

CLArion No. 60 – 01 Oct 2005

- email newsletter of Civil Liberties Australia (ACT Assn. No. A04043)
Email: rowlings@netspeed.com.au Phone: 02 6288 6137

NOTE: Distributed a few days earlier than usual, on 26 September, due to personal commitments

Liberty councils prepare to fight PM's 'anti-terrorism' laws

ACT, Victoria and NSW civil liberties (CL) bodies are gearing up to mount the strongest possible action against a new "regime" announced by the Prime Minister, Mr Howard, in a media release early in September.

His 12-point release contained vague outlines of proposed legislation that would appear to severely curtail long-standing freedoms and personal liberties in Australia.

He was due to disclose more detail of the proposed laws in a meeting with State and Territory heads on 27 September.

Before the meeting, the Opposition Leader Mr Beazley and some State Premiers competed to see who could propose even more repressive laws and regulations.

Fortunately, ACT Chief Minister Jon Stanhope showed leadership by basing his arguments for restricting the impact of the proposed new laws on civil liberties principles and the rule of law.

He pointed out that the proposed laws would need to be measured against the ACT's Human Rights Act, highlighting the value of HR legislation which is absent from all other states and nationally.

The Howard proposals occasioned the first teleconference of Australian CL groups, called by Australian Council of Civil Liberties president Terry O'Gorman.

The phone link, which involved Queensland, Victoria, NSW, ACT and Tasmanian groups, agreed on a national position on the so-far revealed proposals.

In other developments:

- Liberty Victoria released a discussion paper on Terrorism and Human Rights. You can get it at: <http://libertyvictoria.org.au/index.asp>
- Laws for Insecurity: a 46-page report by a consortium of HR/CL people, including Joo-Cheong Tham of Liberty Victoria
- NSW CCL has formed a working party to analyse the proposed laws, and is planning to hold cross-party briefings in Canberra once full details of the proposed legislation are known.
- CLA issued a media release on 26 September, saying the fallout from Mr Howard's laws was the real danger to Australian society – when the PM curtailed Australians' liberties, terrorists had won (*see media release later in this newsletter*).

.....
- CLA report

Australian CL body moves closer to formal incorporation

Victorian barrister Greg Connellan is finalising a draft constitution to unite all national Civil Liberties bodies as the Australian Council for Civil Liberties, possibly under the 'trading' name of Liberty Australia.

All states have had the opportunity to comment on Connellan's draft, based on ACT legislation.

The new body is likely to be registered in the ACT.

.....
By CLA Secretary Bill Rowlings

Stun guns dangerous; trial in ACT (and Australia-wide?) should be stopped

CLA on 23 September formally asked the ACT Police Minister, Mr Hargreaves, to stop a trial of stun guns by the Australian Federal Police (AFP) in the ACT until findings from a US Justice Department inquiry are made known.

At the very least, police should be instructed to not use stun guns on people who are mentally ill and on prescription medication, or who are on drugs, drunk, exhausted, mentally or physically stressed or with a pacemaker or heart irregularity, CLA told the Police Minister.

People in these categories are at heightened risk of death, research shows.

With mounting deaths after stun gun use in the USA, the weapon being trialed is dangerous and can kill people, CLA says, despite the police claiming it is 'safe'.

On the same day CLA warned Mr Hargreaves, he announced an extension of the Australian Federal Police/ACT Policing trial in the ACT to carry it through the Christmas-New Year 2006 festive season.

Based on overseas stun gun statistics, one or more ACT people could die if police use the weapon in Canberra this holiday period.

Statistics indicate that 5 in 200 cases of stun gun use by police will result in major injury or death.

The stun guns to be used in Canberra are X26 Tasers, made by the Taser International company of the USA.

Amnesty International says the use of Taser-style stun guns has caused more than 100 deaths in the USA and Canada since 1999.

The Atlanta Journal-Constitution newspaper reported that five people in Georgia, including three in metropolitan Atlanta, had died after being shocked with Tasers in nine months to mid-2004.

Atlanta's city population is about 425,000, about a third more than Canberra.

Taser can deliver 50,000 volt shock for more than five seconds at a time

The Taser X26 looks like an over-size pistol and fires fishhook probes trailing up monofilament wires that attach to clothing or skin and conduct a 50,000-volt charge for five seconds or longer.

A person who is shot loses muscular control and collapses as if paralysed.

The charge is strong enough to operate through clothing 5cm thick – the barbs don't have to touch the skin.

Victims can be shot from about 5-to-7 metres away.

Police also have the option of using another 'stun' function of the Taser, which allows an officer to shock a suspect without firing its probes by holding the weapon against clothing or skin.

Because neither the ACT Police Minister or the AFP will not release the police protocols for use of Tasers in the ACT, it is not known whether AFP police in Canberra and Australia are authorised to use this capability of the weapon.

This function makes the weapon particularly attractive to prison officers and people in similar situations: many deaths have occurred in US prisons or holding cells, or when arrested people have been tied-up. Stun guns have even killed people locked behind bars in cells when used to try to quieten noisy people down.

The weapons are also being used by American soldiers in Iraq to control crowds and keep prisoners in line, according to a US online defense magazine.

Use of stun guns by US soldiers in Iraq has been severely criticized (see story later), and it is suspected the weapons have been used in Afghanistan and at Guantanamo Bay to control and discipline prisoners.

The stun gun issue came to a head when CLA was asked in September by an ACT Legislative Assembly Standing Committee to provide an analysis of stun guns.

The request came from the Legal Affairs Standing Committee while CLA was giving evidence as a follow-up to its submission on the Police Powers inquiry.

Trial extension may bring its own increased danger

In the ACT, the extension of the trial announced by Police Minister Hargreaves may itself bring increased danger.

The ACT trial has been running since November 2004, but to mid-September police had not had reason to use their Tasers.

There is a fear that the AFP will be keener to use Tasers between now and New Year, because if they don't use them in more than a year, it would be hard to justify that the new-age weapons are needed here.

The combination of ACT police perhaps over-keen to use Tasers, and young people with too much alcohol on board, is a recipe for a disaster and possibly a death over the holiday period.

Stun gun safety questioned when 'expert' revealed to be on company payroll

The AFP claims that the Tasers are safe were heavily based on 'scientific studies' undertaken by an American academic scientist, Dr Robert Stratbucker.

Earlier this year it was revealed that Dr Stratbucker is a paid employee of the Taser manufacturer, and that he was given stock options by the company.

While he denies ties to the company influenced his findings, Dr Stratbucker has been formally removed from the panel involved in the \$500,000, two-year trial of Tasers being sponsored by the US Justice Department.

.....

- CLA report

Active CL bodies in Australia rise to 6

The number of Australian civil liberties organisations has risen to six with the re-formation of a group in Tasmania recently.

The group is headed by Paul Store, based in Cygnet.

If anyone would like details to advise Tasmanian friends how they could join, please contact CLA secretary Bill Rowlings.

A barrister in WA is reported to be forming a group in that State, and there are moves afoot to identify people in the Northern Territory who would be interested in starting a CL branch there.

If anyone can suggest potential members for any interstate CL group, particularly in Tasmania, WA and the NT, please email *CLArion*.

.....

- CLA report

Active period results in some wins, few losses

The CLA board has been extremely busy in September promoting CLA and pushing important civil liberties issues.

We had a victory when the ACT Government pulled sharply back from including extensive strict liability clauses in its new tree protection legislation.

However, on the use of stun guns in the ACT, we had a setback in that the 'trial' was extended through Christmas-New Year – but we hope to convince the Police Minister to change his mind.

We also hope to eventually win on providing well-prepared householders with the freedom of choice to stay to fight for their house in bushfires. CLA says people should be free to leave, or free to stay, without breaking the law if they ignore police orders to evacuate.

MEETINGS:

Meetings have been held with:

- Attorney-General Philip Ruddock
- Shadow Attorney-General Nicola Roxon

- Senator Gary Humphries
- ACT Police and Emergency Services Minister John Hargreaves
- ANU Law Faculty internship coordinator Tom Sherman
- Sam Wong and Dianne Coward of the National Committee for Human Rights Education
- NSW CCL President Cameron Murphy and Board Member Michael Walton
- Meeting with 7 students at ANU, with a view to their becoming more active in CL issues and possibly undertaking a formal internship with CLA as part of their Law studies.

BOARD MEETING:

A board meeting took place on Saturday 24 September. Major matters are reported in this edition of *CLArion*.

One decision taken was to email CLA media releases to all members, along with possible suggestions for follow-up letters which members might consider sending.

MEDIA:

Main CLA spokesman, Director Anthony Williamson, has appeared several times on TV and on radio, and been quoted in print.

President Kristine Klugman has had two letters published in the Canberra Times, as have other members (including new member David Groube on at least two occasions).

Member Christopher Michaelsen's excellent articles on Terrorism issues have been run, and quoted, extensively in the Canberra Times and the Melbourne Age, among other outlets.

Major issues covered have been:

Fire Freedom of Choice: where CLA called for home owners to have the right to stay to fight for their homes in bushfires rather than being forcibly evacuated;

Terrorism: pointing out the anomalies and inconsistencies of the Australian Government's push for more and more repressive legislation.

Strict Liability legislation: CLA was successful, following a submission written by Director Anthony Williamson, in influencing the ACT Government to severely restrict the imposition of strict liability clauses in its new tree preservation legislation.

Australian Story: As well, CLA Director James Staples featured in September in a two-part *Australian Story* on ABC-TV about the James Hallinan shooting at Adjungbilly, near Tumut, in 2001. There, about 100 NSW police, including special force snipers, created a two-day siege which ended with an all-out flash and stun-grenade attack on the hermit Hallinan in his tiny tin hut, followed moments later by a marksman's bullet smashing into the back of his head, killing him instantly. In the Coroner's Court, NSW Police were not even asked to review their operating procedures, even though Hallinan was accused of only the most minor of offences.

.....

- CLA report

Defence rejects CLA offer of help to set up CL branches

The Chief of the Defence Force, Air Chief Marshal Angus Houston, has rejected a CLA initiative to help set up civil liberties branches on the campuses of the Australian Defence Force Academy and Duntroon.

Basically, AVM Houston's response letter said, the Defence force's house is in order in relation to bullying, hazing and unfair treatment of cadets and students, and in terms of treatment of troops at training establishments and while on duty.

The ADF gave CL/HR lectures during promotion courses, and also to soldiers before they were deployed overseas, he said.

Defence has the rights systems and rules in place, and was monitoring the situation, he claimed.

CLA hopes AVM Houston's confidence is justified, and that his statements do not come back to haunt him.

His response flies in the face of repeated instances of abuse over the past two decades at Defence establishments in Canberra, and of several suicides allegedly caused by how Defence personnel treated their employees.

His letter clearly indicates basic soldiers in Australia receive no civil liberties or human rights education. That is not good enough, CLA says.

In the absence of respect for civil liberties and human rights, 'closed' institutions like the military can be places of persecution for individuals targeted by groups of bullies.

No organisation in Australia should have greater respect for civil liberties and human rights than the Defence Force, whose people are sworn to defend Australia's freedoms.

They should be educated to understand what those freedoms are through civil liberties and human rights lectures and studies at the very least, but also by having the opportunity to form CL/HR groups on Defence facilities.

.....

- CLA report

CLA asks Minister Hockey to consult on Medicare smartcard trials

CLA has written to the Minister for Human Services, Mr Joe Hockey, on the Medicare smartcard trials and consultative processes, asking for full details of the trials.

The letter asks why 14 separate Australian Government agencies are involved in the consultative process, if they don't have any plans to introduce a cross-agency data matching system.

Mr Hockey has yet to reply to the eight-week-old letter.

.....

- from BBC, December 2004

US punishes troops over stun guns

Four members of a US special operations unit in Iraq have been disciplined for using electric Taser stun guns on prisoners, the BBC reported the Pentagon as saying.

Spokesman Lawrence DiRita said the four had been switched to other duties and could face a criminal investigation, after being punished for excessive use of force.

At a Pentagon news briefing in December 2004, Mr DiRita said four individuals had received "administrative punishments for excessive use of force - it in particular was emphasised it was the unauthorised use of Tasers".

A senior FBI official is reported to have complained in 2002 about "highly aggressive" interrogation techniques at the US camp at Guantanamo Bay.

The techniques are believed to have included use of stun guns.

.....

- CLA report

Matilda's Bill waltzes alone

New Matilda, the online magazine, will launch its own Human Rights Bill campaign in Sydney on Wednesday 5 October 2005 at 6.30pm at Sydney Town Hall, with Malcolm Fraser doing the honours.

Launches in other capital cities will follow, according to New Matilda's media release.

CLA offered to work closely with New Matilda, but they were unwilling to share their draft or take input to it.

Because of their insular stance, the CLA Board decided to withdraw from active involvement with the organisation, led by former Labor Senator Susan Ryan and former bureaucrat and diplomat (and ex-chief of News Ltd) John Menadue.

CLA is committed to working towards a Charter (or Bill) of Rights, preferably one agreed by all member states of the Australian Council for Civil Liberties (see story above).

.....

- CLA report, based on several overseas sources

Campaigners call for release of Munir death report

September marked exactly one year since the poisoning of leading Indonesian human rights activist Munir.

HR campaigners in that time have:

- helped Munir's wife Suciwati gain access to the autopsy report prepared by the Dutch Forensic Institute;
- convinced the Indonesian government to create an official fact-finding team; and
- pressured Garuda Airlines to cooperate with the team after it was implicated in a complex plot to kill Munir, who died of poisoning on one of their flights.

The fact-finding team handed its final report to Indonesia's President Yudhoyono on 23 June, concluding that intelligence officials were most likely involved in Munir's death.

In early September, the first witnesses appeared in the murder trial of pilot Pollycarpus Budihari Priyanto, the only person charged so far with Munir's death.

Outside the courthouse, protestors in Munir masks held aloft a banner reading 'Uncover the masterminds - we don't need scapegoats!'

HR campaigners are now calling on the Indonesian Government to release the report of the fact-finding team immediately. They say Indonesian security agencies were behind the murder.

.....

– from Human Rights Watch email, Sept 2005

Report warns of counter-terrorism dangers

In a recently-released report entitled *Reformasi and Resistance: Human Rights Defenders and Counterterrorism in Indonesia*, Human Rights First traces the negative impact of counter-terrorism policies on human rights and the activists who defend them.

http://www.humanrightsfirst.org/defenders/hrd_indonesia/reports/reformasi-resist-indonesia-may05.pdf

.....

- from ACLU email

ACLU fights US Patriot Act secrecy letter

The American Civil Liberties Union has filed a lawsuit challenging the constitutionality of a Patriot Act provision allowing the use of 'national security letters'.

ACLU executive director Anthony D. Romero said the ACLU was disclosing that the FBI had used this controversial power to demand records from an ACLU client.

"Because of a gag order, I can't provide details on the case, but I can tell you that our client is a member of the American Library Association in Connecticut.

Libraries in American have been subjected to raids on borrowing records by spy agencies, and formal orders to disclose what books certain individuals have borrowed.

Many librarians disagree with the intrusion on people's rights to read publicly-available books without being reported to secret agencies for the book choices they make.

.....

– from a report by Human Rights Watch, New York, 24 September 2005

US soldiers say beating Iraq prisoners was routine

US Army troops subjected Iraqi detainees to severe beatings and other torture in central Iraq from 2003 through 2004, often under orders or with the approval of superior officers, according to accounts from soldiers.

The administration demanded that soldiers extract information from detainees without telling them what was allowed and what was forbidden, according to Tom Malinowski, Washington Director of Human Rights Watch.

Yet when abuses inevitably followed, the leadership blamed the soldiers in the field instead of taking responsibility, he said.

The new report, 'Leadership Failure: Firsthand Accounts of Torture of Iraqi Detainees by the U.S. Army's 82nd Airborne Division,' provides soldiers' accounts of abuses against detainees committed by troops of the 82nd Airborne stationed at Forward Operating Base Mercury (FOB Mercury), near Fallujah.

In one incident, a soldier is alleged to have broken a detainee's leg with a baseball bat.

Soldiers also applied chemical substances to detainees' skin and eyes, and subjected detainees to forced stress positions, sleep deprivation, and extremes of hot and cold. Detainees were also stacked into human pyramids and denied food and water.

(Another report – see earlier story – says soldiers used stun guns to torture prisoners).

.....

- from NY Times and other reports

US military commissions to be reviewed by courts

The US Supreme Court was due to hear the key *Hamdan v. Rumsfeld* case towards the end of September.

The *Hamdan* case involves questioning the President's right to set up the so-called 'military commissions' assigned the task of trying several foreign nationals now being held at the Navy prison camp at Guantanamo Bay, Cuba.

The District of Columbia (DC) Circuit, in a ruling on 15 July joined in by Circuit Judge John G. Roberts, Jr., upheld the President's authority to bypass the court-martial system and civilian courts.

As well, the 4th Circuit Court of Appeals in Virginia made the amazing decision that the president of the US can declare a US citizen arrested on US soil to be an "enemy combatant".

.....

- drawn from Human Rights First report

Kurdish dissident charged for 'acting against national security'*

Dr Roya Toloui, a champion of the rights of Iran's Kurdish minority and of women, was detained from her home in Sanandaj on 2 August, according to Human Rights Watch.

She is reported to be facing charges of "disturbing the peace" and "acting against national security".

Human Rights First is calling for her immediate and unconditional release from detention.

Toloui's detention is consistent with a pattern of harassment and persecution that she and other human rights activists in Iran's Kurdish region have suffered in recent months in reprisal for their legitimate, peaceful activities in support of basic rights and freedoms.

This Iran case raises questions whether dissidents in Australia might be similarly treated under the Howard new terrorism laws "regime".

Certainly, the opportunity would be there to charge dissidents under 'against national security' provisions, without normal habeas corpus and judicial review provisions applying.

Similar allegations were enough, without any need for public proof, for the American Scott Parkin to be sent back from Australia to his own country.

.....

- from Human Rights First report

Russian HR defender threatened by State agencies

Stanislav Dmitrievsky, a Russian human rights defender, has been threatened with prosecution for the second time in 2005.

Mr Dmitrievsky is the editor-in-chief of the newspaper *Pravozaschita* ('Human Rights Defense') and managing director of the Russian-Chechen Friendship Society (RCFS), a human rights organization based in Nizhny Novgorod.

On 11 August 2005, a prosecutor interrogated Mr Dmitrievsky about his political views and informed him that he could face trial for "inciting hatred or hostility between national groups". In January 2005 he was interrogated and investigated under an anti-extremism law.

The threats of prosecution facing Mr Dmitrievsky appear to be part of an ongoing campaign against RCFS that includes singling the organization out for administrative and tax inspections, designed to stifle its criticism of Russian policies in Chechnya.

Similar repressive actions against CL and HR groups would be possible in Australia under PM Howard's proposed new terrorism laws "regime".

.....

– from ACLU report

Michigan State Police help identity theft victims

The American Civil Liberties Union (ACLU) of Michigan and Legal Aid of Western Michigan have hailed an agreement under which Michigan State Police will clear the names of innocent victims of identity (ID) theft whose criminal records contain convictions that actually belong to the criminals who stole their identities.

Currently, background check information is provided by the Michigan State Police to employers, landlords and the general public.

But if a criminal has used someone else's name, the criminal's convictions will appear on the record of the ID theft victim. This makes it look like the victim has been convicted of the ID thief's crimes.

Individuals with common names may also find themselves with a criminal record that actually belongs to someone else with the same name.

Once the new computer system is operational, a person who can prove through a fingerprint match that the criminal record does not belong to him or her can get the "mistaken identity convictions" removed.

The Michigan State Police will continue to track alias information by creating a new computer field for identity theft, which will be visible only to law enforcement officials.

In addition to the successful negotiations with the Michigan State Police, the two organizations have created "How Do I Clear My Name? A Guide To Help You Correct Your Record If It Contains Crimes You Did Not Commit."

To read the guide, go to: www.aclumich.org/pdf/howdoiclearmyname.pdf

.....

MEDIA RELEASE FROM CLA: released 4.30pm 25 September 2005

Fallout from PM's new laws is a danger to Australian society

The new Howard terrorist laws were like trying to use a nuclear bomb to kill a nest of tiger snakes, Civil Liberties Australia (ACT) said today.

"Most snakes will be deep under ground, and survive, while the rest of Australia suffers the fallout for decades to come.

"New laws won't stop terrorist acts. They didn't in England, and they won't here," CLA's president, Dr Kristine Klugman said.

"We should be putting our time, effort and funding into working with Australia's disenfranchised communities to help them curb dangerous people.

"We allow terrorists to win if we throw away the basic Australian liberties and the rule of law in our society," she said.

"Laws restrict ordinary people, not terrorists.

"Terrorists don't obey laws: if anyone could agree on a definition of a terrorist, it would certainly include that terrorists operate outside the normal bounds and laws of society," Dr Klugman said.

"It would do the Prime Minister and the Premiers well to remember that the United States had all the information it needed before the 9/11 Twin Towers and Pentagon attacks – but it was failure of spy agency people and police and information-linking systems that was the problem, not the existing laws.

"If we were not involved in the Iraq war, our terrorism threat would be close to zero – for the PM to claim otherwise is like saying black is yellow," Dr Klugman said.

Released by Bill Rowlings, Secretary, Civil Liberties Australia (ACT) Inc. A04043.

For follow-up comment: CLA Director Anthony Williamson 0412 629 035

.....

- from ACLU email

ACLU tries 'TV series' to break through on civil liberties

The ACLU Freedom Files, produced and directed by award-winning filmmaker Jeremy Kagan, is a series of 10 x 30-minute TV episodes.

The programs feature real clients and the lawyers who defend them, as well as well-known actors, activists and comedians, according to ACLU executive director Anthony D. Romero.

You can preview the American Civil Liberties Union (ACLU) new series at:

<http://action.aclu.org/site/R?i=WllzpxuU-uvk8jYw0Mltaw> .

The show is aimed at reaching millions of viewers in the USA via satellite network Link TV, on college campuses across the country on Zilo TV, and via new media, technology and grassroots networks such as video blogs, podcasts, streaming video, viewing parties, screenings and more.

The premiere episode "Beyond The Patriot Act" aired in the first week of September.

http://action.aclu.org/site/R?i=WqA1ykwCIXN09ILL_guKCw..

.....

CLA facts:

Membership: membership grew by about 9 in August and September, to 37.

Letters: Letters were sent to 28 law firms, asking for new members and financial support. These are being followed up.

Cartoons: Generous *Canberra Times* cartoonists Geoff Pryor and Ian Sharpe have donated more cartoons to raffle to raise funds. All the cartoons feature civil liberties issues.

Drafting Journos' Guide to Terrorism Laws: Christopher Michaelson is preparing a guide for media people on restrictions imposed on reporting by Australia's terrorism laws. PM Howard's proposed new terrorism laws "regime" has held up progress on finalising the guide.

.....

Events and Opportunities:

November 3, Sydney

City of Sydney Peace Prize Lecture by UN children's rights worker Olara Otunnu in the Seymour Centre. Sydney. Info: Andrew Potter, 02 9351 4514 or Professor Stuart Rees, (02) 9411 5139 (ah)

November 22 Conference on international refugee and human rights law: *'Moving On: Forced Migration and Human Rights'*, NSW Parliament House, Sydney. Speaker: Dr Guy Goodwin-Gill, Uni of Oxford. Info: Jennifer Hornitzky jenh@law.usyd.edu.au on Tues/Wed) or Dr Jane McAdam janem@law.usyd.edu.au Phone **(02) 9351 0354**. Updates at www.law.usyd.edu.au/scigl/

November 23-28 International refugee conference *Hopes fulfilled or dreams shattered?*, University of NSW, Sydney. Conference brochure and registration form at www.crr.unsw.edu.au or the conference website www.women-at-risk-resettlement.info or e-mail: info@women-at-risk-resettlement.info or Ph: **(02) 9385 1859**

December 9, Sydney

The 2005 Human Rights Medal and Awards presented at a luncheon at the *Sheraton on the Park*, Sydney, from midday to 3pm. Info: phone (02) 9284 9618 or email hrawards@humanrights.gov.au or go to www.humanrights.gov.au/hr_awards/

.....

ENDS ##### ENDS ##### ENDS #####

CLArion welcomes contributions:

We particularly welcome news from interstate CL bodies.

Please send any items by email.

Include your name and membership details (eg, NSW CCL, or Qld CCL, or whatever) and details of the information source.

NOTE: This October 2005 edition of the *CLArion* has been distributed a few days earlier than usual due to other commitments.

.....