they said. In November 2024

the Tasmanian Legislative Council passed a formal motion calling on the government to commit to introducing a Bill for a Tasmanian Human Rights Act during the current term of parliament.

"The Tasmanian government has now received two reports from the Tasmania Law Reform Institute, in 2007 and in April 2024, recommending that a Human Rights Act be instituted in Tasmania," they wrote in the *Mercury*.

"The 2007 recommendations were made following one of the most extensive community consultations conducted by the institute up to that date.

"The 2024 recommendations were made, after considering events between 2007 and 2022 that raised human rights concerns. They included health mandates during the Covid-19 pandemic; legislation affecting the right to political communication, the right to public protest, and the right to privacy; treatment of prisoners; and divisive debates around housing and housing-related rights as well as anti-discrimination and religious rights.

"Since then, the damning Commission of Inquiry report into the Tasmanian government's responses to child sexual abuse in institutional settings (the COI) has been published, revealing ongoing and current human rights abuses of children's rights in hospitals, out-of-home care, schools and detention facilities."

The three experts pointed out that the absence of appropriate laws in a state could be as bad for its citizens as bad laws.

"There is no single, easily identifiable Act that protects and defines all our rights. This makes it near impossible to know what our rights are, let alone how to protect them," they wrote.

"It means a law degree is needed to locate them and even then, it's difficult to do and to know whether any action can be taken against those who breach rights. Very often it can't.

"There is no single point of reference for legislators, administrators, courts or citizens on human rights and

responsibilities, that might guide or constrain their conduct or assist in the interpretation and application of other legislation.

"A Tasmanian Human Rights Act would provide such a reference point.

"A Human Rights Act should be enacted in this term of parliament in accordance with the Legislative Council's Notice of Motion," Henning, Kitchener and Burton said.

Deaths by hanging bedevil police investigative know-how

We have previously highlighted serious question marks over the hanging death of 15-year-old Eden Westbrook in St Helens in February 2015 – Tasmania Police failed to treat the death as suspicious until they "conclusively established otherwise".

But how do you establish an alternative scenario if you are not open-minded to there being one?

Eden's parents have been fighting for a decade to get a public Inquest into their daughter's death. Senator Jacqui Lambie has joined the fight and has addressed the Senate on the case in July and November 2024. (See *CLArion* December 2024 issue).

The case of Helen Bird proves conclusively that TasPol can get a hanging death terribly wrong.

Coroner Robert Webster recently found that Helen's 2010 death was more likely to be a homicide staged as a suicide. He found that the original police investigation was inadequate and that the initial forensic investigation was similarly flawed. See [Bird-Helen-Inquest-De-identified-Findings-RBW-amended-4.11.2024 .pdf](#).

The case was resolved largely due to the hard work of Detective Senior Constable Nikki Munro, who worked on it, "off the side of her desk", for years.

But the Tasmanian Bird and Westbrook cases – like other failings by police and coroners initially – may be just the tip of the iceberg throughout Australia: other families are taking on the system seeking the possibly or probably hidden, alternative scenarios around the death of their loved ones.

Failure to properly investigate is common

No-one likes a suicide. Police would much rather investigate other "crimes", so it's likely that "suicides" get one of the shortest shrifts from police, and that "instant" decisions made on first arrival at a scene are commonplace.

A doubtful case in Queensland shows hallmarks of possibly similar problems – the death of Michael Cross (photo). His wife, Jeni, found him hanging in a machinery shed at their home near Bundaberg. There was no suicide note.

The rising rodeo star was reportedly last seen by his wife about 11.30pm on 10 January 2016.

QPol did not treat the death as suspicious in any way: this limited the initial investigation and forensic examination. Police failed to formally interview people who could have given evidence, including about possible financial troubles and marital issues.



Without holding an inquest, a coroner ruled that the death was one of intentional suicide.

Michael's parents, Gary and Anne Cross, were unhappy with the finding. They pursued unanswered questions, and engaged a range of forensic experts.

But it wasn't the experts, but the parents, who found discrepancies in attributing which person authored which text messages on mobile phones.

This was enough for the Queensland coroner to eventually issue amended findings...but not enough for him to order a formal inquest.

QPol reinvestigated, which involved further interviews and examining call charge records and Michael's web search history. A series of suspicious searches relating to hanging and suicide – which averaged 29 seconds long – were said to have been located on his devices.

The Crosses have been fighting for eight years to uncover the truth of what happened to Michael.

They continue to consult with various experts on key issues including impact injuries noted in the autopsy report.

Media coverage has been limited but a major article was published by Paula Doneman of the ABC in November 2021. See *After two coronial investigations into the death of Michael Cross his family are still searching for answers - ABC News* CLA will closely monitor progress in the Michael Cross matter, and in other concerning cases.

It appears that there needs to be basic reform to the coronial system in jurisdictions throughout Australia. In particular, families need formal help where possibly compelling evidence emerges that challenges coronial findings, especially when there has been no inquest.

Frequently, as in wrongful conviction cases, such evidence takes years to come to light.

"Snap" decisions by police on first arrival at a homicide or suicide scene frequently prove to be wrong, CLA notes.

SEE *'Wrongful conviction costs state \$53m'* later...

Which agency stuffs up most?

Here's a possible new CLA's competition – which is Australia's most messed-up government agency?

An agency could win the wooden spoon prize each year for corruption, laziness and/or plain incompetence...or a combination of the three.

As an example, we give you Customs/Australia Border Force, which has lost three heads for misconduct, malfeasance...and probably other misdeeds so far kept hidden.

All these high flyers crashed to earth over the past 20 years, the blink of an eye in Public Service "generalship":

1. Frank Kelly, Comptroller-General (C-G) in the early to mid-1990s, basically after a trip to Adelaide for a Gran Prix accompanied by his blonde secretary who was, or had been, the wife of another officer of the service.
2. Roman Quaedvlieg, APM, was a Queensland and AFP police officer, including being the ACT's Chief Police Officer, before becoming the first Australian Border Force Commissioner and C-G. He was dismissed for misbehaviour in 2017 which involved another "relationship" issue (although it seems he may have also offended the government over *au pair* visas). Roman was treated harshly, but questions linger about how did he ever have time to text the girlfriend 20,000 times or thereabouts.



Photo shows Michael Pezullo and Roman Quaedvlieg together at a Senate hearing.

3. The Machiavelli-Rasputin of Australian politics, Michael "The Pez" Pezzullo, once-upon-a-time AO (no longer), joined Customs in 2009 and was stood down from the position of departmental secretary in late-2023. His demise came for frequent failure to act with the impartiality and analytical objectivity required of senior public servants, at least 14 times breaching the APS Code of Conduct. The Pez had no known connection with blondes or brunettes, but did have a brother who was charged with peddling drugs to Sydney Airport Custom officials. Four years an AO, the honour was stripped from him in September 2024.

Can any government department or agency beat that record of ignominy?

ATSI inmates suffer ill health more than others

Australia's national body for community-controlled health providers has welcomed a report highlighting the inequities in health and well-being experienced by Aboriginal and Torres Strait Islander people in jail.

The National Aboriginal Community Controlled Health Organisation (NACCHO) said the *National Review of First Nations Health Care in Prisons* outlines "vital recommendations for transformative change".

"Access to culturally safe and effective health care is a basic human right, yet Aboriginal and Torres Strait Islander people in prisons and youth detention continue to face significant health inequities," NACCHO chief executive, Pat Turner, said.

In response to the report, Health Ministers from across the country said in a joint statement: "We commit to developing an approach to implementation (of recommendations) in 2025, in partnership with the Aboriginal Community Controlled Health Services (ACCHS) sector, other key First Nations stakeholders, and Ministers responsible for corrections and youth justice."

NACCHO said they backed the recommendations of the Review, subject to three fundamental principles.

They called for solutions to be driven and determined by Indigenous peoples and communities; guaranteed adequate funding for ACCHS capacity building, infrastructure for ACCHS-led health care in detention facilities and addressing workforce development needs through a needs-based funding model; and empowering ACCHSs to define and deliver primary health care tailored to their communities' needs in prisons.

Latest data shows 35.5% of the prison population in Australia are Aboriginal and/or Torres Strait Islander, with an incarceration rate of 2701 persons per 100,000 adults.

As a result, Australia is not meeting its 'Closing the Gap' target of reducing the rate of First Nations adults locked up by 15% by 2031. <https://tinyurl.com/323wx5zj>

At last, Indigenous communities get a positive

Remote communities across the country will have free public wi-fi available under a federal government plan aimed at ensuring digital inclusion for Aboriginal and Torres Strait Islander people.

Twenty-three communities in the NT, SA, Queensland and WA have signed up for the \$20 million program, which Indigenous Australians Minister Malarndirri McCarthy said was an important step in "narrowing the digital divide".

"Free and reliable wi-fi is a game changer for remote First Nations communities – opening up new social and economic opportunities and better access to important services," she said. "Importantly, this program is being designed and delivered in close consultation with communities."

Communications Minister Michelle Rowland said more communities would be part of the program.

"Digital connectivity is essential for all Australians, whether they live in a city of millions or a remote community of less than 100 people," she said.

The government has also promised a First Nations digital support hub, a network of digital mentors and improved national data collection to support digital inclusion for Indigenous people.

The \$68 million commitment was developed with the First Nations Digital Inclusion Advisory Group. <https://tinyurl.com/yffc4sfb>



Report says judges are 'risky' and unrepresented

Australia's judges are in danger of becoming politicised because government selects and funds their next generation, Australia's peak judicial body has warned, according to Ellie Dudley writing in *The Australian*.

The Australian Judicial Officers Association report proposes greater representation of Indigenous judges to make the legal system "more legitimate in the eyes of the public".

Barrister and UWA lecturer Jessica Kerr (photo) compiled the report, *Judicial Independence in Australia*. It warns the judiciary is under constant threat of becoming politicised, considering the structures surrounding appointments.

"In a country where the government of the day not only funds the operations of the judiciary but appoints the next generation of judges, the politicisation of those choices is an 'ever-present danger'," the report says.

However, it also points out the "overwhelming majority" of appointments are "uncontroversial and perceived as appropriately independent".

"The existing judiciary and the legal profession, from which judges are drawn, are normally closely involved in these decisions, even if their involvement is not clearly explained by government to the public," it says.

Kerr's report says many Indigenous Australians "continue to lack trust and confidence in the judiciary" due to a lack of representation on the bench. "Pursuing diversity in appointments is only one part of an accelerating effort across government to make these processes more inclusive and legitimate in the eyes of the public".

Australia does not have a Judicial Council or "other body to represent the interests of judges or to regulate the judiciary" on the whole, the report states.

Nor, says CLA, does Australia have any body or group representing the generic interests of prisoners, those on remand, people charged or – particularly – inmates claiming they have been wrongly convicted.

– 'Judiciary at risk of political influence', Ellie Dudley, *The Australian*, 5 Dec 2024 (paywall) <https://tinyurl.com/y9cbmvd3>

Dreyfus socks it to doxers

Amid the flurry of Black Friday's "30 Bills for the Price of One" in federal parliament in late November, the government passed a new law to strengthen privacy protection and outlaw doxxing.

The Privacy and Other Legislation Amendment Bill 2024 implements a first tranche of recommendations from the Privacy Act Review, including:

- a statutory tort to address serious invasions;
- a Children's Online Privacy Code to better protect children from a range of online harms, including \$3 million over three years for the Office of the Australian Information Commissioner;
- greater transparency for individuals affected by automated decisions;
- streamlined information sharing in an emergency response to a major data breach; and
- stronger enforcement powers for the Australian Information Commissioner.

New criminal offences to outlaw doxxing come with penalties of up to seven years jail. Doxxing is often used against women in domestic and family violence. It involves publicly providing personally identifiable information about someone, usually via the Internet and without their consent. – media release, AG, 29 Nov 2024

New laws helps DV victims, protects renters

Laws designed to help victim-survivors of domestic violence when they leave abusive situations by breaking a lease take effect in the ACT today.

Tenants will need to provide supporting evidence like a declaration form from a professional or legal order to access the benefits of the legislation.

Attorney-General and Minister for Human Rights, Tara Cheyne, hoped the new laws would remove barriers.

"Victim-survivors will be able to use existing legal orders, or a declaration from a number of highly accessible professionals to secure a termination notice and avoid break-lease fees," she said.

"Relevant professionals include social workers, doctors, nurses and community support workers at family violence or child welfare services."

A government spokesperson said other laws have come into effect today to better protect renters.

This will include limits on rent increases, mandating break-lease fee caps and "simplifying property condition reports for tenants signing on for a new tenancy at the same rental property".

And from 9 January 2025, landlords will be required to provide tenants with safety information about any swimming pools or spas located at the rental property.

"Further, if the property is a unit, landlords will need to provide their tenant with a unit title rental certificate," the spokesperson said. – media release <https://tinyurl.com/bkz6rvwz>

Election-winning slogan means moving and misery for prisoners and families

One of Australia's most infamous prisons – not long ago described as only "fit for a bulldozer" – is again housing adult prisoners amid rapidly climbing convictions.

Fifty adult prisoners have been moved to the defunct Berrimah adult jail, which was decommissioned in 2012. A few years later the jail became the notorious Don Dale Youth Detention Centre of *ABC Four Corners* TV infamy, with hard-to-watch scenes of a child in a spithood and tales of young children being bashed.

When the Country Liberal Party won government in August 2024, refurbishment work at the jail accelerated. The "tough on crime" CLP government wants 1000 more prison beds by 2028: by then, some 3000 people will be locked up in the NT, more than 1% of the population.

In a new game of NT "Jail Monopoly", inmates are being shoved from pillar to post.

From October, young children and youths from throughout the NT, including Alice Springs, have been moved into the new Holtze kids jail next to the Holtze high-security adult jail in suburban Darwin.

What was the Alice Springs kids jail is now housing women prisoners from across the NT. Tough on crime is tough on families wanting to visit their female relatives if they live anywhere else in the NT than Alice. – various reports 18 Dec 2024.

Racism in WA's jails defeats therapist

WA's culture of entrenched racism in kids' jails defeated a respected senior therapist who was employed at Banksia Hill youth jail for six months then 'let go', without explanation.

The revelation came during the inquest into the death of Cleveland Dodd who was found unresponsive inside a cell in Unit 18, a youth wing of the high-security adult facility Casuarina Prison, early on 12 October 12, 2023. The 16-year-old was rushed to hospital in a critical condition and died a week later.

Unit 18 itself, inside an adult jail, was a panicked government response in July 2022 after riots and damage to cells at WA main youth jail, Banksia Hill.

The therapist was WA's Under Treasurer from 2004 to 2014 and led the Mental Health Commission for five years. He also served on the board of Beyond Blue for nearly 12 years. <https://tinyurl.com/yp439jtf>

Closing youth jail is urgent: Coroner

What was hastily created as a youth wing of an adult prison should be closed "as a matter of urgency", a coroner has said.

The wing was where Indigenous teenager Cleveland Dodd was found unresponsive inside a cell in Unit 18, a youth jail inside high-security Perth adult Casuarina Prison, in the early hours of 12 October 2023. The 16-year-old, who had self-harmed, was taken to hospital in a critical condition, but died a week later.

More funding should be provided for training corrections staff and the prison watchdog's powers should be beefed up, with

coroner Philip Urquhart also calling for the justice department to be stripped of its role overseeing young people.

The coroner has signalled the need for:

- trauma-informed culturally appropriate care;
- youth jailers should be better trained;
- more caseworkers and mental health workers in youth jails;
- better access for lawyers;
- the prison watchdog should be given greater powers;
- The Justice Department should no longer supervise young people;
- the health department should take responsibility for detainees with mental health issues and support be provided to help them transition into the community;
- staff should work shorter shifts and wear more relaxed uniforms; and
- kids should not be held in emergency jails for more than six weeks, wirtwo months between stays.

Urquhart will hand down his final findings and recommendations in mid-2025. <https://tinyurl.com/4z6rnppr>

ODD SPOT: Can WA afford to look after its juvenile and adult prisoners better?

The mid-year WA Budget update has revealed WA's projected operating surplus for the financial year increased by \$493 million to \$3.1 billion. The answer is obviously yes, CLA says. The question becomes why won't it?

Qld used to hate Aboriginal people, now formally hates children by rule of slogan

It's official. Queensland is the state that hates.

It's hatred of Aborigines, and penchant for massacring them, stems from the 19th and 20th centuries.

Now in the 21st century it has switched its hatred to the state's own children...and you can bet Aboriginal children will be the most affected, the most abused, the most hated, CLA says.

The Liberal National Party's election campaign – including the highly contentious "adult crime, adult time" policy – has been legislated into law.

Kids charged with serious crimes including murder, manslaughter and burglary face tougher maximum sentences. Young people between 10 to 17 years old found guilty of murder will face a mandatory life sentence with a minimum non-parole period of 20 years.

The long-standing state policy of "detention as a last resort" is abandoned. Early detention is the norm, the younger the better under new Liberal Premier David Crisafulli.

Labor caved in and voted for the law.

However, MP for Cooper, Jonty Bush (photo), said: "This bill represents a significant departure from the evidence of what works in criminal justice. This bill will result in more violence, more victims, and more harm." Bush is a Master of Criminology and Criminal Justice, but the LNP party's internal council of ideologues was preferred to an external council of experts.

Greens MP Michael Berkman said the bill's "incompatibility" with human rights was "quite an



extraordinary read. It outlines in detail the many and varied ways these laws will limit the rights of Queensland children, and for what?" the member for Maiwar asked.

Berkman said the evidence was "crystal clear": any interaction young people have with the criminal legal system leads to future offending. "Adult crime, adult time is not a policy, it is a slogan," he said. <https://tinyurl.com/mw2776f8>

New lab testing bungle

Hundreds of infectious virus samples have gone missing, sparking an investigation into another state-run laboratory bungle.

In a "major breach" of biosecurity control, a Queensland lab has lost 323 samples including almost 100 of the potentially deadly Hendra virus. However, the state government claimed last month that there was no risk to the community.

Samples of Hendra, Lyssavirus and Hantavirus appear to have been lost at a state-run virology lab in 2021 but were not discovered missing until last year.

It appears the materials – including 223 samples of Lyssavirus – were unaccounted for after a storage freezer broke down. Lyssaviruses are a group of viruses that includes rabies. The missing materials also include two samples of Hantavirus, a rodent-borne virus that can cause illness to humans.

The bungle comes after issues exposed at a DNA lab run by the previous Labor government triggered two inquiries in as many years.

The investigation into the latest lab bungle will be led by retired Supreme Court Justice Martin Daubney alongside Julian Druce, the previous head of the Victorian Infectious Disease Reference Laboratory.

BRIEFS

Female crime seems to be on the rise

Between 2014 and 2023 NSW police proceeded against by 40% more females, compared to just 17% more males, BOCSAR has found. Female offenders grew by around 15%, from 19% of all offenders in 2014 to 22% in 2023. Female offenders were most commonly proceeded against for steal from retail store (12%), possess/use drugs (12%), domestic violence (DV) assault (11%), non-DV assault (7%) and breaching bail conditions (7%). Much growth in female offending comes from increases in a small number of high-volume offence categories. These include: breach of Apprehended Violence Orders (12% increase in female offences from 2014 to 2023 versus a 7% increase in male offenders); breach bail conditions (12% vs. 8%); DV assault (8% vs. 2%); and non-DV assault (4% vs. 1%). <https://bocsar.nsw.gov.au>

Secret reviewer gets new (acting) gig

The NT Country Liberal Party government has appointed long-serving NT public servant Greg Shanahan, as the new acting anti-corruption commissioner, with the former incumbent Michael Riches remaining on indefinite leave with full pay, while a long-running investigation into his conduct continues "sine die" (without an end date). It was Shanahan who conducted a secret review of the ICAC Act for the then-Labor NT government two years ago – source: *NT Independent*.

Train guards allegedly pick on 'darker' kids

Perth's Transperth guards are the latest state government authority to be accused of singling out Noongar kids for abusive treatment, described by an adult observer of an incident at Ellenbrook station just before Christmas as

"absolutely appalling" use of force. The 14-year-old was apparently targeted because he was Aboriginal, witnesses claim. The next day at the same station, an African boy was singled out by the guards. The WA government should pass a state Human Rights Act to ensure all children, and adults, are treated equally, and that public servants are obliged not to favour one class or gender or sex over another, CLA says. <https://tinyurl.com/bddwy28t>

WAPOL to pay for missing info

WA says it will pay up to \$500,000 for information that helps solve one of the state's hundreds of active missing people cases that have accumulated over 70 years. There are 361 long-term missing persons in WA – someone who hasn't been seen for 90 days with no indications of criminality. From early January 2025, WAPOL say they will launch a dedicated missing persons website and also offer a separate \$1m if someone helps solve historical homicides. Across Australia, police receive about 38,000 missing persons reports each year, with most found within a short period of time. About 2600 people remain missing. <https://tinyurl.com/bdh45yyf> and <https://tinyurl.com/497tpack>

LETTERS

Spare us

I've lived in a number of states as well as overseas and experienced a variety of political systems. Nowhere, though, have I heard such a silly, ill-conceived idea as the proposal to allow politicians to job-share ('Can two people share a Senate seat? Cba Times 25 Nov 2024). I've seen job-sharing work extremely well in many roles, but it's hard to imagine a profession less suited to this arrangement than politics. This idea has zero chance of public or legal support, so why waste time or money on pushing such an impractical concept? – Allan Williams, Forrest ACT

Nothing – nuclear – waste – apologies

Looks like in (the federal) election I won't be voting for anyone. Albo has done nothing to protect whistle-blowers, nothing to ease housing or climate action or tax big mining/wealthy, and can't even ban gambling ads. Dutton is stuck on nuclear. The Greens are a waste of time. And when "racist" Pauline is taken to task by Payman and Thorpe they are the ones who have to apologise. – V Harris, Yass, NSW

We need a Human Rights Act

Congratulations to Crispin Hull on his excellent article '[*The fundamental paradox of liberal democracy?*](#)' (*Canberra Times* 3 Dec 2024). In clear and convincing terms, he draws attention to the perilous state of liberal democracies. The march of autocracies is indeed alarming. He stresses the importance of the rule of law, which includes transparency and accountability of government within a sound ethical infrastructure. We in Civil Liberties Australia believe an essential part of that infrastructure is a Human Rights Act.

CLA has been campaigning for a federal Human Rights Act for over four years. We are now at a critical stage if that objective is ever to be reached. If the current opportunity is wasted, the chances of rights reform will recede by probably three decades. To illustrate the opportune time, the Australian Human Rights Commission report Free+Equal and the report of the Parliamentary Joint Committee on Human Rights have both recommended a federal Human Rights Act that includes complaints handling mechanisms (No Rights Without Remedy), as is being introduced in the ACT.

Some excessive limitations on activities imposed during COVID-19 demonstrated how easily expectations of basic rights can be removed. The debacle of Robodebt, which caused such angst and cost, is fresh in people's minds. A federal Human Rights Act presents the government with the right set of circumstances to show vision and take practical action to defend the rights of people in our liberal democracy against adverse political and bureaucratic decisions. – Dr Kristine Klugman OAM, Fisher

CLA main activities for December 2024



Photo shows the CLA Human Rights Act campaign team preparing for a meeting at Parliament House in Nov 2024.

L to R: National HRA Campaign Manager Chris Stamford, CEO Bill Rowlings and President Dr Kristine Klugman.

We held about 100 HRA campaign meetings in 2024.

Background: Each meeting takes about 6 hours, in requesting/arranging/changing (1 hour); preparing agenda and leave-behinds (1 hour); pre-meeting prep and strategy, attend or Zoom/etc (1.5 hours), post-meet analysis (0.5 hours), do minutes, exchange and provide requested papers, follow-up (2 hours).

The 600 or so hours in 2024 on the HRA campaign would have been about half that taken on the campaign in each of 2022 and 2023.

Providing feedback to INSLM

Right: CLA President Dr Kristine Klugman met with the Independent National Security Legislation Monitor, Jake Blight, on 4 Dec,

to discuss proposed new laws security authorities want – allegedly need – to cope with cybercrime. As CLA says, the word is simply “crime” with “cyber in front: there are hundreds of laws in the Crimes Act which would be more than enough for dedicated police and security officers with imagination to have all the power they need...and more.

Other:

- Responded to federal AGs Dept: Consultation draft of National Plan to End Abuse and Mistreatment of Older People 2024-2034

- Submission to INSLM: Surveillance Legislation Amendment(Identify and Disrupt) Act 2021 (Cth) (SLAID Act)
- Submission re Robodebt: Oversight Legislation Amendment (Royal Commission Response and Other Measures) Bill 2024
- Emails to 10 people who have previously campaigned actively for a federal HRA
- Emails to Labor MPs on Parliamentary Joint Committee on Human Rights (PJCHR)
- E meeting with Australian Human Rights Commission President, Hugh de Kretser
- E meeting with Sen David Shoebridge, Greens
- Meeting with David Smith MHR (Government Whip) re govt response to PJCHR report

ACT

- Attended ACT Human Rights Commission UN Human Rights Day forum on Homelessness
- Meeting with Thomas Emerson MLA and advisor Anne-Louise Dawes re amendments to ACT HRA to consolidate *No Rights Without Remedy*

QLD:

Extraordinarily long-serving Queensland Council for Civil Liberties expert Terry O’Gorman has retired from full-time work at the Brisbane law firm he co-founded some 45 years ago, Robertson O’Gorman.

He has been the towering figure of civil liberties in Australia, and its national spokesperson, for decades. In 2021 the Law Council of Australia recognised him as that year’s winner of its President’s Award. In 1991 he was made a Member of the Order of Australia (AM).

O’Gorman has served at all levels of civil liberties, leading the Queensland Council for Civil Liberties as President and Vice-President for many years.

His service to civil liberties, human rights and justice in Australia dates back to university protests and the Fitzgerald Inquiry in the 1980s. which was expected to last six weeks but after two years had “changed the policing and political landscape in Queensland and across Australia”. Then Qld Police Commissioner Sir Terence Lewis was convicted of corruption, lost his knighthood and went to jail. Then-Premier Sir John Bjelke-Petersen, whose reputation was shattered, was charged with perjury though not convicted because of a hung jury. <https://tinyurl.com/mr3rp76z>

Whenever anything positive happened in the area of civil liberties and human rights over the past half century, Terry O’Gorman was probably involved. CLA salutes him personally and his service, and wishes him the best in his retirement from full-time legal work.

WA

Media set-up toxic

A major city with only one main media outlet is toxic to society’s basic truths, WA’s CLA team leader Margaret Howkins observes in relation to *The West Australian* newspaper. ‘*The West*’ promotes corporate privilege over social justice, the longtime liberties and rights campaigner says, colouring community reaction to massive disadvantage among Indigenous people, the thousands upon thousands of young people who can’t get a steady job, and the countless homeless of all ages.



“No amount of public protesting about police and prison guard racism and brutality has made a dent in the public psych,” she said. “In more compassionate societies I’ve lived in elsewhere in the world, ordinary people would be out protesting on the streets week after week for better treatment of minorities.”

Inspector damning of how govt runs jails

Custodial Inspector Eamon Ryan’s Acacia Prison assessment leaflet, sent to prisoners, is damning of how three cores issues “inside” are being handled by the WA government’s corrections staff : “Living day-to-day”, “Relations with Staff” and “Personal Safety”. He also outlines that “Education, Training and Work” is “extremely difficult” and that Aboriginal men are twice as likely to be unemployed in jail as non-Indigenous prisoners (40% versus 19%)

Howkins says the Inspector’s report reads like a Victorian Insane Asylum expose. “Health services have a ‘really long waiting list’,” is one way of saying prisoners are deliberately restricted from health services by their own government. “With an election due on 8 March,” she say, “everything around what used to be ‘a fair go in WA’ is worsening. Demands for ‘Commit Crime/Do the Time’ are increasing, as the Labor approach becomes more traditionally Liberal than the Liberals,”

TAS:

Guy ropes in inexperienced West Aussie ‘judge’

The state’s Attorney-General, Guy Barnett, has created seething resentment amongst the island’s legal establishment by appointing an outsider – a “mainlander” with no judicial experience – as chief judge: Chris Shanahan SC, from Perth WA.

The appointment notice for barrister Shanahan says: “Chris served part time as A/g Commissioner of the Corruption and Crime Commission of WA for some 7 and a half years. From 2014–2015 Chris took a more active role in the CCC during a lengthy vacancy in the office of Commissioner, and during that period he shared the substantive role with another A/g Commissioner. He has also served as an A/g Information Commissioner for Western Australia.”

In other words, CLA notes, he has zero time as a judge.

AG Barnett also appointed judge Kate Cuthbertson SC as a puisne (“ordinary”) judge of the Tasmanian Supreme Court. She at least has warmed her bum a little bit on the bench, but for a mere five months, acting as a Judge of the Federal Circuit and Family Court of Australia since August 2024. Barnett’s announcement describes this experience as “a similarly storied career” to that of Shanahan.

“Up until then, she was Barrister at Law, then Senior Counsel (2022), with Malthouse Chambers for 14 years and Head of Chambers from 2014. She was a barrister and solicitor with the Legal Aid Commission of Tasmania for 10 years before that.” <https://tinyurl.com/n8ajpywh>

The AG’s notice of appointment says: “These appointments ensure the Supreme Court returns to a full complement of Judges and fills the vacancies created by the retirement of Chief Justice Alan Blow AO and the resignation of former puisne judge Gregory Geason.” Barnett claims

“The positions were advertised nationally and both appointments have been made in line with the Protocol for Judicial Appointments, which includes consultation with key stakeholders.” Barnett claims.

Not with CLA, though, although they are more than happy to consult with CLA – free to them – when they want to check their latest piece of draft legislation!

How resentful are the local judges and lawyers?

The Tasmanian Women’s Lawyers Association is leading the criticism of AG Barnett and the State Government over the Shanahan appointment.

The reason? The long-time favourite, considered the pea for the job, was Helen Wood (photo).

She is described on the Supreme Court’s own web page as the “senior puisne judge”.

A Tasmanian, she was a prosecutor in DPP’s office for seven years, and in 1994 was the first woman appointed a magistrate in Tasmania, a position she held until 2009 when she was made a Supreme Court judge, the second female appointed to the state’s top court.

So, the state’s AG has overlooked a Tasmanian who gained her law degree at the Uni of Tasmania in 1985, has been a Hobart-based crown prosecutor for seven years and a Tasmanian Supreme Court judge for 15, to appoint a MALE with no experience whatsoever sitting as a judge, from another state and with no known links to Tasmania.

No wonder the women lawyers are irate. They issued a statement:

“TWL wishes to express shock and disappointment that the most senior judge in the Supreme court of Tasmania ... has been overlooked for the position of Chief Justice,” the association said.

“The apparent decision to overlook one of Tasmania’s most highly respected and experienced judicial officers for this appointment is deeply concerning and disappointing – particularly in light of the ongoing need to address gender inequity in the highest levels of the legal profession.”

INTERNATIONAL

Will President Trump slip up, or slide down?

A recently released 2024 rating of all US presidents has confirmed Abraham Lincoln as the best president America ever had, while Donald Trump during his first term was the worst ever.

In 2018, the Presidential Greatness Project Expert Survey – taken of members of the Presidents and Executive Politics section of the American Political Science Association – ranked Donald Trump for the first time: it put him in last position.

In the 2024 edition, Trump easily ranked worst, with a score of just 10.92 out of 100.

Self-identified Republican historians rated Trump in the bottom five. The 154 respondents to the 2024 survey included APSA members and scholars who had recently published peer-reviewed academic research in key related scholarly journals or academic presses.

After serving his 2025-2029 Presidential term, Trump may slip up the table...or slide down to rank even worse than now among self-identified Republican experts. – APSA <https://apsanet.org>



VAD to become legal in England

Voluntary assisted dying will in future be legal for terminally ill patients in England and Wales under strict conditions.

Applicants must be over 18, diagnosed with a terminal illness and have been given no more than six months to live. Two doctors and a judge must give approval, and a person has to self-administer the fatal drugs.

Parliament passed the law by 330 votes to 275 in a conscience vote. But parliamentary committees and amendments will examine the bill in the normal way, which may produce amendments. The law extends only to England and Wales. The Scottish Parliament is also debating the issue.

Some 65% if Britons are in favour of the law and 13% opposed, according to a recent survey. – various British media sources, 29 Nov 2024

Wrongful conviction costs state \$53m

Kirstin Blaise Lobato, who spent nearly 16 years in prison for a 2001 murder she did not commit, was awarded more than \$53 million by a federal jury in Nevada last month.

Lobato had sued the Las Vegas Metropolitan Police Department and two detectives, who misrepresented her statements and ignored evidence that proved her innocence. Phone records showed she was about 275km away when the murder was committed.

She was 18 when arrested in the murder of Duran Bailey, 44, who was found dead on the west side of Las Vegas. He had been badly beaten and stabbed, and his body mutilated, with his penis severed.

Two detectives, Thomas Thowsen and James LaRoche, linked Lobato to the murder after they were told she had defended herself earlier when a man tried to rape her in the parking lot of a hotel in east Las Vegas, the compensation lawsuit said. The police found no physical evidence that connected her to Bailey's killing.

The jury also found each of the two detectives liable for \$17,000 in punitive damages.

Lobato was convicted of first-degree murder in Bailey's death in May 2002. The conviction was reversed on appeal, leading to a second trial. Lobato was convicted in October 2006 of voluntary manslaughter with use of a deadly weapon and sexual penetration of a dead body, and was sentenced to 13 to 45 years jail.

A Nevada state court vacated her conviction in December 2017 because of ineffective legal representation. She was released from prison. In 2024 the court removed the conviction from her records and provided her with a certificate of innocence.

Lobato said after the recent legal case that it was "horrendous" to sit through the trial knowing that officials don't believe she is innocent.

"There were points where I was devastated," Lobato said. "There were points where I was shaking with rage because it's so incredibly unfair that the truth is clear as day, and they still just dig in their feet — zero accountability and zero remorse." – reported by Katelyn Newberg, *Las Vegas Review Journal* <https://tinyurl.com/3mrypjva>

NOTE: This reminds CLA of the Sue Neill-Fraser case in Tasmania, where "justice" still has not got it right after 15 years so far, and an innocent woman – in CLA's view – is subject to Parole Board restrictions.

Men lead the way...

The US Bureau of Justice Statistics reported that in 2022 men committed 78.6% of violent crimes, nearly five times the 16.5%

of violent offences committed by women. (In the remainder, the sex of the offender could not be determined.)

In 2023 men committed 14,127 homicides, women 1898. Men committed 35,304 aggravated assaults, women 10,866. Men committed 16,230 robberies, women 2407.

Autism spectrum disorder, to give another example, is diagnosed four times as often in males as in females. In 2021 nearly five times as many men as women committed suicide.

– from *If Men Are in Trouble, What Is the Cause?* Thomas B Edsall, writing in the *NYT* 17 Dec 2024

INTERNATIONAL BRIEFS

Executions in 2024

Saudi Arabia – home of an upcoming FIFA world cup soccer tournament – had executed more than 300 prisoners in 2024 as at 4 December. Australia's great ally, the USA, has executed 23 prisoners in eight states in 2024 (at 3 Dec). In the USA, it is expected executions will increase considerably under 2025's incoming President, Don Trump. Topping the international list for executions is usually Iran, which despatches about 1000 people a year. These are official state executions. No-one has an accurate count on the numbers "executed" by parties involved in recent Middle East conflicts or in the warfare between Russia and Ukraine, or in African or South American internecine fighting. – various sources.

Journalists killed in 2024

At east 70 journalists had died in 2024 (mid-December 2024 figure) according to UNESCO. <https://tinyurl.com/3t238rwx>

DATES

2025:

20-21 February, Wellington NZ: Pacific Island Political Studies Association hosts Pacific Islands conference: *Zone of Peace or Ocean of Discontent?* Uni of Wellington. Details: E: pipsa2025@gmail.com

Election cycle for Australia:

2025: **WA:** 8 March 2025

Federal: Early April 2025 possible; latest: Sat 17 May

2026 **South Australia:** 21 March 2026

Victoria: 28 November 2026

2027: **NSW:** 27 March 2027

2028: **Tasmania:** likely date is 27 May 2028, but the minority government is inherently unstable

NT: 26 August 2028

ACT: 21 October 2028

Queensland: 28 October 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 Dec 2024.

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