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## **CLA's nine little words chalk up win for common sense**

Possibly Australia's most draconian law has been softened ever so slightly after a CLA campaign to win a tiny amount of discretion for judges, on appeal.

The Crimes Legislation Amendment (Serious and Organised Crime) Bill 2009 gives police, tax, customs and other authorities the power to seize all your assets on suspicion. You then have to prove that every cent of your assets was obtained legally: there is no time limit – you may have to prove ownership of assets or derivation of funds that go back several decades.

If an authority, including police, merely 'suspect' you may have done something illegal to acquire any of your assets, they can demand that a court immediately freezes all of them.

You won't even know there's been an application for freezing, because no-one has to tell you until after your assets are frozen. You can be made penniless instantly, without even being told the matter is before a court.

The court has no discretion but to impose the freezing order...even the CLA-inspired 'safety' clause doesn't apply until after assets have been initially frozen, and an appeal is lodged.

The new law could disrupt the business and commercial world in Australia, because it permits police, security and fiscal/taxing authorities to make guesses, on suspicion, at linkages between friends and acquaintances.

Those caught in this Kafka-esque nightmare might be business people who meet each other, perhaps even inadvertently, at the races, over lunch at a favorite restaurant or in similar innocent social settings, like charity or major sporting events.

Undoubtedly, the new law will be abused by authorities – inadvertently, incompetently or maliciously.

Also undoubtedly, completely innocent people will be caught in a sudden nightmare where they instantly lose control over their funds and property, and have no access to money to support themselves and family, unless restricted access is granted in subsequent court hearings.

Originally, the 'Serious and Organised Crime' Bill had no element of discretion to enable judges to correct an obvious error or massive over-reaction by authorities. CLA succeeded, at a hearing in Melbourne, in convincing a Senate committee that a 'get out' clause would be needed where the wrong people had been wrongly accused by authorities, and their assets frozen.

The law now includes these words: The court may revoke the "preliminary unexplained wealth order" if satisfied that..."it is in the public interest to do so".

It is ironic how many hours and how much work by so many people went into producing what appears on the surface to be a minor addition to the act. However, those nine little words will save innocent victims from out-of-control, nightmare situations.

Similar words need to be added by State and Territory parliaments to other draconian laws which target small fry who were never meant to be caught in legislation designed to catch big crime bosses and mafia types.

## **LAST WORD: Googlers ogle Google 'eye' as it begins Google-odyssey**

The search giant's fleet of camera-equipped cars are traversing Australia's capital cities from last month to take new photos of Australia's capital cities for the Google Maps feature. To see Google staff making an exhibition of themselves as the first car set off, click to see the video on this site (URL below). For more info, see item at end of this newsletter.

<http://www.smh.com.au/technology/technology-news/aussie-googlers-gather-for-street-view-stunt-20091106-i1e0.html>

## **'Law and order' auction costs taxpayers billions**

The 'law and order' auction continues apace around Australia, with both Liberal and Labor governments bending over backwards to out-chestpuff the other.

One day, these wasteful politicians will wake up that there are two inescapable facts about the current outbreak of excessive 'law and order' measures:

1. Crime rates are dropping, around Australia and throughout the Western world, and have been for about two decades.
2. As crime rates drop, politicians are devising new ways to lock more people into prisons, which is costing communities a motza – whereas the money would be better spent on on benefiting society (or on cutting taxes).

Analysts prove, with facts and statistics from virtually any Western jurisdiction, that less draconian laws will produce better overall results: fewer people in jail, fewer people re-offending, less fear in the community and the need for average joes like us to pay less tax.

The community does not have to be duded, and duped into paying much more tax just so newspaper headlines look good for the government and for politicians. Only the media, and right-wing politicians (from both major political parties, mostly) benefit from 'law and order' campaigns. If being tough on 'law and order' is the answer, why isn't Australia massively safer in 2009 than it was in late 2001. We now have roughly double the federal and state police, and roughly three times the number of security police than we had eight years ago, when the hijacked planes crashed into New York's twin towers. We have spent billions upon billions on extra security hardware and electronic surveillances. We have massively beefed up anti-terror and criminal laws since 2001...but they are obviously not working, or we wouldn't suddenly need even more draconian laws now.

So, why are we not safer? Why are politicians still calling for – and legislating – even tougher 'law and order' measures? Why are our jails so full that new ones have to be built, costing individual Australian taxpayers hundreds and hundreds of extra dollars, year upon year.

It's partly because every screech for 'law and order' ramps up fear in the community. The people doing the self-serving screaming are themselves part of the problem.

Amanda O'Brien, in an article *The Australian*, has put her finger on the nub of things. In the article, WA A-G Christian Porter claims people should "have their eyes open to the reality of the prison system".

Yea verily, Christian: if only you would open your eyes, and ears and mind to logical argument, every taxpayer in WA would be paying less tax, now and in the future.

If the Barnett-Porter government continues with its 'law and order' policies, all WA taxpayers will be paying more tax in future...as will taxpayers in virtually all the other states and territories, as the unholy law-and-order 'auction' ripples around the country.

<http://www.theaustralian.com.au/politics/state-politics/public-learns-to-take-its-medicine/story-e6frgczx-1225804537205>

PS: WA and Australian business people have not seen anything yet: new laws in the pipeline (see Serious and Organised Crime Act story, above) will undoubtedly be used to freeze the assets of well-off people over the coming decade. The business community should be very afraid of where federal and state government legislation is headed.

See also: ***Police chief criticises 'more cops on the street' campaigners*** ... in the *International* section later in this newsletter



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## **Government takes action on torture, death penalty**

The government has introduced the Crimes Legislation Amendment (Torture Prohibition and Death Penalty Abolition) Bill 2009.

Part one introduces a "new" offence of torture into the Criminal Code – in reality all it does is move the old identical offence out of the Crimes (Torture) Act 1988 into the Criminal Code. The old act will be repealed.

The new offence will apply to acts within Australia, rather than simply offences committed outside Australia. However there are issues with commencing proceedings, loopholes for security agencies and interaction with the National Security Information (Criminal and Civil Proceedings)

Act 2006 which CLA will be analysing for a short submission to the Senate Legal and Constitutional Affairs Committee.

The Bill also extends the Commonwealth Act abolishing the death penalty to all States and Territories. The extension, which prevents any state or territory from reintroducing the death penalty, is constitutionally supported by the external affairs power as it implements a specific treaty (second optional protocol to the International Convention on Civil and Political Rights).

However, under the protocol, Australia still has a responsibility to promote abolition elsewhere, in our case among Pacific Island countries and Asian neighbours.

– Tim Vines

[http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4241\\_first/toc\\_pdf/09224b01.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/bills/r4241_first/toc_pdf/09224b01.pdf;fileType=application%2Fpdf)

## **‘Quintet’ moves Australia’s criminal, terrorism law decisions offshore**

A new international power group is taking decisions out of the hands of Australian electors...and allowing four other countries to shape our laws.

The Attorneys-General of Australia, Canada (*Rob Nicholson, pictured*), NZ and the USA met with the AG of England and Wales and of Northern Ireland (*this is one person*) as a “Quintet” for the first time early last month in the State Drawing Room, Lancaster House, London.



The A-Gs’ Quintet– *their word for themselves, not ours* – decided to merge “legal frameworks at the international level”, and “to coordinate action across agencies against organised crime, cybercrime, terrorism and...perpetrators of genocide”

They also decided (without reference to their national parliaments) to:

- protect freedom of expression and address crime and terrorism;
- reduce violence directed against young children, and youth crime; and
- promote and support pro bono legal activity domestically and internationally.

The Quintessentials (*apologies to the satanic horror punk rock group of the same name*) decided that they would “work jointly, inter alia, on cybercrime; a framework on organized crime; terrorism; genocide; and innovative approaches to prevention of youth violence; and would meet annually”.

As CoAG\* and SCAG\*\* are emasculating power from parliaments within Australia, so the Quintessentials will move crime and anti-terror decisions offshore, using the Australian Parliament as a mere rubber stamp.

\* CoAG: Council of Australian Governments; \*\* SCAG: Standing Committee of Attorneys-General, comprising all A-Gs from Australia and NZ.

*There are 41 other, similar ‘Ministerial Councils’ which, together, decide what type of nation Australia will be. Parliaments no longer run the country.*

## **Atheists hope for miraculous change of heart on funding**

The Atheist Foundation of Australia (AFA) hopes the Victorian Government will see the light and overturn its decision to reject an application for support funding for the Global Atheist Convention in Melbourne in March.

The convention is a major international event, with an impressive line-up of world-class speakers (including some CLA members) for the largest gathering – more than 2000 people – of freethinkers in Australia’s history.

Organisers applied to federal, state and municipal authorities, careful ensuring they fell within funding criteria, but not one application has yet been approved.

Conversely, The Parliament of the World’s Religions which is hosting 5,000 people at the same venue (the Melbourne Convention and Exhibition Centre) has attracted \$4.5 million in government support.

The support for the religious event is 16 times the amount requested unsuccessfully by the AFA.

<http://www.atheistconvention.org.au>

## **Forgive him, Lord, for he knows not...**

The ACT's civil partnerships legislation was a logical extension of the Government's long-standing push to eliminate discrimination against homosexual Canberrans, and elements of the Christian lobby were mistaken in believing that it had anything to do with religion, ACT Chief Minister Jon Stanhope said last month.

"What my Government has sought to do, with the support of the ACT community, is to deliver equality under the law and equality in terms of respect, to all Canberrans, regardless of their sexual orientation.

"It is disappointing to have those efforts characterised by lobbyist Mr Jim Wallace of the Australian Christian Lobby as 'anti-Christian'. I am certain that the overwhelming majority of Australians will forgive him his intemperate language and realise that he has simply misunderstood the motivations of the ACT Government."

## **Law Council attacks 'extraordinary' outburst by Senator**

The Law Council of Australia (LCA) says a reported attack on the High Court by Senator Steve Hutchins, chair of the Parliamentary Joint Committee on the Australian Crime Commission, is "extraordinary".

LCA President John Corcoran said: "If accurately reported, his comments reveal an alarming support for unchecked executive powers, and they are particularly disappointing from a person charged with the oversight of the powerful ACC."

In November, the High Court issued a decision striking down section 10 of the NSW Criminal Assets Recovery Act, which allows the NSW Crime Commission to make an ex parte application (an application where the other side is not heard) to the Supreme Court for a restraining order over a person's assets.

The decision was based on two simple principles:

Firstly, a person should have the opportunity to be heard before a decision is made which adversely affects them. Secondly, legislation requiring a court to act as little more than a rubber stamp for the Executive will fall foul of the Constitution.

Senator Hutchins, in a speech to the Australian Federal Police Association, reportedly took issue with these principles, accusing the High Court of acting "with a complete disregard for the interests of public order and justice".

Mr Corcoran said he hoped the Senator had been misquoted or quoted out of context. "Many of these measures, aimed at tackling serious and organised crime, have been introduced at the request of, and on the advice of, law enforcement agencies, with little room allowed for voices.

CLA concurs entirely with Mr Corcoran's comments, and congratulates him and the LCA for speaking out. "There is a serious danger to the Australian democracy in how 'law and order' zealots within police forces and parliaments have become dominant in debates about the way Australian society should be organised and managed," CLA President, Dr Kristine Klugman, said.

## **Government pushes for CERTainty in insecure times**

Attorney-General Robert McClelland last month launched a cyber security strategy.

The move formalises the roles, responsibilities and policies of Australian intelligence, cyber and policing agencies to protect Australian internet users, adding yet another layer of control over society.

The strategy says priorities are:

- Improving detection, analysis, mitigation and response to cyber threats, particularly to government, critical infrastructure and other systems of national interest;
- educating people to protect themselves online;

- partner with business for security and resilience in infrastructure, networks, products and services;
- defining what is best practice in protecting government ICT systems, and systems interacting with them;
- promoting a secure global electronic operating environment;
- maintaining effective laws and forces to target and prosecute cyber crime;
- aiming for a skilled cyber security workforce developing innovative solutions.

The first output from the strategy is a new Computer Emergency Response Team, CERT Australia, which starts in January 2010.

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## **Amnesty boss warns Rudd Government over racial discrimination by state**

Slamming decades of failure by Australian governments to address the dire living conditions, disempowerment and discrimination faced by many Indigenous people in Australia, Amnesty International Secretary General Irene Khan last month warned that the Rudd Government must not squander its opportunity to right these historic wrongs.

Some 45,000 Aboriginal people are today still subject to state-sponsored, racially discriminatory measures, including blanket quarantining of social security payments as a result of the NT Emergency Response, she said.

“The blunt force of the intervention’s heavy handed ‘one size fits all’ approach cannot deliver the desired results. The government will not secure the long-term protection of women and children unless there is an integrated human rights solution that empowers peoples and engages them to take responsibility for the solutions,” Ms Khan said. – UNity, newsletter of the UN Association of Australia <http://www.unityunaa.info/>

## **Petitions Committee recommends electronic petitions**

The House of Representatives Petitions Committee has released a report calling on the House of Representatives to accept electronic petitions.

Australians would have better access to parliament if the House of Representatives accepts them, the committee said. Recommendations include that:

- the HoR establishes an electronic management system and website for electronic petitions;
- Standing Orders change to allow electronic petitions;
- petitioners must provide address and postcode as well as name and signature; and that
- all personal details held electronically be deleted six months after an electronic petition closes.

Committee chair Julia Irwin said that both paper and electronic petitions would be received, and would be treated the same way as far as possible. Details:

<http://www.aph.gov.au/house/committee/petitions/epetitioning/report.htm>

## **Commonwealth Ombudsman wants red tape cut**



Commonwealth Ombudsman, Professor John McMillan (*pictured*), last month called for more flexibility in federal laws so that departmental mistakes and other injustices can be dealt with quickly.

The call follows a permanent Australian resident being wrongfully locked up in the Villawood Detention Centre for three years.

Van Phuc Nguyen spent three years in Villawood because his paperwork was bungled by an immigration officer. His lawyers are negotiating a compensation settlement with the Department of Immigration.

The difficulty the Department had in sorting out his case is one of the reasons Mr McMillan is calling for a shake-up of federal laws.

“We live in a complex world, and that’s reflected in complex and tightly drafted legislation that often leaves decision makers with very little discretion to deal with unexpected and deserving cases or to fix mistakes,” he said.

“There are other examples of people who miss out on benefits or grants because they’ve missed a deadline that can’t be extended, sometimes as a result of poor advice they’ve received. Or people who incur debts that should not be imposed upon them.”

In an issues paper Prof McMillan calls for safety nets that government departments could use when a mistake has been made.

“One is to amend legislation to provide expressly that an agency can fix a mistake.

Another is that if a new program is being established, it should authorise a minister to make a supplementary administrative scheme to deal with unforeseen and deserving cases.”

Details: <http://www.abc.net.au/am/content/2009/s2745826.htm>

## **Legal profession to come under common national rules**

The National Legal Profession Reform Taskforce (NLPRT) has tabled discussion papers, one for a new Law Ombudsman and the other to wipe out overcharging and lawyers’ exploiting consumers.

The Ombudsman would:

- receive and investigate complaints;
- determine complaints and unsatisfactory professional conduct issues;
- review internal decisions; and
- educate people and the profession on ethical issues and the complaints process.

The second series of proposals include:

- making practices fully disclose legal costs to clients;
- regulating costs agreements with clients;
- regulating how costs are billed; and
- creating a uniform way to assess legal costs and set aside of costs agreements.

The NLPRT was set up to develop uniform laws regulating the legal profession across Australia. It is due to report to the Council of Australian Governments (COAG) in April 2010. The discussion papers are at [www.ag.gov.au](http://www.ag.gov.au) and further details are at <http://www.ag.gov.au/legalprofession>



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## **SCAG decides on justice system...again without consulting the people**

The Standing Committee of Attorneys-General (SCAG) last month agreed that a national approach to access to justice would include:

- a coordinated approach on how legal assistance services are funded and delivered;
- options to ensure seamless access to information and services; and
- improving the interrelationship between the Commonwealth, State and Territory systems.

SCAG is the cross-jurisdictional body in Australia that has replaced debate in State, Territory and Federal Parliaments by imposing its views on Australians citizens without consultation, including on Members of Parliaments.

It comprises the A-G of each State and Territory, the federal A-G and the New Zealand Minister of Justice. Norfolk Island has an observer at SCAG meetings...but the Australian people do not.

According to the federal government’s Access to Justice Report, “every \$1 million invested into Australia’s legal system pays for about 60 cases to be resolved by the Federal Court.

That same amount would enable nearly 1,000 matters to be resolved by the Commonwealth Ombudsman, or nearly 4,000 more duty lawyer services, or over 60,000 more legal information services.”

The argument appears to be a prelude to reducing court funding, but increasing spending on PR and information campaigns.

## Professor issues proprietary e-health warning

A health informatics professor from Sydney University last month said Australia's e-health systems should be strictly open source rather than using proprietary software.

Professor Jon Patrick, a health informatics researcher, reckons Australia is heading down a high-cost and ultimately unworkable path for its e-health systems, which could repeat mistakes of the past.

Prof Patrick pointed to frustrations he claimed clinicians are experiencing in attempting to customise FirstNet, NSW's Emergency Department \$80 million information system built by vendor Cerner. "One of their frustrations is that they can't get systems changed to suit local needs and there's no pathway to getting change," he told Liam Tung of ZDNet.

<http://www.zdnet.com.au/news/communications/soa/Professor-issues-proprietary-e-health-warning/0,130061791,339299347,00.htm>

## Victorian coroners given more power, credence

Witnesses can be forced to testify in inquests under new powers given to Victoria's coroners.

Under new laws that came into effect this week, coroners will be able to compel witnesses to testify without the risk of self incrimination, meaning their evidence cannot be used against them in other courts.

When a coroner investigating a death makes recommendations, the minister or statutory body that receives them must now respond in writing within three months. The results of inquests and responses will be published on the internet.

State Coroner Judge Jennifer Coate said the new response requirement means a coroner's recommendations cannot be selectively pursued or ignored. Victorian A-G Rob Hulls said coroners, rather than lawyers, will now play a greater role in proceedings, which will be informal and easy to understand for those involved.

The new Coroner's Court of Victoria has sat for the first time; it was previously known as the State Coroner's Office of Victoria. <http://news.smh.com.au/breaking-news-national/vic-coroners-court-gets-more-powers-20091104-hvsg.html>

## Clarke medals for devotion to privacy



Leading privacy consultant, academic, advocate – and CLA member – Dr Roger Clarke last month received the Australian Privacy Medal for 2009.

*(Photo shows Special Minister of State, Joe Ludwig, who presented the award, Mr Clarke, and Australian Privacy Commissioner Karen Curtis).*

"Through his work, both professional and voluntary, Dr Clarke has helped influence the community and several generations of politicians, business leaders, public servants, and civil society activists to recognise and understand the importance of privacy protection in contemporary

Australian society," said Karen Curtis, the Australian Privacy Commissioner.

"Dr Clarke has also served for many years as a privacy advocate with organisations such as the Australian Computer Society, Electronic Frontiers Australia, and the Australian Privacy Foundation."

See article at [www.cla.asn.au](http://www.cla.asn.au) OR <http://www.privacy.gov.au/materials/types/media/view/6967>

## Australian privacy invaders receive 'Big Brother' awards

Police throughout Australia and CrimTrac, the national catch-all database, have won the 2009 Big Brother award for invading people's privacy in the way they use Automated Number Plate Recognition technology.



Dr Julie Cameron of the Australian Privacy Foundation (APF) said: "Technology should not be used as a means of routine surveillance by governments or business. Organizations must adopt safeguards to protect people's privacy and civil liberties to ensure technology provides social and economic benefit."

APF runs the Big Brother Awards, known as the Orwells, to highlight intrusions against privacy.

Google's Street View was runner up for the "Most Invasive Technology" award for systematically gathering and publishing detailed electronic images of streets and everything on them (including private property), and significantly impacting on privacy.

The Biometrics Institute won the "Worst Corporate Invader" award (for a corporation showing a blatant disregard for privacy) for misleading conduct by continuing to promote a Privacy Code that remains largely unadopted and unused.

Telstra and the National Electronic Health Transition Authority also won awards.

A special "People's Choice" award went to the NSW Government for its proposal for automatic electoral enrolment based on personal information collected for other unrelated purposes.

The APF award for Lifetime Achievement for outstanding services to privacy went jointly to Carolyn Bond (of the Consumer Action Law Centre, Victoria) and Kathryn Lane (of the Consumer Credit Legal Service, NSW) for consistent advocacy for the privacy rights of consumers in relation to credit reporting.



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## **New offences try to curb privacy intrusions**

The NSW government has introduced legislation for three new identity offences: trafficking in identity data, possession with intent to commit a crime, and possession of equipment for the purpose of identity theft.

The new laws will apply to offences committed offline and online.

The most serious offence, trafficking (which is selling or using someone else's personal identification information) carries a penalty up of to 10 years jail. Penalties for possession of information and possession of equipment are seven and three years' jail.

The Crimes Amendment (Fraud, Identity and Forgery Offences) Bill is broadly based on the Model Criminal Code agreed to by SCAG as part of 'harmonising' laws throughout Australia.

A Bureau of Statistics report in 2008 found 450,000 Australians lost a combined \$997 million to personal fraud in the previous 12 months.

**10 Facebook Dont's:** Here's some advice about protecting yourself on Facebook:

<http://erratasec.blogspot.com/2009/11/10-facebook-donts.html>

## **Better results with suspended sentences**

Criminals who have previously served time in prison are about 25% less likely to commit future offences if they are given a suspended sentence rather than a jail term, new research has found.

Despite the public perception that suspended sentences are a "let-off" or a "a slap on the wrist", non-custodial penalties are just as effective a deterrent as a stint in prison, especially for offenders with a long criminal history.

The number of suspended sentences imposed by NSW local courts rose by 300% between 2000 and 2007, to make up 4.6% of all penalties from magistrates.

Figures released by the NSW Bureau of Crime Statistics and Research last month show that after one year, an offender who spent time in jail and then received another custodial sentence had a 52% chance of being reconvicted. The same offender had a 42% if given a suspended sentence. The difference at two years was 18%.

<http://www.smh.com.au/national/better-results-with-suspended-sentences-20091111-ia07.html>

## Unique ID scheme will soon have you numbered

State and federal health ministers have committed to restricting the use of national health identity numbers and including beefed-up privacy and penalties for misuse.

The ministers agreed to release draft legislation for healthcare identifiers for public consultation ahead of its planned introduction to the federal parliament in the autumn 2010 sittings.

The tight timeframe means responses to the draft will likely be required during the Christmas/school holiday period, testing the resources of many largely voluntary consumer and privacy advocacy groups which have voiced concerns over aspects of the proposals this year.

Under the planned Unique Healthcare Identifier (UHI) scheme, all patients will get an individual health ID number linked to their existing Medicare number and card; the number, together with a person's name and date of birth, will enable accurate matching of health information sent across electronic systems by doctors, hospitals, laboratories and pharmacists.

The UHI is designed to improve patient care and safety across the healthcare system, later becoming the basis for a personal e-health record scheme.

<http://www.theaustralian.com.au/australian-it/steps-taken-to-safeguard-health-ids/story-e6frgakx-1225797531722>

## Qld's captain moves to run a tighter ship

Success fees will go, the role of the State's Integrity Commission will expand, government-owned corporations will be able to be investigated by the Crime and Misconduct Commission (CMC) and members of the public will get direct online access to Government Ministers under new integrity reforms in Queensland.

The Integrity Bill 2009 would give the state the strongest, most transparent and most stringent in the nation, Premier Anna Bligh said last month.

Ms Bligh said the new laws in place by the end of December with more reforms planned for completion by mid-2010.

The Premier also announced an online innovation – People's Question Time – would give members of the public regular and direct online access to herself and ministers from next year.

Other reforms that are part of the package include:

- banning success fees for lobbyists for achieving favourable outcomes from government;
- expanding and enhancing the role of Queensland's Integrity Commissioner including oversight of the Queensland Register of Lobbyists, and making the Commissioner an officer of Parliament with the ability to provide advice to all MPs;
- overhauling political donation and campaign funding if the Commonwealth does not act by July 2010 – a cap on political donations of \$1000 is planned;
- allowing all government-owned corporations to be investigated by the Crime and Misconduct Commission;
- enshrining a lobbyists' code and its requirements in legislation;
- asking the CMC to hold an independent review of current police discipline and misconduct processes
- newly-appointed public service officers and ministerial staff will have to disclose whether they have worked as lobbyists in the previous two years (note, merely disclose: there appears to be no disbarment rule, as there should be);
- reforming the Whistleblowers Protection Act;
- establishing an Ethical Standards Branch within the Public Service Commission to provide independent advice on public sector ethics issues.



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## **Wear your keys to care for refugees**

The SA Council for Civil Liberties is calling on all concerned Australians who support refugees to refuse to stay silent and to "Wear a Key for Refugees".

You can choose what kind of key you wear and how you wear it; around your neck, printed on a t-shirt or pinned to your lapel.

"Don't stay silent any longer. Spread the word and wear your key today," says Claire O'Connor, Chair of the SA CCL.

## **Brumby probes drugs in women's jail**

Victorian Premier John Brumby has promised to investigate claims of increased drug use at the Dame Phyllis Frost Centre in suburban Deer Park amid concern about the amount of contraband smuggled into Victoria's largest women's jail.

Mr Brumby said reports in *The Age* of a recent rise in drug overdoses among inmates and a sex scandal involving prison officials was "a matter of major concern" to Corrections Minister Bob Cameron who had asked for a "full and detailed report". The Government took control of the prison from a private operator in 2000 due to concern about the prevalence of drugs among inmates.

Prison advocates and former inmates claimed last month that the drug situation at the jail was the worst it had been in years, with a 25% increase in inmates over the past 12 months contributing to a spate of drug overdoses and suicide attempts,

Overcrowding at the jail had forced Corrections Victoria to place some female prisoners in cells in suburban police stations over the past 10 weeks. [www.drugwarfacts.org/cms/node/1112](http://www.drugwarfacts.org/cms/node/1112)

## **Your 'Big Brother' will make sure you register to vote**

NSW is scouring the state's databases to force about 400,000 unregistered people on to the electoral roll for the next election.

The State Electoral Commission can now use drivers' licence records, Board of Studies details about 17- and 18-year-olds, TAFE enrolments, and births, deaths and marriages information to enrol people automatically under new laws introduced last month.

The problem is that the data was not collected for electoral purposes, so the new use is a misuse under privacy guidelines.

There is no clearer example of why politicians should not be trusted by being given absolute control over data holdings, CLA says. The NSW move is a warning for how other state, territory and particularly federal systems – including health records – could be abused in future.

<http://www.smh.com.au/national/big-brother-is-watching-to-make-sure-you-register-to-vote-20091110-i714.html?skin=text-only>

## **Bus and train pass will track you down**

The Myki transport pass in Melbourne is tracking device, Liberty Victoria warned last month.

Youths on six-monthly and yearly concession cards must give up personal details if they want to use Myki, as will people on free government passes.

Liberty Victoria has written to Attorney-General Rob Hulls with its concerns, particularly surrounding the card's use by young people and the unemployed who want to travel on concession fares.

Myki says that users' privacy will be protected, and that most people will be able to use their Myki card anonymously.

Liberty Victoria's vice-president, barrister Georgia King-Siem, said the reality would be concession card holders having to register their identity. "Concession holders are usually the most vulnerable in our society and it is abhorrent they are the ones whose privacy stands to be most invaded," she said. "From a privacy perspective, the Myki card is an unofficial tracking device."

Myki is a microchipped and re-useable public transport 'smartcard' which collects information about users travel movements. Police, ASIO and other agencies can demand details on how travellers have used their Myki pass.

<http://www.theage.com.au/national/myki-tracking-device-warning-20091118-impl.html>

## Boy, 12, escapes conviction over stolen Freddo chocolate

The Aboriginal boy, 12, who faced a children's court charge for receiving a stolen Freddo frog, has escaped conviction.



One chocolate frog, allegedly shoplifted by the child's friend from a Coles supermarket in regional WA, usually sells for about 70 cents.

The boy, who has no prior convictions, also faced a second charge involving the receipt of a novelty sign from another store. The sign, which was also allegedly given to the boy by his friend, read: "Do not enter, genius at work."

The boy's lawyer, Peter Collins, has lobbied WA police for the charges to be withdrawn, but authorities at first refused. He said that when the boy missed a court date due to a family misunderstanding, police had nabbed him about 8am on a school day and taken him into custody. The boy was then imprisoned for several hours in the holding cell at the police station.

The case highlights the continuing overrepresentation of indigenous youth in juvenile justice systems across every state and territory.

Aboriginal and Torres Strait Islander youths aged 10 to 17 were nearly 30 times as likely to be in detention on an average day than other children nationally, according to data released this month by the Australian Institute of Health and Welfare. In WA, the figure is 45 times.

<http://www.theage.com.au/national/stolen-freddo-boy-12-charged-20091115-igec.html?posted=sucessful#comments>

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## National firearms database gets green light...without a vote of approval

CrimTrac is developing a National Firearms Identification Database (NFID) to address inconsistencies in methods of identifying and recording firearms and reduce the potential for registration mistakes.

The central database aims to establish national standards for identifying firearms to promote improved consistency of definitions and descriptions of firearms.

The Ministerial Council for Police and Emergency Management recently endorsed the project – on which no parliament in Australia has apparently voted – and CrimTrac will implement the national system in 2012.

## AUSTRALIAN BRIEFS

**Ministerial Council takes over law development:** The Ministerial Council on Police and Emergency Management, meeting in Perth last month, has approved new offences and penalties for bushfire arson, and arson causing death or serious harm. The offences are being drawn up in consultation with the Standing Committee of Attorneys-General. This is an example of how new laws are now developed in Australia, using ministerial councils rather than democratic processes through parliaments where community consultation can take place. At the Perth meeting, SA and the ACT were not represented...but they are still bound by the decisions taken at the meeting.

**AGs promote adopting international model bill:** Federal A-G Robert McClelland and NSW AG John Hatzistergos last month welcomed progress in developing new uniform commercial arbitration legislation. In April, the Standing Committee of Attorneys-General (SCAG) agreed to reform the uniform Commercial Arbitration Act, a model Bill adopted by each State and Territory to

regulate domestic commercial arbitration. The new model Bill, scheduled for acceptance at the next meeting of SCAG in April 2010, will be based on the internationally-accepted Model Law on International Commercial Arbitration adopted by the UN Commission on International Trade Law (UNCITRAL). In this case, Australia gets a model law agreed by countries around the world...but so far without being considered by an Australian parliament.

**Leave work on time – or breach your contract:** Every year Australian workers give their bosses a \$72 billion gift in the form of unpaid overtime, research for the first ‘Go home on time day’ – held late last month – reveals. A typical full-time employee works 70 minutes of unpaid overtime a day, or six-and-a-half standard working weeks a year. If your employment contract includes actual or implied hours per week or month, it is a breach to exceed the contract number, just as much as to not work enough hours. Find out more here: <http://www.gohomeontimeday.org.au/>

**McCallum appointed UN committee chair:** Professor Ron McCallum is the new chair of the UN Committee on the Rights of Persons with Disabilities. Prof McCallum is a leading Australian legal academic who was elected as a representative to the Disabilities Committee in November last year, the only Australian currently on a UN treaty body. In March, he was also appointed as the inaugural General Rapporteur with responsibility for reporting to the UN General Assembly on the recommendations and activities of the Committee.

**AFP expands its offshore empire:** The Australian Federal Police (AFP) and the Vietnamese Ministry of Public Security in 2010 will set up a Vietnam-Australia Joint Transnational Crime Centre (VNJTCC) to exchange information about transnational crime in areas of illicit drugs, money laundering and child sex tourism. The VNJTCC will be located in Ho Chi Minh City. AFP’s “International Network” already has liaison officers in Hanoi and in Ho Chi Minh City focusing on drugs. Similar joint facilities already exist in Cambodia and Columbia.

**CLA salutes cartoonist Broelman and crew:** South Australian freelance cartoonist Broelman (*that’s him at right, drawn by him*) was given the Gold Stanley award for Au Cartoonist of the Year last month. Since beginning his career at The News in 1990, B contributed to publications from MAD to Australian Post and the Sunday Mail. He also category award for his particular passion, editorial political cartooning. Also recognise were John Spooner (best caricaturist), Matt Golding (best single gag cartoon), Dave F graphic artist), Gary Clark (best comic strip artist) and best illustrator Anton Emdin. Cl to Australia’s cartoonists for their generosity in helping us and other NGOs.



<http://www.walkleys.com/news/530/>

**In Belmont, you’re now being recorded:** The City of Belmont in WA last month showed Minister for Home Affairs Brendan O’Connor what he got for handing over \$1.4m of federal money for CCTV. The demonstration involved the activation of duress, residential and business alarm systems. The Minister observed how the CCTV camera systems respond to an alarm by capturing footage and alerting the City’s community watch service and police of an incident, which can be later reviewed.



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## CLA main activities - November 09

### Conferences/seminars addressed

*Forum on Federation*, Parliament House, Canberra: CEO Bill Rowlings, on COAG, SCAG and 41 other Ministerial Councils and how the Executive is using/abusing them.

*Pathway Through the Maze*: National Squalor Conference 2009, Sydney: President Dr Kristine Klugman, hypothetical panellist.

## Media

### Tim Vines:

#### Interviews:

Samantha from World Today, Chief Magistrate Ron Cahill (due process), 4/11/09

Ronan from WA Radio, stop and search powers, 11/11/09

Mark Parton 2CC (Canberra), Washington sniper (death penalty), 12/11/09

WA Radio journalist, CCTV footage and SmartRider card, 12/11/09

6PR's Morning Program, CCTV and SmartRider card, 16/11/09

Yasmine, WA Times, CCTV and SmartRider, 25/11/09

#### Media releases/articles:

DNA inquiry (prepared, on hold)

#### Articles for website/features:

New torture, death penalty bill

Serious and Organised Crimes Bill #2

### Bill Rowlings

Interview on DNA, ABC Darwin;

One of four people nominated for Senior Australian of the Year, ACT under title '*Bill Rowlings, civil libertarian*' (not chosen for top award).

### Meetings/consultations/discussions

Sir Anthony Mason re civil liberties, High Court interpretation of 'oppressive' legislation (*pictured here, left, with CLA members Prof George Williams and Prof Simon Bronitt at ANU human right entrenchment debate*)

Simon Bronitt, re liaison with Griffith University and the ARC Centre of Excellence in Policing and Security;

Roger Clarke, chair, Australian Privacy Foundation, re current case/policy issue;

Chris Michaelsen, re anti-terrorism legislation;

Marilyn and Charles Nelson re compiling/categorising FAQs for web;

Marc Mowbray d'Arbela (Dept Finance) re Model Litigant principles;

Rob Oakshott MP, re governance;

Dierdre Pearce, Bruce Hall ANU, re student involvement;

Wen Jia, Emilija Beljic re Masters/Honours studies involving CLA;

Jeff Shaw, former judge and NSW A-G, re civil liberties;

Christine Debono re ANU networking;

Asmi Wood re developments in Indonesia and in Canberra Muslim society;

Simon Henderson re Law Council of Australia;

James Dunn, re refugees and refugee laws;

John Parsons, Ian Mathews, James Staples, Lynne Bliss;

Keith McEwan re rights of people in nursing homes.



### Meetings attended

Australian Privacy Foundation Awards, Roger Clarke;

Bill of Rights forum, ANU: speakers George Williams, Simon Bronitt;

National Europe Centre, *After the Wall*;

CIPL Anti-discrimination Law, Simon Rice;

Consultation meeting on Health Care Identifiers.

Diana Simmons, Sydney:  
attended consultation conference on OPCAT (Torture protocol)

#### Meetings re students

Emilija Beljic Honours U. Canberra on Water/Human Rights;  
Consultation with Peter Ford on new internship.

#### Submissions made

Electoral Reform: Kris Klugman, Bill Rowlings

Suicide: Onofrio Spagnoletti, Kris Klugman

In preparation:

Mental health: ACT, and Australia (interested people please contact the President)

#### Cases

Lloyd Green: Criminal Property Forfeiture matter NT

NS: Internet discrimination (with Australian Privacy Foundation)

#### Main branch activity

Cairns: Mandy Shircore: meeting planning continuing;

WA: planning under way for more involvement with WA Govt on key issues in 2010;

SA: Three members active, good relationships building with SA Council for Civil Liberties and its new President, Claire O'Connor.

#### On-going Projects

Equal rights for all Australian electors: Wayne Berry;

Rights mental health people: conferring widely, throughout Australia (see Submissions, above);

Rights lost under anti-terror laws: article under way on business impacts;

Developing 2010 priority issues list (contributions welcomed).



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## **INTERNATIONAL**

### **Police chief criticises 'more cops on the street' campaigners**

Sir Hugh Orde, president of the UK's Association of Chief Police Officers (Acpo), questioned if policing was 'fit for purpose' when the most dangerous threats came from international terrorism and cross-border organised crime.

He advocated amalgamating the 44 forces in England, Wales and Northern Ireland into possibly nine regional units dealing with high-level crime and local issues.

The former Chief Constable of Northern Ireland, a policeman for 33 years, said that the political debate on policing had been "hijacked by the 'more cops on the street' brigade" which was fixated on "antisocial behaviour, dog fouling and bicycles on the pavement".

"They say the solution to everything is more cops on the street – well, no it isn't. Local cops don't catch serious terrorists, you don't catch serial rapists with neighborhood police, murders are not solved by local police, although the local cop is a vital link in the chain . . .

"It is quite scary if people who are claiming to represent communities see the solution simply as more cops on the street while all the evidence shows that if you're a patrolling officer the chance of coming within half a mile of a burglary is about once every 150 years."

British policing, he said, should continue to be founded on consent, minimum use of force, minimal interference in the lives of citizens and operational independence for chief officers. "I think the British brand of policing is a really important brand to protect. I have yet to find a model in which I would feel more comfortable as a citizen."

<http://www.timesonline.co.uk/tol/news/uk/crime/article6920948.ece?&EMC-BItn=D9NG71F>

## **Police thuggery at demos produces positive reforms**

In a rare positive twist, thuggery by officers at London's G20 demonstrations in 2009 has led to wholesale reform of British policing to create a service "anchored in public consent".

One man – innocent newspaper seller Ian Tomlinson, who was on his way home from work – died as a result of injuries inflicted by police during G20 melees.

Denis O'Connor, Her Majesty's Chief Inspector of Constabulary, used his report into handling of the demonstrations to demand wide-ranging reforms and a return to an ideal of policing based on "approachability, impartiality, accountability and ... minimum force".

He warned of a "hardening" of policing style in recent years and erosion of the approach to policing developed by the 19th-century prime minister Sir Robert Peel and based on consent.

In warnings which could equally as well be aimed at Australia, O'Connor criticised the way officers were trained for the use of force. Through the ranks, there was a failure to understand the law on policing protests. O'Connor said the lack of national standards meant that a high-profile area of policing had been treated as a "cinderella" subject with inconsistencies from force to force.

He called for ministers to endorse and vocally support a consent-based approach ahead of the Olympics in 2012, when British policing would be on show to the world.

Among the proposals to restore faith in policing, O'Connor called for:

- Immediate guidance so all police forces in England, Wales and Northern Ireland facilitate peaceful protest in a consistent way. (Note the word 'facilitate', CLA says).
- Creating fundamental national principles on the use of force to cover all police business, emphasising "minimum use of force" at all times.
- Radical change in public order training, ensuring all officers who receive basic protest training know how to manage peaceful activists.
- A shakeup of the national police body to make it transparent and accountable.

He highlighted the national body's three "domestic extremism" units, which collate information on thousands of activists and which receive \$16m a year from the government.

He also said ministers should respond to privacy and human rights concerns surrounding Forward Intelligence Teams (FITs), the surveillance units that film, photograph and monitor activists at protests using spotter cards, and then store details on databases.

<http://www.guardian.co.uk/politics/2009/nov/25/police-g20-inquiry-report>

## **Ex-Swiss banker may receive billions for blowing whistle, though in jail**

Bradley Birkenfeld was sentenced to 40 months in prison for helping rich Americans dodge their taxes...but he hopes to reap a few billion dollars windfall when released in 2013.

The former private banker at UBS divulged the tax evasion secrets of the Swiss bank, the world's largest by assets, and its American clients. As part of a deal with federal prosecutors, he admitted to, among other things, helping to smuggle diamonds in a tube of toothpaste.

Under a 2006 whistleblower law, the US Internal Revenue Service (tax office) encourages informants to come forward, arguing that sometimes it takes a rogue to catch a rogue. Informants now stand to collect 15 to 30% of the taxes, fines, penalties and interest ultimately collected by the IRS – billions of dollars, in the case of the UBS bank.

Mr Birkenfeld is seeking a portion of the money recovered from 52,000 offshore UBS clients whose existence, but generally not names and account details, he described to the IRS and US Justice Department. <http://www.nytimes.com/2009/11/27/business/27whistle.html?th&emc=th>



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## **Brit twosome wants civil union equality...for heterosexuals!**

A couple who want to become the first heterosexuals in Britain to have a civil partnership said they would begin a legal challenge after a council refused their request today .



Tom Freeman and Katherine Doyle, both 25, want the same legal rights as any husband and wife, but said they did not want to be seen to be "colluding with the segregation that exists in matrimonial law between gay civil partnerships and straight civil marriage".

The couple applied for a civil partnership at Islington register office, in north London, but were refused because UK law bans opposite-sex civil partnerships.

Freeman and Doyle, who are supported by the human rights campaigner Peter Tatchell, plan to seek legal advice.

"If necessary, we are ready to take our appeal all the way to the European court of human rights," said Freeman, a civil servant.

In a joint statement, the pair said they were "saddened and disappointed" that they had been refused because of their sexuality.

<http://www.guardian.co.uk/lifeandstyle/2009/nov/24/heterosexual-couple-refused-civil-partnership>

## **Global privacy standards established**

Privacy advocates from 50 nations reached agreement last month in Madrid on international standards for the protection of privacy and personal data.

Under the agreed standards – formally supported by Civil Liberties Australia as one of the signatories – "free, unambiguous and informed consent" of owners of data is required, and data must be deleted when no longer needed for the reason it was collected.

Data collectors must identify themselves, state in clear language the purpose of the data processing and explain who will receive and have access to the gathered data.

International transfers of personal data may only be carried out to a country which affords, as a minimum, the level of protection provided for in the document, according to the proposed standards.

One of the preambles to the declaration states:

*Noting with alarm the dramatic expansion of secret and unaccountable surveillance, as well as the growing collaboration between governments and vendors of surveillance technology that establish new forms of social control...*

More than 1000 participants from throughout the world attended the 31st International Conference of Data Protection and Privacy in Madrid. The next conference will be held in October 2010 in Jerusalem. Previous gatherings took place in Strasbourg, Hong Kong, Sydney and Montreal.

The Madrid Declaration amounts to a 'log of claims' by civil society, liberty and rights groups. The declaration text is at <http://thepublicvoice.org/madrid-declaration>

<http://www.theage.com.au/technology/technology-news/experts-agree-on-proposed-global-privacy-standards-20091109-i4o7.html>

## **Even Texas starts to query value of executions**

Death sentences passed annually in the US have dropped by about 60% in the past decade, to around 100...and even the notorious execution state of Texas is having second thoughts.

The growth of DNA forensic evidence has seen nearly 140 death row convictions overturned across the US, prompting abolition and moratoriums in some states.

Within Texas, in Dallas county alone, 24 people have been exonerated and the new district attorney has created a conviction integrity unit to examine other suspected miscarriages of justice.

Steve Hall, a former chief of staff to the Texas attorney general for eight years who is now an anti-death penalty activist, says the highly politicised judicial system in Texas, with elected prosecutors and judges, is part of the problem. "One of the problems with having an elected judiciary is that you end up with judges who have to become good politicians. That means appealing to the voters. The presiding judge on the court of criminal appeals, Sharon Keller, ran as a pro-prosecution judge. That was her phrase," he said.

Keller – known as Sharon Killer to her critics because of her enthusiasm for the death penalty - is at the centre of a controversy that has further undermined confidence in the death penalty, after

she refused to keep a court office open after 5pm to allow a last-minute appeal for a stay of execution while the supreme court decided on another case that affected all executions in Texas. The convict, Michael Richard, was executed hours later.

Keller is awaiting a verdict from the State Commission on Judicial Conduct on charges of dereliction of duty. Earlier this year, Keller turned down an appeal from a man on the brink of execution, despite revelations that the judge and prosecutor at his trial had been having an affair.

<http://www.guardian.co.uk/world/2009/nov/15/texas-death-penalty-execution-us>



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## **Big Brother Britain to beef up surveillance even more**

Every phone call, text message, email and website visit made by Britons will be stored for a year for monitoring by government bodies.

All telecom companies and internet service providers will be required to keep a record of every customer's personal communications, showing who they have contacted, when and where, as well as the websites visited.

Some 650 public bodies can access the data, including police, local councils, the ambulance service, fire authorities and even prison governors. They don't need a judge's or a magistrate's permission to obtain the information: simple authorisation by a senior police officer or deputy head of department at a local authority is enough, Richard Edwards wrote in the *London Daily Telegraph* last month.

The law will increase how much personal data officials can obtain through the controversial Regulation of Investigatory Powers Act, supposed to be used for fighting terrorism.

The new rules will not only force communications companies to keep their records longer, but also to expand the data they keep to include details of every website their customers visit. While public authorities can't view contents of emails or phone calls, they will be able to see the internet addresses, dates and times and identify recipients of calls.

The British taxpayer will reimburse firms storing data at a cost of about \$3.5 billion over 10 years.

## **London bobbies slash their stop-and-search activity**

There has been a sharp decrease in use by London police use of counter-terror stop and search powers in the wake of a public outcry over their discriminatory nature...and the fact that they don't find crooks.

During 2008-09 more than 256,000 people were stopped in the street and searched by the police without the need for reasonable grounds of suspicion under section 44 of the Terrorism 2000 Act. This record level of police activity followed the failed bomb attack on a London nightclub in 2007. Only 1,452 of these searches led to an arrest or other action, and the vast majority on matters unrelated to terrorism.

The Home Office figures show that during the first three months of 2009-10 – April to June – total use of section 44 powers amounted to 36,189 people searched, a fall of 37% on the same period a year ago.

The decline follows a decision by the Metropolitan police to scale back their use of these counter-terror powers from across the whole of the capital to a limited number of specified locations, including Westminster. Lord West of Spithead (*pictured*), the Home Office minister for counter-terrorism, is among those who have recently found themselves being searched under these powers.



Statistics still show that only a tiny proportion – 0.6% – of the searches carried out under anti-terror laws led to an arrest.

<http://www.guardian.co.uk/politics/2009/nov/26/stop-and-search-big-fall>

## US law on DNA use needs to be duplicated in Australia

A new US law – the Genetic Information Nondiscrimination Act – took effect in USA workplaces last month, prohibiting employers from requesting genetic testing or considering someone's genetic background in hiring, firing or promotions.

The act also prohibits health insurers and group plans from requiring testing or using genetic information – like a family history of heart disease – to deny coverage or set premiums .

“It doesn't matter who's asking for genetic information, if it's the employer or the insurer, the point is you can't ask for it,” said John C. Stivarius Jr., a trial lawyer based in Atlanta who advises businesses about the new law.

The biggest change resulting from the law is that it will, except in a few circumstances, prohibit employers and health insurers from asking employees to give their family medical histories. The law also bans group health plans from the common practice of rewarding workers, often with lower premiums or one-time payments, if they give their family medical histories when completing health risk questionnaires.

The new law (called GINA) was passed by Congress last year because many Americans feared that if they had a genetic test, their employers or health insurers would discriminate against them, perhaps by firing them or denying coverage. In a nationwide survey, 63% of respondents said they would not have genetic testing if employers could see the results.

The act now applies to all employers with 15 or more employees. It applies to group health insurers whose plan years begin on or after 7 December, and it took effect for individual health insurance plans last May. The act does not apply to life insurers.

The act would ban a company from not promoting a 49-year-old to chief executive because it knew his father and grandfather died of heart attacks at age 50. “There's an absolute ban on the use of genetic information to make any kind of decision about employment,” said Christopher Kuczynski, assistant legal counsel with the commission.

<http://www.nytimes.com/2009/11/16/business/16genes.html>



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## Italy convicts 23 American spies over CIA kidnapping

In a landmark ruling, an Italian judge last month convicted a base chief for the Central Intelligence Agency and 22 other Americans, almost all C.I.A. operatives, of kidnapping a Muslim cleric from the streets of Milan in 2003.

The case was a huge symbolic victory for Italian prosecutors, who drew the first convictions involving the American practice of rendition, in which terrorism suspects are captured in one country and taken for questioning in another, often one more open to coercive interrogation techniques.

Critics of the Bush administration have long hailed the case as a repudiation of the tactics it used to fight terrorism. And the fact that Italy would actually convict intelligence agents of an allied country was seen as a bold move that could set a precedent in other cases.

Still, the convictions may have little practical effect. They do not seem to change the close relations between the United States and Italy. Nor did they reveal whether the government of Prime Minister Silvio Berlusconi had approved the kidnapping. And it seemed highly unlikely that anyone, Italian or American, would spend any time in prison.

Judge Oscar Magi handed an eight-year sentence to Robert Seldon Lady, a former C.I.A. base chief in Milan, and five-year sentences to the 22 other Americans, including an Air Force colonel and 21 C.I.A. operatives. Three of the other high-ranking Americans were given diplomatic immunity, including Jeffrey Castelli, a former C.I.A. station chief in Rome.

Citing state secrecy, the judge did not convict five high-ranking Italians charged in the abduction, including a former head of Italian military intelligence, Nicolò Pollari.

All the Americans were tried in absentia and are considered fugitives. Through their court-appointed lawyers, they pleaded not guilty.

Italian prosecutors had charged the Americans and seven members of the Italian military intelligence agency in the abduction of Osama Moustafa Hassan Nasr, known as Abu Omar, on Feb. 17, 2003.

Prosecutors said he was snatched in broad daylight, flown from an American air base in Italy to a base in Germany and then on to Egypt, where he asserts that he was tortured.

[http://www.nytimes.com/2009/11/05/world/europe/05italy.html?\\_r=1](http://www.nytimes.com/2009/11/05/world/europe/05italy.html?_r=1)

Scott Horton, writing in *Harper's* magazine, commented: "almost two dozen covert intelligence operatives have had their cover blown and are...now fugitives from justice. Sophisticated law enforcement techniques, many pioneered by the United States, are now being employed to track their movements. While a number of commentators claim this has no serious consequences, no one I have spoken with in the intelligence community feels that. The future utility of these agents is seriously compromised, and they face arrest every time they leave the country."

<http://harpers.org/archive/2009/11/hbc-90006039>

## **Killers sue Wikipedia for reporting murder facts**

Two German men who killed an actor in 1990 are suing the charity behind the online encyclopaedia Wikipedia, claiming that its inclusion of detail of their crimes infringes their right to privacy.

The case has counter-pointed the US's First Amendment, which guarantees freedom of speech, and German privacy and criminal laws, which dictate that after a certain period a crime is "spent" and cannot be referred to.

The two men became infamous for the killing, for which they were sentenced to life in prison in 1993. They were released in 2007 and 2008. But Alexander Stopp, the lawyer for the two men, noted that Germany's courts allow a criminal's name to be withheld in news reports once they have served a prison term and a set period has expired.

<http://www.guardian.co.uk/technology/2009/nov/13/wikipedia-sued-privacy-claim>

## **UK bureaucrat criticises judges for demanding honesty, openness**

A top Foreign Office official has accused high court judges of damaging Britain's national security by insisting that CIA evidence of British involvement in torture must be revealed.

The extraordinary intervention in a fierce dispute between David Miliband, the foreign secretary, and the high court has come from Simon Manley, the FCO's director of defence and strategic threats.

In an unprecedented assault on the judiciary, he claims that demands by two judges that the CIA material should be disclosed have already harmed Britain's intelligence and diplomatic relations with the US.

In a statement, Manley says the judges have "served to undermine confidence within the US in the UK's ability to protect the confidentiality of diplomatic exchanges and will inevitably have a negative impact on the candour of their exchanges with UK officials".

<http://www.guardian.co.uk/world/2009/nov/12/torture-foreign-office-miliband-judge>

The High Court has flatly rejected claims by David Miliband, the foreign secretary, that releasing evidence of the CIA's inhuman and unlawful treatment of UK resident Binyam Mohamed would harm Britain's relations with the US by giving away intelligence secrets.

Evidence that the foreign secretary also wants to suppress is believed to reveal what British intelligence officers knew about Mohamed's treatment. Mohamed, 31, an Ethiopian, says he was tortured in Pakistan, Morocco, Afghanistan, and Guantánamo Bay.

In the sixth in a string of damning rulings, the high court accused Miliband of wanting to suppress information about CIA activities even though details had already been disclosed by the Obama administration. Dismissing Miliband's claims, Lord Justice Thomas and Mr Justice Lloyd Jones insisted they were not trying to give away "American secrets". They said: "Of itself, the treatment to which Mr Mohamed was subjected could never properly be described in a democracy as 'a secret' or an 'intelligence secret' or 'a summary of classified intelligence'."

The judges revealed that seven paragraphs in a key document Miliband insists must remain secret "relate to admissions of what officials of the US did to BM during his detention in Pakistan". They repeated their earlier finding that "what is contained in those seven redacted (edited out) paragraphs gives rise to an arguable case of torture or cruel, inhuman and degrading treatment".  
<http://www.guardian.co.uk/world/2009/nov/19/court-rejects-miliband-cia-request>

## **Dutch among lowest cannabis users in Europe, says report**

The Dutch are among the lowest users of marijuana or cannabis in Europe despite the Netherlands' well-known tolerance of the drug, according to a regional study published last month. Among adults in the Netherlands, 5.4% used cannabis, compared with the European average of 6.8%, according to an annual report by the European Monitoring Centre for Drugs and Drug Addiction, using latest available figures.

A higher percentage of adults in Italy, Spain, the Czech Republic and France took cannabis last year, the EU agency said, with the highest being Italy at 14.6%. Usage in Italy used to be among the lowest at below 10% a decade ago. The full report by the European Monitoring Centre for Drugs and Drug Addiction is available at [r.reuters.com/vef87f](http://r.reuters.com/vef87f)



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## **Swiss privacy watchdog to sue Google over how Street View looks**

Switzerland's strict tradition of personal privacy is behind the country's privacy watchdog's deciding to sue Google in a federal court to force it to make changes to its Street View application.

Street View allows Internet users to view panoramic street-level pictures of more than 100 cities around the world. It already has been criticized in several European countries and Japan for allowing individuals to be identified without their knowledge or consent, potentially exposing embarrassing facts about their private lives.

Switzerland's federal data protection commissioner wants Google to ensure that all faces and car plates are blurred, remove pictures of enclosed areas such as walled gardens and private streets, and declare at least one week in advance which town and cities it plans to photograph and post online.

"Numerous faces and vehicle number plates are not made sufficiently unrecognizable from the point of view of data protection, especially where the persons concerned are shown in sensitive locations, such as outside hospitals, prisons or schools," the commissioner, Hanspeter Thuer, said in a statement. [http://www.huffingtonpost.com/2009/11/13/google-swiss-privacy-watc\\_n\\_356577.html](http://www.huffingtonpost.com/2009/11/13/google-swiss-privacy-watc_n_356577.html)

## **PNG looks set to get its own human rights body**

Legislation is expected to be introduced shortly to create an independent national human rights institution (NHRI) in Papua New Guinea..

The Government of Papua New Guinea and the Office of the High Commissioner for Human Rights (OHCHR) held a workshop recently about how to develop a human rights commission that meets international standards and is relevant to the national context.

Around 30 participants attended the five-day workshop, held in Alotau in September,. This followed a series of regional consultations in Port Moresby (July 2008), Madang (August 2008), Goroka (September 2008), Alotau (November 2008) and Kavieng (July 2009).

Representatives from the Asia Pacific Forum were invited to provide expert advice on legislation establishing NHRIs in other parts of the Asia Pacific region, the international standards for NHRIs set out in the Paris Principles and 'best practice' examples of NHRIs carrying out their legislated functions.

<http://www.asiapacificforum.net/news/papua-new-guinea-takes-steps-to-establish-rights-body.html>

## **INTERNATIONAL BRIEFS**

**Couple choose BBC to announce suicide:** An English couple who wrote to the BBC to say they had chosen to take their own lives were found dead at their home. Dennis Milner, 83, and his wife Flora, 81, from Newbury, Berkshire, sent a letter and statement to the BBC saying they had "chosen to peacefully end our lives" to avoid "a living death". "Today we have been denied what we believe to be our basic human right – to terminate our own lives, in our own home, at our own choosing, with our loved ones around us, without anyone having to face any legal possibilities or harassment," they said.

**Maine blocks same-sex marriage:** The US state of Maine, with traditional libertarian leanings, had seemed to offer an excellent chance of reversing the national trend of voters rejecting marriage equality at the ballot box. Instead, last month it became the 31st American state to block same-sex marriage through a public referendum. In 2009, Iowa, New Hampshire and Vermont joined Massachusetts and Connecticut in allowing same-sex marriage, but only through court rulings and legislative action.

**Cop stuns 10yo girl for refusing shower at home:** A police officer used a Taser stun gun to subdue a 10-year-old girl in her own home. The officer had been called to the girl's home in Ozark, Arkansas, by her mother because she was behaving in an unruly manner and refusing to take a shower. In a report on the incident the officer, Dustin Bradshaw, said the mother gave him permission to use the Taser.

<http://www.telegraph.co.uk/news/worldnews/northamerica/usa/6602043/Taser-gun-used-on-10-year-old-girl-who-refused-to-take-shower.html>

**Mancunians get to lead on ID cards:** Residents in Manchester will become the first people in Britain to be able to apply for ID cards. They can now directly apply to attend appointments from November 30 to have their photograph and fingerprints taken for the £30 cards at Manchester's passport office. Junior Home Office Minister Meg Hillier said the cards would be particularly useful for students and young people as they would "save the cost and hassle" of getting into clubs and bars. Anyone over 16 in the city with a UK passport can apply for a card.

<http://uk.news.yahoo.com/21/20091116/tuk-manchester-is-first-to-get-id-cards-6323e80.html>

**Canadian watchdog stands up for citizen privacy:** Canada's federal privacy watchdog has rejected Passport Canada's plan to embed fingerprints and iris scans in electronic passports. The Office of the Privacy Commissioner told the passport office not to include new biometric information on a radio frequency chip encoded in e-passports. "The more information you collect, the more information you put at risk," said assistant privacy commissioner Chantal Bernier. Canadian e-passports, rolling out from 2011, will feature a digitized picture of the passport holder as well as their name, date of birth, location of birth and passport number, said passports spokesman Jean-Sebastien Roy. <http://tinyurl.com/yetuzlr>



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**Malaysia to introduce privacy law:** Malaysia has just introduced privacy legislation, with the Personal Data Protection Bill having its second reading last month. It aims to regulate personal data processing in commercial transactions by users to protect the interest of owners. The Bill appears to cover all or most of the private sector and include traditional privacy principles, an independent privacy commissioner and an appeals tribunal.

<http://www.mysinchew.com/node/31714> For a copy of the Bill:

[http://salinankarbon.com/DAP/pub/docs/Personal\\_Data\\_Protection\\_Bill\\_DR352009.pdf](http://salinankarbon.com/DAP/pub/docs/Personal_Data_Protection_Bill_DR352009.pdf)

**Spy cameras mushroom inside houses:** CCTV cameras are being fitted inside family homes in London suburbs by council 'snoopers' to spy on neighbours in the street outside. The \$1800 security cameras are gathering evidence of anti-social behaviour, with each linked to a laptop computer and accessible online by police and council officers 24 hours a day. But the trial inside two homes by Croydon council in south London has sparked new fears about invasion of privacy and Britain's 'surveillance society'. <http://www.mailonsunday.co.uk/news/article-1228876/Secret-CCTV-cameras-fitted-INSIDE-peoples-homes-spy-neighbours.html#ixzz0Y2ODn2qw>

**Data breach numbers skyrocket:** According to the Identity Theft Resource Center, government agencies and businesses reported 435 data security breaches in the USA as of mid-November, on track to show a 50% drop from the number reported in 2008. But the decrease in number of breaches is deceptive, *Forbes* magazine reports. In fact, the number of individual personal records that were exposed -- data like Social Security numbers, medical records and credit card information tied to an individual -- that have been exposed had skyrocketed to 220 million records so far this year, compared with 35 million in 2008. About 65% of them were health records. [http://www.forbes.com/2009/11/24/security-hackers-data-technology-cio-network-breaches\\_print.html](http://www.forbes.com/2009/11/24/security-hackers-data-technology-cio-network-breaches_print.html)

**Survey shows web users want privacy rights:** A recent US survey sought opinions from 1000 internet users on laws regarding tracking what people do, where they go, and what they buy online. The survey asked if there should be a law that gave people the right to know everything a website knew about them: 69% of respondents said yes. An even higher 92% supported a hypothetical law that required websites and advertising companies to delete all information about an individual upon request. Perhaps the Office of the Privacy Commissioner in Australia could take notice...and take action to introduce laws akin to these in Australia. <http://www.nytimes.com/2009/09/30/business/media/30adco.html?th&emc=th>

**Why health privacy safeguards matter:** A health insurer in America lost 1.5 million patient records last May but waited six months to disclose the incident. The data was stored on a portable disk drive that disappeared from the insurer's office; it was unencrypted and included patient Social Security numbers, bank account numbers and health data -- according to the *Hartford Courant* -- as well as personal information on at least 5,000 doctors. Health Net discovered the loss in May but never informed patients, law enforcement or government entities, despite data breach laws in some states that require data spillers to notify victims and state officials when residents are affected. The insurer finally sent a letter to Connecticut's Attorney General and the state's Department of Insurance last month. <http://feeds.wired.com/~r/wired27b/~3/05kuotj-n30/>

## **DATES:**

**4 Dec, Adelaide:** Roundtable: *A Judicial Life? Judicial and Political Biography*, U. Adelaide/Austrn Assn of Constitutional Law. 9.15am-5pm, LG 28 Napier Bldg, U Adelaide. Info: [cheryl.chapman@adelaide.edu.au](mailto:cheryl.chapman@adelaide.edu.au) or 08 8303 4020

**5 Dec, World:** International Volunteer Day

**10 Dec, Sydney:** National Human Rights awards: <http://www.humanrights.gov.au/about/events/index.html>

**10 Dec, world:** International human rights day

**11-14 Dec, India:** 10th International Conference of Chief Justices of the World - Global Symposium, <http://wmgd.net/symposium/2009/invitation.html>

## **2010:**

**6-7 Feb, Canberra:** Conference on Sentencing, ANU. Details: <http://www.njca.com.au/> or John McGinness (02) 6125 6655

**19 Feb, Sydney:** Constitutional Law conference, Art Gallery of NSW, dinner at NSW Parliament: details/bookings: Belinda McDonald 02 9385 2257 or E: [gtcentre@unsw.edu.au](mailto:gtcentre@unsw.edu.au)

**20 Feb, worldwide:** World Day of Social Justice

**12-14 March, Melbourne:** Rise of Atheism conference, Atheist Foundation of Australia and Atheist Alliance International, Melbourne Convention and Exhibition Centre. Info: <http://www.atheistconvention.org.au/>

**16-17 March, Melbourne:** Human Rights Conference, Victorian Equal Opportunity and Human Rights Commission, at the Melbourne Park Function Centre. Call for abstracts open until 3 Nov. <http://www.humanrightskonference.com.au/>

**4-7 May, Melbourne:** Non-adversarial Justice: Implications for the Legal System and Society conference, E: [ajja@law.monash.edu.au](mailto:ajja@law.monash.edu.au) (Call for papers closes 1 Feb 2010)

**21 May, Melbourne:** Children, Young People and Privacy conference, Office of the Victorian Privacy Commissioner, <http://www.privacy.vic.gov.au/>

**9-10 June, Wollongong:** ISTAS 10 - Social Implications of Emerging Technologies conference, Novatel Northbeach, Details: Katina Michael at: [katina@uow.edu.au](mailto:katina@uow.edu.au) More info: [www.ieeessit.org](http://www.ieeessit.org)

**14 June-3 July 2009, Montreal, Canada:** Applications close 21 Nov 2008. The International Human Rights Training Program (IH RTP) is an annual three-week training session with 120 participants from 60 countries. Information: <http://www.equitas.org/english/programs/IH RTP.php> > [click here](#).

**6 July, Sydney:** 'Better more cameras than more crime' debate on CCTV. Coty Recital Hall, Angel Place, 6.40pm, for later broadcast on ABC Radio. Details: <http://www.iq2oz.com/events/event-details/2010-series-sydney/05-july.php>

**15-18 June, San Jose USA:** Computers, Freedom and Privacy conference converges for the first time ever in Silicon Valley. Details: <http://cfp.acm.org/wordpress/?p=6>

**17-25 Sept, Brisbane:** IFIP Human Choice and Computers International Conference, part of the IFIP world conference, details: <http://www.wcc2010.com/HCC92010/index.html> Sessions include ethics and ICT governance, surveillance and privacy.

**21-22 Oct. Adelaide:** 2010 Institute of Public Administration Australia national conference, Adelaide Convention Centre, details: <http://www.ipaa.org.au/>

## **LAST WORD: Googlers ogle Google 'eye' as it begins Google-odyssey**

Google is out photographing Sydney, Melbourne, Brisbane, Canberra, Adelaide, Perth and parts of Tasmania this summer, updating photos for its Street View website.

However, people are now more familiar with the Google cars and their difficult to conceal roof-mounted tripods. Many Canadians were photographed making rude gestures at the cameras, the *Sydney Morning Herald* reported.

Google has been able to placate some privacy campaigners by blurring number plates and faces of people caught in its lenses and promising to photograph from public streets only.

People caught in compromising positions – such as a Port Melbourne man snapped sitting on his outhouse dunny – have been able to apply to the company to have images removed from Street View. Click below to access a video showing the first of the Google fleet setting off, farewelled by Google staff with too little work to do, and fuller details on the story.

<http://www.smh.com.au/technology/technology-news/aussie-googlers-gather-for-street-view-stunt-20091106-i1e0.html>

<http://www.smh.com.au/technology/technology-news/google-hits-the-streets-for-a-better-view-20091102-hsjx.html>

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