

SCAG takes obfuscation to a new level

In the mysterious world that is Australia's Standing Committee of Attorneys-General – SCAG – even odder than usual things are afoot.

...but we won't be told what they really are. We must try to divine from the tea leaves of an obfuscatory 'communique' what this extraordinary, unconstitutional body is planning to do to us.

SCAG comprises the AGs of of the Commonwealth and States and Territories and NZ's Minister of Justice. The Executive Member for Legal Matters of Norfolk Island has observer status.

SCAG operates an anachronistic system whereby any individual member can blackball any item: it issues no agenda, keeps no minutes (so it says, officially) and communicates by PR spin only.

Here are some of the gems, word-for-word, from the only published report of its December 2010 meeting. These will probably lead to major legislative change in Australia in 2011...but when, and what, and how we have no clue about, because secretive SCAG won't explain what it is up to.

SCAG Harmonisation Forum: "Ministers agreed to hold a harmonisation forum in 2011, to be hosted by the Commonwealth, to identify and pursue initiatives for supporting COAG* to achieve its micro-economic reform agenda."

Laws Relating to Cults: "Ministers discussed the laws applicable to the regulation of cults."

Fine Enforcement – Data Matching and Information Sharing: "Ministers discussed the possibility of increased cooperation, including data matching and information sharing, to improve the level of fine enforcement."

Suppression Orders – Internet Sites: "Ministers discussed the application of the model suppression order laws to social networking websites."

The above are not excerpts, as it might appear: they are the full and total public reporting by SCAG on these major issues, handed out as the 'SCAG Communique' after the December 2010 meeting. The next SCAG meeting will be held on 4 and 5 March 2011 in Wellington, New Zealand.

* COAG is the Council of Australian Governments, which is – like SCAG – an unconstitutional body and which also has secret agendas and no formal reporting of discussions or minutes.

COAG has allegedly 'reformed' its 43 Ministerial Councils from 1 July 2011, but what replaces them reads like expansion rather than reform: <http://snipurl.com/24aon3> – see Attachment C

No notices of motion, nominations open

In the process of the electronic annual general meeting (eAGM) of Civil Liberties Australia (CLA) Inc., there were no notices of motion received at the closing date/time, on 19 February, so there's no need for an online discussion and voting on any motion.

The eAGM now goes into the phase where directors nominate for the board. This continues online at <http://www.cla.asn.au/> until 19 March. Details are on the website.

The current board of directors all intend to re-nominate with the exception of 2006-2010 Treasurer Kevin Popple, who is retiring from the board.

At the 20 February board meeting, he was formally thanked for his efforts early in his tenure to put CLA's finances on an orderly and systematic footing, for managing and husbanding the organisation's assets and for, late in his tenure, helping Director and Webmaster Lance Williamson devise a robust system to take membership – new and renewals – online in a more automated process.

Phil Schubert has taken over as Treasurer from 1 January 2011.

WA Police to set up citizen hit list, strip search suspects

The WA Police Commissioner will have power to publish a hit list of people considered a threat to the Commonwealth Heads of Government Meeting (CHOGM) in Perth under under new laws before State Parliament late last month.

The *CHOGM (Special Powers) Bill 2011* also allows police, for the period around the event from 28-30 October 2011, to use special powers usually kept to target organised crime bosses.

"The Commissioner may compile one or more lists of persons (an excluded persons list) who the Commissioner is satisfied are persons who would pose serious threats to the safety of persons or property (or both) in a CHOGM security area during the CHOGM period," the draft laws state. "The Commissioner may (but need not) cause an excluded persons list to be published by whatever means considered appropriate."

Being named would effectively bar the people from all CHOGM-related events and from areas designated by Police Commissioner Karl O'Callaghan as a security zone.

The law permits "restricted areas", where police can search citizens and force them to hand over identification. Police can even keep these areas secret, if they believe publicising the location in advance would compromise security.

In these zones, to be determined closer to the event, officers would be able to "remove the other person's headwear, gloves, footwear or outer clothing (such as a coat or jacket), but not his or her inner clothing or underwear".

Gillard Government dobs in WikiLeaks workers, Assange claims

The Australian Government is providing the USA with information about Australians working with WikiLeaks, its founder Julian Assange said last month.

He claimed Prime Minister Julia Gillard and Attorney-General Robert McClelland were merely pretending to be hands off because Australians strongly supported WikiLeaks.

In an interview with SBS's *Dateline*, Mr Assange said the public must know about cooperation between the Australian government and overseas authorities. "There is assistance to the US – and that needs to come out," he said.

Mr Assange says WikiLeaks material yet to emerge would implicate the Australian Government with a number of large companies. <http://snipurl.com/21c2da>

Australian jails are Indigenous traps

An Indigenous young person in Australia is 28 times more likely to be imprisoned than an equivalent non-Indigenous person; in WA, Aboriginal children make up 80% of children sentenced to detention; the number of Indigenous women in prison in Australia increased by 96% between 2000 and 2009.

The over-imprisonment of Aboriginal and Torres Strait Islander people links directly to reduced opportunities in employment, health and education amongst families and in communities, according to Australians for Native Title and Reconciliation (ANTaR).

The group is launching a campaign encouraging governments to strengthen Aboriginal communities, rather than condemning so many Aboriginal people to prison. Theirs is one of a number of recent submissions (Nos 107-110) to the [House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs](#) inquiry into the high level of involvement of Indigenous juveniles and young adults in the criminal justice system.

The submission details some of the key principles which should be followed to reduce the involvement of young ATSI people with the criminal justice system. It advocates developing a justice reinvestment approach.

Conroy claims he wouldn't block internet

The Communications Minister, Senator Stephen Conroy, last month claimed the Australian Government would not block communication between protesters by shutting down access to the internet if a situation like that in Tunisia, Egypt, Bahrain or Libya arose in Australia.

Egypt shut down communications by executive order. Senator Conroy said: "Australia's a vibrant democracy, where the government doesn't control the internet. I don't think we have any of these powers – that we could pass a law to make ISP services turn off when we want them to? I don't think we have that power now, and I don't think anyone's seeking it."

He said in "a pluralistic, open speech, free speech" society such as Australia, those aren't the sort of actions Australia supported or would participate in.

Senator Conroy, what would be the difference between blocking content you don't like, under your blacklist filter proposal, and blocking content you don't like as part of mass protests against your government?
– various sources, including: <http://tiny.cc/e2nrx>

World of secrecy expands under cyber strategy

Attorney-General Robert McClelland last month issued a media release which listed what the Gillard Government has done under its 2009 Cyber Security Strategy:

- established the Computer Emergency Response Team (CERT Australia);
- established the Cyber Security Operations Centre (CSOC) in the Defence Signals Directorate (DSD) to coordinate responses to cyber events;
- created the 'Stay Smart Online' website (www.staysmartonline.gov.au);
- moved to accede to the *Council of Europe Convention on Cybercrime*, an international treaty;
- discussed with State and Territory Governments the idea of a national online reporting portal;
- worked with the Internet Industry Association to implement a voluntary ISP Code;
- produced the 'Protecting Yourself Online – What Everyone Needs to Know' booklet; and
- established a cyber policy coordinator within the Department of the Prime Minister & Cabinet.
– from a media release: contact Ryan Liddell on 02 6277 7300 or 0427 225 763.

The AG did not reveal what secret agreements had been reached with which other nations about exchanges of what intelligence on cyber issues, or how such pacts could be monitored by citizens concerned about the accuracy of foreign or local agencies' information and comments.

Cybercrime convention would make your data available worldwide

The government has embarked on public consultation as part of Australia's proposed adopting of the Council of Europe Convention on Cybercrime, a binding international treaty.

The Convention requires countries to criminalise four types of offences, including:

- offences against the confidentiality, integrity and availability of computer data and systems, including illegal access to computer systems, illegal interception, data interference, systems interference and the misuse of devices;
- computer-related offences, including forgery and fraud;
- content-related offences, including child pornography; and
- offences related to the infringement of copyright and other related rights.

But the convention has a dark side too: it sets up a 'Big Brother' operation where data is exchanged by 'those in the know', a new super group of world computer controllers. For example, under the convention a core group of "authorities" can:

- collect data in another country;
- request the disclosure of specific computer data;
- collect or record traffic data in real-time;
- establish a 24/7 network linking investigators; and
- "facilitate" the exchange of information.

More than 40 nations have either signed or become a party to the convention, including the USA, Canada, Japan and South Africa, AG McClelland says. A consultation paper is at www.ag.gov.au. Submissions are sought by 14 March 2011.

Ombudsman blasts Christmas Island refugee 'jail'

A report by Commonwealth Ombudsman Allan Asher (*right*) has blasted conditions at the Christmas Island detention centre, saying they are "unsustainable".

He has called for significant changes to the centre which, over the past two years, has gone from holding 30 detainees to almost 2,800

Security assessments were taking too long to complete, he said, and the centre recently held 2,000 more people than it was built to accommodate.

Mr Asher said interpreting services must be improved and mental health resources



increased. Many more asylum seekers should be moved to the mainland. <http://snipurl.com/1yhapk>

Complain to the AFP? Don't waste your time, report indicates

After three and a half years of trying to get the Australian Federal Police's complaint handling systems right, "there are still significant areas of complaint management to be addressed," Ombudsman Allan Asher told parliament last month.

"Timeliness in resolving complaints has worsened since we last reported to Parliament. There has not been a great deal of progress in monitoring the implementation of changes in complaint procedures, or in documenting outcomes,"

"The AFP needs to demonstrate how it is using the information which can be gleaned from complaints – an invaluable source of intelligence for improving training, systems and procedures. Responding to and communicating with complainants could also be improved."

In a media release, Mr Asher points out that "The AFP has cleared itself of every complaint about excessive use of force made by a member of the public since the Commonwealth Ombudsman became responsible in January 2007 for reviewing the AFP's complaint-handling activities."

He also highlights that the ACT Policing arm of the AFP has an abysmal complaints record: making up about 12% of AFP numbers overall, it was responsible for 62% of complaints in one category.

Mr Asher outlined a culture within the AFP which:

- took up to nearly two years to finalise some complaints;
- where facts were in dispute, believed police officers over complainants as a first resort;
- failed to take any account whatsoever of the record of individual police officers (in one case, the Ombudsman found an officer complained about had seen 16 complaints against him in two years...his behaviour was so poor, apparently, that he been issued with a voice recorder so his sergeant could check up on him!)

<http://www.ombudsman.gov.au/media-releases/show/162>

Ombudsman Asher is so concerned at the lack of AFP progress around the complaints issue that he hints in the report that new legislation may be needed to rein in police behaviour.

He says he is not sure the the current regulatory review system is meeting its "...principal aim which is to implement a modern managerial approach to the work of AFP members; particularly in its response to complaints made about those members."

Feds manoeuvring to sneak full body scanners into airports

The federal government plans to sneak full body-scan machines into Australian airports: they will be introduced "to stop drug couriers", according to Home Affairs Minister, Brendan O'Connor.

Customs will "test internal body scanning technology" on suspected drug couriers under a year's trial. Proposed changes to the *Customs Act 1901* will mean suspects can opt for an internal body scan at an international airport.

Customs must hold a reasonable suspicion that someone is carrying drugs internally and the suspect must consent to being scanned. If they refuse, they will undergo a hospital examination, which is the current practice.

– media release, 15 Feb 2011.

O'Connor fires blanks in 'prevention' legislation

In the fight to be Mr Tough Guy, Home Affairs Minister Brendan O'Connor has fired the latest shot: draconian legislation having absolutely zero chance of preventing an attack on a plane.

The Aviation Crimes and Policing Legislation Bill 2010 introduces three new offences:

- Assaulting a crew member – maximum penalty 10 years jail;
- Recklessly endangering an aircraft – up to 14 years; and
- Having or placing dangerous goods on an aircraft – up to 14 years.

The legislation also boosts penalties for existing offences:

- 10 years for hoax and threat offences (now 2);
- 14 years for damaging or destroying major airport facilities or a plane (now 7-10);

- 20 years for “very serious offences” such as assaulting a pilot or endangering an aircraft in flight (now 7, 14 or 15 years); and
- ‘Life’ continues to apply to offences like as hijacking or destroying an aircraft and being reckless as to causing death.

Car rental firms taking liberties with your privacy

Rental companies and owners may want to keep track of their products, but installing GPS units and tracking renters is an excessive invasion of privacy and creates a dangerous situation for the renter, CLA Director and media spokesperson Tim Vines said.

"When you hire a car you provide photo ID, pay a deposit and hand over your credit card details. Now renters are being told that isn't enough – you have to be tagged and monitored," he said.

CLA is concerned that storing GPS logs exposes the renter to potential privacy and safety risks.

"Not all rentals are for family holidays and tracking a person's movement can reveal more than they wish to share. A car parked at one location regularly could indicate where you work or live or where you drop your kids off for school each morning. No digital system is invulnerable and information can be obtained by hacking in or relying on a disgruntled employee," Mr Vines said.

CLA believes that the use of such tracking devices should be disclosed upfront and "in large bold type" not squirreled away in the fine print. "People have the right to decide whether they want someone to monitor their everyday movements and, if they object, we'd encourage them to take their business elsewhere," he said.

ID crime penalties get a boost

New legislation passed last month – the *Law and Justice Legislation Amendment (Identity Crimes and Other Measures) Bill 2010* – creates three new offences with serious penalties of up to:

- five years jail for making, supplying or using identification information with the intention of committing a Commonwealth indictable offence
- three years for possessing identification information intending to commit identity crime
- three years jail for possessing equipment to make identification documentation with the intention of committing identity crime.

Victims of identity crime can re-establish their identities more easily. They apply to a Magistrate for a certificate stating that their identity information has been misused. The certificate is meant to help them re-establish their credit rating and clear them of offences committed under their name.

Three years' jail for posting anti-semitic video

A 39-year-old Perth man is in jail for three years' jail for internet posting of an anti-semitic video.

Brendon Lee O'Connell is the first person in WA to be convicted under the state's racial vilification laws. A jury found him guilty last month of six offences.

O'Connell posted a video on *YouTube* showing him insulting a young Jewish man in 2009. The video also showed O'Connell standing in front of the Perth Bell Tower telling Jews their days were numbered. <http://snipurl.com/1xk0dc>

Police search of journo's phone records 'unreasonable'



The NT Ombudsman, Carolyn Richards (*left*), has ruled a police search on a journalist's phone records was unnecessary and unreasonable.

Former *NT News* reporter Justin O'Brien had his phone records searched to determine who tipped him off about a police raid on the Darwin Lord Mayor's house.

Ms Richards said last month that police didn't breach any laws by obtaining the phone records, but a second request to gain access was "unreasonable",

Rebecca Rebgetz reported for *ABC News*. The ombudsman has recommended that authorisation must be issued by someone who has a rank of Superintendent or higher. <http://snipurl.com/1xkq0x>

Late in February she said the government was planning new laws that would stop her investigating complaints about the child protection system, Jane Bardon reported on *ABC Radio*.

The government says the changes recognise that "the Children's Commissioner has the expertise in the area of vulnerable children", but the Opposition's child protection spokeswoman Robyn Lambley says some of the problems in the system would not have been exposed without the ombudsman's investigations. <http://snipurl.com/24jug1>

Police to review capsicum spray guidelines

Tasmania Police are reviewing their guidelines for use of capsicum spray after a 13-year-old boy was sprayed in Burnie recently.

A video appears to show police spraying the youth while confiscating a dirt bike from his home. Acting Assistant Commissioner of Crime and Operations Glenn Frame said the review was separate from the investigation of the Burnie incident, the Hobart *Mercury* reported.

The *Mercury* said Tasmania Police used capsicum spray a record 171 times last financial year, compared with 126 the previous year and 135 the year before. In 2006-07 it was used 151 times. Meanwhile, the Police Association of Tasmania is pushing for general duty officers to be able to use stun guns, similar to the push in the ACT (*see later*).

Tasmania Police's performance report shows misconduct complaints against police rose 60% in the six months to December 31, the *Mercury* reported. <http://snipurl.com/1xue4n>

Police DNA lab process shows serious flaws: chief justice

ACT Chief Justice Terry Higgins last month said evidence in a sexual assault case had identified serious flaws in processing of DNA by the Australian Federal Police.

Craig Paul Meyboom, 35, was found guilty of two counts of sexual intercourse without consent in April 2006...but he was found not guilty of another sexual assault in November 2005. The Crown argued the use of stolen mobile phones and DNA evidence linked Meyboom to both attacks.

In a written judgement, Justice Higgins noted the lapse of time and lack of striking similarities between the attacks and that neither victim identified their attacker.

He said evidence showed serious flaws in processes of the AFP Laboratory. It was 'surprising' that the tape used to lift DNA samples was not kept, preventing an independent audit of the process.

Meyboom is due for sentencing this month, Kathleen Dyett reported on ABC Radio. <http://snipurl.com/1zipj3>

Even the judge indicated guilty man hard done by

The Federal Court's Justice Nye Perram seemed to wish he had recourse to a more just law when he ruled against reinstating a federal public servant who had Googled the word 'knockers' on his work laptop in the privacy of his own home.

A Commonwealth department's Spector360 spy software, sampling the intranet every 30 seconds for naughty word searches and other nefarious deeds, lit up like a Christmas tree when it spotted what the man had been doing during his time off in the privacy of his own home.

The department sacked the Senior Executive Service (SES) officer with a 25-year career. The judge said that the public servant had told varied stories when asked about his internet usage, which led to an "adverse" view about his integrity. "It may well be harsh – there will be those who think it inhumane – but that is not the requisite standard," Judge Perram said.

He also rejected the argument that the public servant's privacy had been infringed. "It was not his laptop and its owner had asked him not to use it to view pornography."

But Judge Perram said the case came close to reaching a standard for it to be possibly overturned. "Some might think that the resources of the Commonwealth could be much better utilised on activities apart from zealous pursuit [of the public servant] over something he did in his own home which was not against the law." <http://snipurl.com/1ziwd0>

Copyright to be examined

Attorney-General Robert McClelland plans to seek help on copyright: "It is my intention to provide the Australian Law Reform Commission with a reference on copyright," he said.

"I believe there would be merit in examining some exceptions under our law in the context of the online environment and whether the correct balance exists," he said. Timing is late-2011.

– from a media release

First new airport police to fly away overseas?

The first 20 trained airport policing officers have graduated...and may have to fly.

Within five years, there will be 748 sworn and 34 unsworn AFP officers at Sydney, Brisbane, Melbourne, Perth, Alice Springs, Cairns, Canberra, Gold Coast, Adelaide, Darwin and Hobart.

At an extra cost of \$200m over four years, they will operate under a new Aviation Crimes and Policing Legislation Bill 2010 which was in Parliament last month (see above). The new policing model is part of a \$200 million suite of aviation security initiatives over four years to further strengthen security at Australian airports.

Home Affairs Minister Brendan O'Connor said rather ominously at the graduation ceremony: "The graduating officers will guard against terrorist threats and conduct day-to-day community policing. They're also ready for any broader AFP policing duties at home and abroad." The Christchurch earthquake happened the next week.

Docker Dixon wants teachers to search parents' cars

First you get a new government, then you get tyro ministers, then you get raw stupidity...the process continues in Victoria, where the Libs freshly reign.

Education Minister Martin Dixon (*right*) last month floated the idea of giving Victorian schools the power to search parents' cars under proposed school safety laws. He calls it part of a crackdown on weapons in schools. CLA calls it crackers.



Principals would get powers usually reserved for police. Under the rubric of "maintaining order and safety", Docker Dixon would strip parents of any privacy whatsoever in relation to their vehicles.

He said: "If, for example, a parent's car was being used for an excursion and a principal had a reasonable belief there might be a hidden weapon or a dangerous item in that car that would put the students in that car at danger, then the principal has got the right, therefore, and the back-up to search that car for that weapon." If pigs flew, they'd likely be winged.

CLA's test on such crazy notions is this: if the Minister is willing to have a member of the public, chosen at random, search his private car just before every time he or his family uses it, then his school car plan could be considered...and then dropped. <http://snipurl.com/20gc4u>

Call for human rights education to be integrated with aid programs

Human rights education should be embedded in aid and development programs, according to a resolution passed by the International Human Rights Education Conference at the University of Western Sydney.

As well as campaigning for change in Australia, the resolution from the conference will be presented to the UN High Commissioner on Human Rights

The conference brought together government officials, academics and aid workers from more than 20 countries aiming to increase human rights education in developing and developed nations.

The conference unanimously adopted the resolution calling on the Federal Government to ensure human rights education is integrated within overseas development assistance, particularly in conflict and post-conflict situations such as Afghanistan.

Conference organiser, UWS Director of Equity and Diversity Dr Sev Ozdowski, says a greater focus on human rights education abroad will help bring about change to marginalised societies.

Govt tinkers with family law, again

The federal government has proposed a draft *Family Law Amendment (Family Violence) Bill 2010*.

There were more than 400 submissions during the public consultation process on the draft, with 73% supporting the proposed measures, the government said. The new bill is on top of other recent government measures, including:

- developing a training package for lawyers, judicial officers, counsellors and other professionals working in the family law system;
- piloting coordinated family dispute resolution;
- developing minimum guidelines for screening and risk assessment; and
- improving collaboration between federal family law and State/Territory child protection.

Details: www.ag.gov.au/familyviolencebill

New plan aims to cut violence against women, kids

A new *National Plan to Reduce Violence against Women and Their Children 2010-2022* was released last month.

Australia's Sex Discrimination Commissioner, Elizabeth Broderick, said the plan responds to the recommendations of the UN's Universal Periodic Review of Australia as well as the Committee on the Elimination of All Forms of Discrimination Against Women. Both called for such a plan...and its implementation. Info: <http://snipurl.com/24bsel>

Court forced to PIC and CChoose, while IPIC snaps ex-camera

The NSW Crime Commission is fighting with the state's Police Integrity Commission.

The CC has gone to court to stop the PIC holding a public inquiry into CC's handling of criminals' assets and how officers have behaved.

The PIC, which gained oversight of the CC two years ago, is secretly inquiring into the CC. In a private hearing in December PIC said it would extend the reach of the hearings to examine the CC's actions and practices under the *Criminal Assets Recovery Act*.

Last month, the NSW Supreme Court issued an injunction against the PIC, ruling the CC had established a prima facie case in questioning the PIC's powers.

If you think the CC-PIC battle is unseemly, you might like to know that the PIC is also fighting its own oversight body, the Inspector of the PIC (IPIC), which has issued scathing reports criticising PIC for its lack of procedural fairness and accusing it of breaching officers' privacy, the *SMH* reported. The PIC's last public hearings – into alleged misconduct of police officers – were held two years ago.

If you think the NSW police/spook imbroglio reflects more widespread problems in the state, you're probably right...a state election this month might be a circuit breaker. <http://tiny.cc/ffyp4>

Tricky licorice twist for kids on new 'watch what you eat' card

A new swipe card system lets parents log in to spy on their children's school canteen purchases. They can also block buying of junk food.

At Kardinia International College in Geelong, students can only buy canteen items with an electronic card, Jessica Craven reported in the Melbourne *Herald Sun*. You can load the card with cash at school, or top it up online...where the purchases are available for all to see.

Parent Tiffany Trickey's son Mitchell started year 7 this year and she said she liked that the system allowed parents to set a spend limit. "It's a great way for parents to be able to keep track of what the children eat," she said. "You can give them \$5 for lunch and they say 'Yeah Mum, I got a ham and salad roll,' but you don't really know. I logged onto the portal for the first time this morning and saw he'd gotten a few licorice twists, so he can't hide now." <http://snipurl.com/23p4qz>

High-speed car chase deaths: when will SA ever learn?

SA's Deputy Coroner Anthony Schapel said last month that state police should operate under orders to not undertake high-speed chases based on an unproven belief – “an intuitive hunch” – that a car may be stolen or its occupants committing crimes.

Mr Schapel also recommended police be instructed to not to embark on a chase when it was suspected a driver was drunk or on drugs.

The recommendations were part of the findings into three fatal crashes in 2008 and 2009, including one in the Adelaide Hills in 2009, in which two men were killed and another seriously

injured. The driver sped off after being stopped on a freeway exit for having an unregistered, uninsured car. Mr Schapel said that in itself failed to justify a high-speed chase.

He noted the officer who chased the car said he suspected it was stolen or the three occupants were committing crimes such as break-ins. Mr Schapel said that such justification was "no more than an intuitive hunch", *ABC Radio* reported.

Police Minister Kevin Foley said the Government would not support changes, as it would send the 'wrong message' to offenders. "We will not be adopting a policy that effectively says 'You're free to flee'," he said.

CLA says that SA police should learn from other Australian jurisdictions, which have curtailed police chases after a series of tragic accidents. CLA wonders how many more accidents and deaths it will take before SA follows suit. <http://snipurl.com/22uhha>

SPECIAL REPORT this issue: AUSTRALIAN CAPITAL TERRITORY

ACT squeezes bail into magistrates court

People applying for bail in the ACT can now apply twice in the Magistrates Court without having to establish a change in circumstances.

In most cases, accused people must use their two applications for bail and make a first application to review a bail decision in the Magistrates Court before being able to apply to the Supreme Court for bail, ACT Attorney-General Simon Corbell said.

The ACT Government is trying to cut the backlog in the Supreme Court. The new Bail Act also allows the Magistrates Court to deal with breaches of Supreme Court bail on days when the Supreme Court is not sitting, such as Saturdays. The government also wants to increase the jurisdiction of the Magistrates Court so more matters are heard there, instead of in the Supreme Court – media release, ACT AG 15 Feb 2011

ACT workers get some privacy

The ACT's *Workplace Privacy Bill 2010* passed the ACT Legislative Assembly last month, curbing unrestrained employer surveillance in the workplace, and imposing penalties on employers who do not inform their employees they are under surveillance.

The bill, an initiative of the ACT Greens, says covert surveillance can only be conducted after application to the Magistrates Court, and only by a suitably independent surveillance supervisor. It also prohibits surveillance of areas which people reasonably expect privacy, such as prayer rooms, change rooms and bathrooms. The bill: <http://snipurl.com/22ukth>

AG miffed off over bureaucrats' failure to take urine samples



A miffed ACT Attorney-General has commissioned Keith Hamburger to extend a review of governance and accountability procedures in ACT Corrective Services.

The Hamburger procedures review will follow his current one year examination of operations at the Alexander Maconochie Centre – the ACT jail. AG Simon Corbell (*left*) said Corrective Services had not adhered to stated policy and procedures of drug testing of prisoners on admission: they failed to take urine samples. Now he has ordered:

1. A complete review of governance, accountability and monitoring in Corrective Services;
2. Investigation of why procedures of urinalysis on admission to the AMC were not implemented and how the Government was misled about drug testing practices; and,
3. Recommendations on what to do to prevent any recurrence of this "critical failure".

Yet another government plans to limit CTP vehicle claims

The ACT Government has tabled a bill which it claims will promote competition in compulsory third party insurance (CTP) and speed up personal injury claims after motor accidents.

The government says the current scheme is a gravy train for everyone but claimants and that the changes would reduce insurance premiums. It has removed a cap on non-economic claims and lowered the psychological injury threshold.

But ACT Law Society President Athol Opas says the bill is unnecessary and unjust. "Whilst we would welcome the removal of the cap on non-economic loss, the reduction of the threshold for psychological injuries to 15% is still a problem...there should be no threshold whatsoever for any compensation entitlements," he said.

"Over 80% of accident victims will not be entitled to fair compensation," he said.

CLA is amazed at how quiet insurance companies have been in this debate: could it be that they stand to be huge beneficiaries? <http://snipurl.com/22xv0u>

Territory police want full rollout of stun guns

ACT Policing, a business arm of the Australian Federal Police, wants all officers issued stun guns after a fatal shooting in the suburb of Wanniasa last month.

Nathan Doherty, 27, was shot after allegedly lunging at an officer while armed with a knife and meat cleaver. Deputy Chief Police Officer Bruce Hill said police at the scene had no other choice but to shoot. "On this particular circumstance I think a (stun gun) would have been effective, but every circumstance dictates its own circumstance and there's a whole range of use of force," he said. A full coronial inquiry will take place. <http://snipurl.com/24axr9>

CLA activities for February:

Meetings:

- Health and other issues: ACT Legislative Assembly – Greens Amanda Bresnan MLA, advisers Kate Taylor and Patrick Moody;
- CLA members, etc: Ikebal Patel re Islamic Council activities; Frank Cassidy re public service and media issues; Darren Churchill re membership, Arved von Brasch re Classification submission; Peter Stanley re "Diggers" article; Michael Brown re Fiji; Humphrey McQueen.

NT group : discussions proceeding, with possible meetings in late-May, June.

Cases: Bob and Ann Waldon, Moama NSW, re alleged police harassment, various web inquiries

Correspondence:

- Letter to major NSW parties standing at March election for their position on civil liberties;
- Minister O'Connor re sniffer dogs – requesting expenditure vs effectiveness measurements.

Board meeting 20 February:

Farewell Treasurer Kevin Popple; welcome new Treasurer Phil Schubert.

Main issues: death penalty (Alexia Hall), monitoring of items to COAG and SCAG, eAGM arrangements, privacy and hospital records, marketing CLA and membership, Anzac Day "What Did Diggers Fight For" initiative, judge-alone trials, bail act, need for monitoring of forensic laboratories Australia-wide.

Submissions under preparation:

- FOI: to Information Commissioner
- Classifications, to Senate Legal and Constitutional Affairs References Committee
- Extradition/mutual assistance/death penalty: Cornall/Black inquiry
- Independent Review of Intelligence Community: Attorney-General's Department

INTERNATIONAL

UK 'turns the page on liberty' Deputy PM says

The page on liberty and rights has been turned, Britain's Deputy PM Nick Clegg said last month.

Interviewer Henry Porter, of *The Observer* newspaper, said the *Protection of Freedoms Bill*, published last month, was a genuine Liberal Democrat triumph and Clegg could claim his own firm belief in individual liberty had been placed at the heart of the UK Coalition Government's program.

Although the bill didn't achieve everything that he or campaigners wanted, it was a good start and altered the tone of government by asserting – by implication – respect for the public's [privacy](#) and rights, according to Porter.

Early in the interview, Clegg says disarmingly, "I need to say this – you shouldn't trust any government, actually including this one. You should not trust government – full stop. The natural inclination of government is to hoard power and information; to accrue power to itself in the name of the public good," Porter wrote.

Clegg says the restoration of liberty is ongoing, and urges campaigners to "hold the government's feet to the fire".

"In good times, the weirdly phlegmatic British public took little notice of the loss of liberty and, I suspect, in rougher times, when people are pressed, they will be equally unresponsive about this bill. It's worth remembering, however, that the people out on the streets in Cairo, in Tunisia, and in Iran 18 months ago, would be astonished by (UK) complacency. For them liberty is everything," Porter wrote. <http://www.guardian.co.uk/politics/2011/feb/13/nick-clegg-protection-freedoms-bill>

UK government opts to roll back 'unwarranted intrusion'

More than half of the nine million people in the UK who have needed criminal record checks to work with children and vulnerable adults are to be freed from the burden under new legislation.

The government plans to scale back the previous Labour government's "over-intrusive" vetting and barring scheme to "commonsense levels". Deputy PM Clegg said the Freedom Bill aimed to roll back "unwarranted state intrusion in private lives" through the use of CCTV, local authority surveillance powers and the police DNA database.

Mr Clegg said the Labour government had engaged in a 13-year assault on hard-won British freedoms: "The Coalition Government is determined to hand them back to the people."

Key elements include:

- regulating CCTV cameras and the police's automatic number plate recognition scheme; and
- scaling back the police DNA database so it no longer holds the profiles of those who have not been convicted of any offence. <http://snipurl.com/20uems>

PBAG ramps up work, along government lines

An international Pro Bono Advisory Group (PBAG) will be ramping up its promotion of human rights and the rule of law in the Asia Pacific region this year, according to AG Robert McClelland.

The PBAG, after a meeting chaired by the AG last month, agreed to:

- provide legal help to the Australian Civilian Corp when civilian specialists deploy to countries suffering natural disaster or conflict;
- prioritise pro bono projects supporting the government's "framework" around promoting regional security, attracting foreign investment, and ensuring access to justice; and
- examine how to help develop young lawyers in Pacific countries.

PBAG got a \$100,000 grant last year – *from AG media release 17 Feb 2011*

US Government set to acknowledge gay marriage

The Obama Administration announced last month that it would not continue to defend legislation defining marriage as between a man and a woman.

The decision opens the way for the US Government to recognise same-sex marriages. Three months ago, the White House said it would end legislation discriminating against gay men and lesbians in the military.

The Obama Administration will no longer ask the Justice Department to defend the *1996 Defence of Marriage Act* in court. Social conservatives are likely to launch a legal challenge. <http://snipurl.com/24q599>

US moves to criminalise WikiLeaks-type release of information

Legislation tabled in the US Senate last month broadly criminalises classified information leaks.

The bill ([S. 355](#)) would make it a felony for a US government employee or contractor who has authorized access to classified information to disclose the information to an unauthorized person in violation of his or her nondisclosure agreement.

Under [existing law](#), criminal penalties apply only to the unauthorized disclosure of a handful of specified categories of classified information (in non-espionage cases). These categories include codes, cryptography, communications intelligence, identities of covert agents, and nuclear weapons design information. [The new bill](#) would amend the espionage statutes to extend such penalties to the unauthorized disclosure of any classified information.

Another pending bill, known as [the SHIELD Act](#), would specifically criminalise disclosure – and publication – of information concerning human intelligence activities and source identities. Both bills were originally introduced at the end of the last Congress, and were reintroduced last month.)

<http://www.fas.org/blog/secretcy/>

EU travellers' details to be open book to all police

Telephone numbers, addresses and email addresses, credit card numbers and other details of air travellers will be available on demand to all of the EU's police forces, including countries such as Bulgaria and Romania where corruption among law enforcement officials is widespread.

The system will track all travellers. It will also allow any EU police officer access to the data on suspicion of a serious crime, including offences that are not a crime in Britain, for example.

UK civil liberties campaigners fear the new EU surveillance system will make Britons more vulnerable to miscarriages of justice amid growing concern over EU policing measures and the lack of safeguards or judicial standards in some countries. <http://snipurl.com/1yzw5v>

Wrongful execution reopens death penalty debate

Revelations that an Air Force private had apparently been wrongfully executed 15 years ago for the rape and murder of a five-year-old girl have reopened the debate over Taiwan's retaining the death penalty.

Taipei prosecutors have announced that, after a new investigation into the case, another former Air Force man had confessed to the crime, Dennis Engbarth reported.

President Ma Ying-jeou apologised to the mother of then 21-year-old Air Force private Chiang Kuo-ching, who was convicted for the crime and executed by firing squad in 1997. Ma also promised "to use the swiftest legal procedure" to clear Chiang's name and make reparations.

Chiang's father, Chiang Chih-an, had waged a decade-long campaign to clear his son who, human rights lawyers said, had been tortured into making a false confession. <http://snipurl.com/1zm1ts>

(CLA plans, under Alexia Hall's lead, to motivate the Australian Foreign Minister, Mr Rudd, to mount a campaign to eliminate the death penalty, first from the Pacific and then Asia).

Gbay prisoner dies 'after exercising'

Another Guantánamo Bay prisoner has been released, through the most reliable method – death. The Afghan Awal Gul, posthumously described as "Taliban base commander", died in custody "after exercising."

One of 48 men the US planned to hold forever, his was the seventh Gbay death. However, about 190 human beings have died in US custody [under US detention or torture](#).

DATES:

(You may have to copy and paste URLs to reach these sites)

4-5 March, Wellington NZ: SCAG – Standing Committee of Attorneys-General – meets.

7-8 March, Melbourne: Young people, risk and resilience: The challenges of alcohol, drugs and violence conference. Austn Inst. of Criminology and Vic Safe Communities Network, RACV Club, 501 Bourke St. Details.

23 March, Darwin: Seminar: *Improving Access to Justice among survivors of Domestic Violence in Timor-Leste*, Jeswynn Yogaratnam, School of Law & Business, Charles Darwin U. Details: lbadeanadmin@cdu.edu.au

23-25 March, Canberra: National Information Law Conference, National Museum of Australia, keynote speaker Australian Information Commissioner, Prof John McMillan. Bookings Di Harvey 02 6253 7126 or E: cbrtraining@ags.gov.au

31 March, Adelaide: 'Facebook Defamation', presented by Patrick Lim. a UniSA Law Evening Research Seminar. To register: <http://www.unisa.edu.au/law/news/register.asp>

5-7 May, Brisbane: AIJA Child Protection in Australia and NZ: Issues and Challenges for Judicial Administration. W: www.amp.com.au/cp11

12 May, Brisbane: *The Business of Ethics*, Mr John Briton, Legal Services Commissioner, 12-2pm, Seminar Room East, UQ Business School Downtown, L19, Central Plaza One, 345 Queen St, Brisbane. Contact: k.hofmann@uq.edu.au

17-19 May, Gold Coast, Qld: National Indigenous Domestic Violence conference, Sea World Resort, Gold Coast. Info: <http://ica-dv.webs.com> or email: sosmedical@ymail.com Papers and proposals by 25 Dec 2010.

24 May, Brisbane: *Love for Sale & Labour for Hire* (human trafficking), 2-4pm Terrace Room, top floor, Sir Llew Edwards Bldg, St Lucia. Contact: a.schloenhardt@law.uq.edu.au or web: <http://www.law.uq.edu.au/humantrafficking>

3 June, Canberra: Justice Connections symposium, Uni of Canberra: <http://www.canberra.edu.au/faculties/law/anzsog-justice-symposium>

20 June, World: World Refugee Day (Week is 14-20)

23-25 June, Canberra: 19th annual Aust and NZ Society of Intntl Law (ANZSIL) conference, *the Promise and Limits of International Law*, University House, ANU. Paper proposals by 15 Feb to anzsil@law.anu.edu.au Further info: <http://law.anu.edu.au/ANZSIL/conferences.html-UpcomingConferences>

4-8 July, Launceston: History of Human Rights is a key topic at the Australian Historical Society regional conference, *History at the Edge*. Convenor: Dr Tom Dunning: T.Dunning@utas.edu.au

14-17 July, Melbourne: *Law and Religion: Legal Regulation of Religious Groups, Organisations and Communities*, Melbourne Law School. Contact Claire Hausler at law-cccs@unimelb.edu.au

25-27 July, Canberra: *Security in Government* conference, organised by Attorney-General's Department. Info: SIG2011@ag.gov.au

11 Aug, Sydney: Annual Hal Wootten lecture: speaker Martha Nussbaum, 6.30-8pm, GO2 Law Bldg, UNSW. She is the Ernst Freund Distinguished Service Professor of Law and Ethics, appointed in the Philosophy Department of Chicago Law School, and Divinity School. She is an Associate in the Classics Department and the Political Science Department, a Member of the Committee on Southern Asian Studies, and a Board Member of the Human Rights Program. She is the founder and Coordinator of the Center for Comparative Constitutionalism.

9-10 Sept, Canberra: '10 years on from 9/11: the impact on public law', conference, Centre for International and Public Law, ANU: contact Kim.Rubenstein@anu.edu.au 9 Sept: Annual Geoffrey Sawer lecture, CJ of the Canadian Supreme Court, Beverley McLachlin. Conference opening by Professor Michael L'Estrange, Director of the National Security College, ANU.

21 Sept, World: International Day of Peace

22 Sept, Melbourne; Democracy v Communism, Remembering the 1951 Referendum on the Banning of the Communist Party. Details: j.damousi@unimelb.edu.au

28-30 Oct, Perth: CHOGM (Commonwealth Heads of Government Meeting): Biennial summit involving 53 leaders from Commonwealth nations

10 Dec, World: Human Rights Day

CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia. Responsibility for election comment in *CLArion* is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in *CLArion*, crediting CLA and/or the original source. We welcome contributions: please send to: [mailto:secretary\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au)

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