

Leaked documents highlight problems with ‘secret’ information

Documents released by WikiLeaks which describe the suspicions held by US authorities about Australians Mamdouh Habib and David Hicks point to the ongoing problem with secret information: it is at least 25% wrong in virtually all situations CLA believes.

Habib and Hicks were locked up at Guantanamo Bay: Habib was eventually released without charge, and Hicks copped a plea bargain as a tactic, and served extra time in an Adelaide jail, after admitting to a ‘crime’ (since acknowledged as not a crime in US civil or military law).

The US documents, which contain many factual errors, support Mr Habib's claim he was tortured in Egyptian custody before being transferred to Guantanamo Bay. US officials say he was questioned under "extreme duress".

CLA says* information gathered secretly is customarily wrong because:

- about 10% of data recorded is totally wrong in fact (wrong date, time, place, name, etc);
- about 10% is practically wrong (wrong connections, linkages, relationships, nuances, etc); and
- about 10% of the recorded data was irrelevant, by any measure (no connection to the key points at issue, and useless in a practical sense).

As some of the above errors are cumulative, in total they equate to an error rate across the board of about 25%.

CLA's assessment is gathered from analysis and comments by people who have accessed their ASIO files after 30 years. If the error rate was of the order of 25% when reports were carefully hand-compiled in a slower age more renowned for bureaucratic accuracy, how much greater are the error rates likely to be when sourced from, and recorded by, error-prone computer data systems?

* CLA has made this same point to the Cornall-Black intelligence review (*‘Independent Review of the Intelligence Community’*) currently under way under the Department of Prime Minister and Cabinet. <http://www.cla.asn.au/index.php/2011/spook-bodies-under-review>

Campaign to be launched to secure justice for David Hicks

A new campaign for David Hicks – the Justice Campaign – will be launched in Sydney on 13 May. “This is an important gathering to publicly demonstrate that our campaign for the rule of law and the universality of human rights in the case of David Hicks is supported by so many highly respected individuals and organisations,” Hicks’ wife, Aloysia, said in an invitation to CLA to attend. She has invited Attorney-General Robert McClelland to personally receive the letter many have signed (including CLA) calling on the government to launch an independent and open investigation into the Hicks case.

Former Guantanamo Bay guard Brandon Neely and Amnesty International campaigner, Katie Wood, will speak at the campaign launch. Info: aloysiab@hotmail.com

Australia to crack down on overseas data storage

The Australian Government is planning to crack down on businesses storing information in countries with lesser privacy standards than Australia.

Some countries, like Singapore, do not recognise a right to privacy, and police and security agencies can easily access stored information. Other countries, like the USA, have laws like the Patriot Act which give such agencies open slather access to personal information on their own citizens and foreigners.

Private information of Australians could be used against them in legal proceedings, shared with other overseas government agencies or accessed by other businesses, *News Limited* reported.

Some Australian firms are using overseas "cloud computing", which stores data remotely, to cut costs or meet fewer regulation standards.

Privacy Minister Brendan O'Connor said that, after recommendations from the Australian Law Reform Commission, new principles would be put in place. <http://tiny.cc/90n2w>

Here's what CLA said was needed, back in 2006, in our submission on the Australia Card:

(CLA believes that) Data on Australians (should be) held physically within Australia at all times, and not held or duplicated or transited or backed-up outside Australia, and no foreign government or foreign-registered or based entity has, or is given, access to the Australian data unless individual data/card owners give their individual consent;

Committee takes a stand for privacy

The government should justify why mandatory collection and retention of personal data is necessary for law enforcement, according to a Senate report into online privacy, tabled last month. The report said the costs, benefits and risks should be analysed before the government pursues its proposed data retention scheme, Nicky Phillips wrote in the *SMH*.

"We have sent a rocket back to the Attorney-General's office saying don't proceed any further until you've done your basic homework," said Greens Senator Scott Ludlum, a committee member.

The report also recommended Australians should have a right to protect their privacy online. Committee chair, Senator Mary Jo Fisher (Lib, SA), said there was no clear way to take legal action against a company or website over a breach of privacy online.

The report also proposed there should be a way people could opt out of having their behaviour and online preferences collected so organisations can better target ads. <http://snipurl.com/27r6kz>

The cost of exaggeration never ends...

Organised crime costs Australia \$15 billion a year, says Justice Minister Brendan O'Connor.

This figure has gone up from the figure he and Attorney-General Robert McClelland used to quote – "about \$10 billion a year" – in 2009.

Jane Hutcheon on *ABC 24 News* on Friday 15 April asked him: "How on earth does anyone quantify that?"

BRENDAN O'CONNOR: This is estimated; estimates that have arisen from, not only the Australian Crime Commission but over recent years the Australian Institute of Criminology. This measures not only the loss of income to the Commonwealth or to private organisations and individuals but it's also calculating the social costs, health costs, the increased likelihood of road accidents because of drug use, so it is an estimation. But there is no doubt that organised crime costs billions of dollars and, for that reason, we have to be vigilant and tackle organised crime head on.

So, there you have it. What he said earlier in the interview was "\$15 billion" had become "no doubt...billions of dollars", which could be just two or three.

The truth is that Minister O'Connor has plucked a figure out of the air*, which is exaggerated beyond reason, and hopes that by repeating it often enough it will be believed. This is an example of how PR spin manufactures a new reality.

* The ACC actually said: "\$10 to \$15 billion"...but even the lower figure is guesswork.

Moti case might reveal sordid government affair

The High Court has granted special leave to hear the case of whether the government turned a blind eye to illegal rendition of the former Solomon Islands Attorney-General Julian Moti to face child sex allegations in Australia in 2007.

The court will also consider whether the payment of \$149,200 to the alleged victim and her family by the Australian Federal Police brought the administration of justice into disrepute.

While the case appears to be about clearing Mr Moti's name, CLA would hope that AFP officers and officers of at least two government departments, if not very senior Ministers of the Howard Government, could end up under close scrutiny for their behaviour if the appeal is successful.

A finding in Moti's favour could be the start of inquiring into who was behind what CLA thought at the time was a sordid government affair.

Mr Moti, an Australian citizen, was charged in 1998 with the sexual assault of a 13-year-old girl in Vanuatu but the charges were discharged in 1999 by eminent judges. If the case had been heard (rather than discharged), and Mr Moti found innocent, he would not have been liable to any further charges by Australia: but, because the case did not even get to the stage of a formal hearing, the AFP and its advisers were able to legally question Mr Moti's sexual behaviour eight years after the event, when it suited their purposes to put pressure on him.

In 2006 the AFP launched an investigation into the allegations under 'sex tourism' laws. As Mr Moti was by no definition a "tourist" in the country, the investigation was immediately distorting the purpose for which the laws were passed in Australia.

In December 2007, days after the then Solomon Islands government which Mr Moti served was defeated in a no-confidence motion, the Australian government applied for Mr Moti's extradition, based on the sex tourism laws.

Within weeks the Solomon Islands deported Mr Moti to Australia, before he could lodge an appeal in the Solomons against the deportation. The plight Mr Moti found himself in was distinctly advantageous to the line of the Howard Government in relation to problems it faced in its dealings with the Solomon Islands Government, and to the AFP, which did not want its actions in relation to riots and other matters to come under public scrutiny, as they would have if not for the fall of the SI government.

Last month, Mr Moti was granted leave to appeal to the High Court against a decision by the Queensland Court of Appeal that his prosecution in Australia should go ahead, Geesche Jacobsen reported in the *SMH*.

Mr Moti's lawyers argued that Australian authorities connived in the plan to deport him despite knowing it was illegal, denying Mr Moti his rights under Solomon Islands law to mount an appeal. <http://snipurl.com/27rnt2>

CLA looks forward to the High Court and other tribunals delivering some semblance of final accountability, one day. Accountability seems to be a forgotten word in Australian governance.

SPECIAL REPORT: Defence and civil liberties

Defence priorities out of step with the community

In the 'Kate' affair at the Australian Defence Force Academy (ADFA) in Canberra, Kate was sent on "compassionate leave" because of the stress of the situation.

It was stressful for Kate because a male cadet had set up a video camera and streamed vision of his having consensual sex with her to six of his mates in a nearby room, via a videolink, the allegations say.

The apparent victim of this new style of Australian military bonding was soon despatched away from her studies and her chosen career, and removed from ADFA.

But CLA remains concerned that the seven cadets – the ADFA 7 – appeared to have been allowed to continue with their studies and military activities as if nothing had happened. Surely, if Kate had been taken out of the environment, the ADFA 7 also should have been suspended from the environment.

Every day that goes by with the ADFA 7 still unadmonished is a statement that the military chiefs condone what occurred. If no action was taken in relation to the cadet officers, then obviously the alleged behaviour was acceptable to Defence. However, the behaviour is certainly not acceptable to the wider community...which suggests Defence is out of touch with society

It took one month from the date of the sex act on 29 March to 29 April before charges were laid against two male cadets over misuse of a "carriage service". The charges were laid by the Australian Federal Police, and related to a technical issue: still, one month later, ADFA had taken no action in relation to the males allegedly involved in relation to ethical or practical issues related to treatment of a fellow cadet first, and female second.

Senior military officers were happy to talk about Kate's mental state...but so far no discussion appeared to have occurred in relation the mental state of the ADFA 7. Their mental state before, during and after the alleged incident would not seem to be ideal for a training organisation that respects colleagues in general, and women in particular.

To establish whether the alleged behaviour actually occurred should have been as simple as asking the same question seven times to establish the truth, as the cadets supposedly operate under an honour system.

If the alleged behaviour occurred, it would appear obvious that the ADFA 7's judgement would be at least questionable on moral and bullying/harassment grounds alone in an environment where respect for your colleagues is a mandatory requirement as the basis for life-and-death situations after leaving the academy. There is no doubt that the incident has brought the reputation of ADFA – again – into disrepute, which outsiders would have thought comprised at least a minor offence against military discipline.

It is interesting to contrast the situation at ADFA in Canberra with the situation at the National Rugby League club, the Raiders (also in Canberra), where a player, Joel Monaghan, made a bad judgment over a photographed sexual pose with an animal late last year during end-of-year celebrations. In the NRL club, the player Monaghan owned up, took responsibility personally and in so doing made sure none of his mates were brought into the matter. He is no longer with the club, as he chose to resign.

It is ironic that words like truth, honour, integrity, courage and taking personal responsibility are hallmarks of a Rugby League player and club, whereas they appear to be absent in the establishment purpose-designed to imbue those attributes in our future Defence leaders.

Defence's current position is indefensible

Why is CLA so concerned about the 'Kate' case (see item above)?

The reason is that – in 2005 – we warned the Chief of the Defence Force (CDF), Air Vice Marshall Angus Houston, that the situation he and Defence now find themselves in was inevitable.

In a series of letters, CLA proposed to AVM Houston that human rights and civil liberties training be introduced into mainstream ADFA learning...precisely to eliminate or minimise the disrespect that lies behind ADFA's alleged problems.

However, in 2005 he was supremely confident all was fine at ADFA: he wrote:

"Defence has appropriate policies, management practices, training and reporting procedures in place to manage and minimise the occurrence of inappropriate behaviour."

CLA replied:

"We suggest that your confidence that this generally acknowledged major ADF problem is under control is courageous, to say the least. We do not share your confidence: we believe that the ADF will ultimately have to address the underlying issues by a significant change in the ADF's culture."

"We think your summary dismissal of our approach was hasty and short-sighted. We ask you, politely, to reconsider your position now, before the next major ADF calamity occurs"

"We congratulate you on your public statements to date of how committed you are to eliminating harassment, bullying and inappropriate thinking and behaviour in the ADF. However, as a trained commander and very senior public sector manager, you will know better than anyone that you cannot 'order' cultural change in organisations."

"Cultural change can only come from information, education, discussion – and encouraging people at all levels in the ADF to think differently. We believe training in civil liberties/human rights should be a core element of all 'duty/responsibility' training, not only command and promotion courses, and pre-deployment preparation, as your letter says is currently the situation, but in also in basic training and throughout the career of ADF members..."

Sadly, AVM Houston to this day appears to exist in an eyrie remote from the reality of what happens in the Defence training establishments, such as ADFA. CLA hopes that a wiser successor will learn the lesson, and order that civil liberties and human rights training becomes interwoven with Defence learning.

After all, what does Defence fight for on behalf of Australians if not that we can all continue to enjoy our civil liberties and human rights?

ENDS special report

Juvenile detention follows downward spiral

More than half the young people in NSW juvenile detention facilities were abused as children, and nearly 40% of the girls were sexually abused, a government report says.

The report paints a bleak picture of the backgrounds of children and young people in the state's juvenile prisons, according to Adele Horin in the SMH.

The *2009 NSW Young People in Custody Health Survey* reveals that more than 27% of incarcerated young people (and 40% of young women) had a history of foster or kinship care.

The report also shows high levels of mental disorders and intellectual disabilities among detainees. Almost 90% were found to have at least one psychological disorder.

Between the last health study in 2003 and the 2009 survey, the proportion of incarcerated youngsters who are Aboriginal rose from 41.7% to 47.8%, while Aborigines represent 4% of the adolescent population in NSW. <http://snipurl.com/27sn3t>

Sex and age is a dead giveaway, every time

The ACT wants to change its electoral laws to:

- add the year of birth and gender of each elector to the list used in polling places, to help identify electors before they vote;
- remove the requirement for a witness signature to a postal vote;
- limit the number of candidates from each party to no more than the number of members to be elected in an electorate (the ACT has multi-person electorates); and
- lower the age of provisional enrolment from 17 to 16 years of age: but you'll still need to be over 18 to vote.

The Electoral Amendment Bill 2011 will go before an inquiry by the Standing Committee on Justice.

NT drinkers forced to swipe ID

Takeaways in the NT must make buyers swipe ID to see if they are banned from buying alcohol.

The new rule is designed to stamp out problem drinkers and reduce alcohol-related crime. "It's a minor inconvenience but, we'll be turning problem drinkers off tap for the first time in the history of the Territory." Alcohol Policy Minister Delia Lawrie said.

The government has also created a new offence of "irresponsible supply" of liquor to minors in the home and on licensed premises, which attracts a penalty of \$13,000.

<http://www.abc.net.au/news/stories/2011/03/31/3179135.htm>

An Aboriginal corporation in Central Australia says it wants to be allowed to ban pregnant women from buying alcohol. The Lhere Artepe Aboriginal Corporation owns three shops in Alice Springs and is concerned about the effects of foetal alcohol syndrome in babies.

A spokeswoman for Indigenous Affairs Minister Jenny Macklin says the Government is willing to consider local solutions to tackling alcohol issues in Alice Springs. <http://snipurl.com/27rnwz>

Reducing booze flow better than hardline bans

Western Australia's management of alcohol in the far north has been far more effective than that in the Northern Territory during the federal Intervention, the *ABC* reported last month.

ABC News said Centre for Independent Studies researcher Sara Hudson spent nine months assessing liquor restrictions introduced across the NT, where Aboriginal people consume almost twice as much liquor as the rest of the country.

The research found restrictions in WA, where the flow of take-away alcohol was reduced but not stopped, were far more effective than the hardline bans put in place during the intervention. "It's quite clear that total bans have just led to the displacement of the drinking problem," she said.

The study also found widespread frustration in communities across Australia's north that the promised increase in support services did not accompany the restrictions. <http://snipurl.com/27r05j>

'Boys' death not given priority it deserved': coroner

NT Coroner Greg Cavanagh last month severely criticised a police investigation into the suspicious death of a boy found in a waterhole at Borroloola.

The investigation was "not given the priority nor the seniority of investigation it deserved," he said.

Mr Cavanagh said evidence was destroyed or compromised and critical avenues of inquiry were overlooked. Lost evidence included DNA swabs destroyed before being analysed and suspicious toe marks beside the waterhole, from which casts were never made.

Mr Cavanagh said there was little evidence that validated the two constables' conclusion that it was an accidental drowning. Two large rocks found in the boy's shorts when he was lifted from the waterhole was "highly suggestive of foul play", he said, according to a report in the *NT News*.

The coronial file remained unfinished for two years and 11 months: police "belatedly allocated" police resources to further investigate the death, Mr Cavanagh said.

Major Crime Division Superintendent Kristopher Evans publicly apologised to the family over failures in the initial investigation. Supt Evans said changes had been made to investigations of unexpected deaths, including:

- new policies on investigating child and infant deaths; and
- appointing a case divisional officer responsible for submitting a coronial interim report three months after a death if the final report was not complete by then.

Supt Evans and the Deputy Coroner now meet monthly over cases. <http://snipurl.com/27rdv1>

Noble case exposes wider rot in prison-parole system

The case of Marlon Noble, in a WA jail for 10 years without conviction, is not isolated: there are 29 other people in WA jails who never been found innocent or guilty.

Of those, 13 (including Noble) are unfit to stand trial and 17 are in jail despite being found not guilty due to an unsound mind.

If a custody order is made in WA, it is for an unlimited time; anyone subject to a custody order comes under the control of West Australia's Mentally Impaired Accused Review Board (MIARB). The board's chair, Justice Narelle Johnson (who is also chair of the Prisoners Review Board), was quoted as saying she had been actively lobbying the State Government for the option of a declared place to house such people...but that begs the question of getting them a fair trial or hearing in the first place.

The West Australian Director of Public Prosecutions is reviewing Noble's case.

CLA believes there is good reason for an urgent government inquiry into the operation of all parole/ review processes in WA, and into the reasons why so many Indigenous people, particularly juveniles, are in WA prisons. <http://www.abc.net.au/news/stories/2011/04/19/3195038.htm>

The future's Big Brother has turned up today

The Australian Privacy Foundation's Big Brother Awards for 2011 – highlighting invasions of privacy – show that George Orwell's predictions are coming true.

"We already have Newspeak, we've got TV which at the moment doesn't look at us, but that's not far off. There's two-way communication on the streets ... There's GPS," said Julie Cameron, co-ordinator of the awards.

Winners include Facebook (worst corporate invader), airport body scanners (most invasive technology) and Google's previous chief executive Eric Schmidt who said Street View's data collection had caused "no harm" (boot in the mouth award). The Queensland driver's licence and Victorian public transport Myki Smartcard, which links travel data to personal information were joint winners of the award for worst public agency.

Dr Cameron thinks Orwell would recognise our world. "We've gone from capturing data to capturing images of people's faces and being able to match images in real time. We have a real change in the way people are tracked," she told Geesche Jacobsen, in the *SMH*.

Jacobsen said: "Already there seems to be a contender for next year following reports that the iPhone stores the co-ordinates of its location for a year in a secret file which is duplicated to the owner's computer when synchronised". Other mobile phones also seem to operate in similarly privacy-intrusive ways. <http://tiny.cc/iyjpg>

Tougher stun gun controls still see injuries on rise

Stun gun injuries have increased in Queensland even though tougher controls were put on police using the 50,000-volt devices a year ago.

However, the Crime and Misconduct Commission report on Queensland police stun gun use, tabled last month, found there had been a significant decrease in the weapon being deployed.

Despite evidence that repeated and prolonged "deployment" of the guns was medically dangerous, 40% of people had been shot more than once by police in the past 10 months. Five suffered five or more discharges, including two violent people who were the target of seven discharges and one who was the target of 13 discharges during a siege.

Queensland police will soon almost double the number of stun guns in the field – they have recently lifted a freeze after the death of a man in 2009. A coronial inquest is still being heard into the death of Antonio Galeano, 39, who was shot up to 28 times with a Taser during a siege.

More than 20% of stun gun deployments were against Indigenous people, who were more likely to have heart- and lung-related illnesses that put them at greater risk, the report found. Less than 4% of Queenslanders are Indigenous. <http://tiny.cc/4sx6w>

R18+ may at last get class, but at some cost to gamers

The final nail may go in the coffin of the MA15+ video game classification now that new South Australia's Attorney-General, John Rau, has endorsed the move to the R18+ classification.

Gamers have long protested that Australia was out of kilter with the rest of the world. A rational national system was held up by former SA A-G, Michael Atkinson, who was the one stumbling block to the new category for years.

As the Standing Committee of Attorneys-General (SCAG) says on its website: "Ministers agreed to make a decision regarding the introduction of an R18+ classification at the July 2011 SCAG meeting." SCAG has tried to resolve this matter since 2009. At the March 2011 SCAG meeting in Wellington NZ, the item was up for finalising...but not enough AGs were present, so a decision is delayed for another four months.

Now Mr Rau says he supports the new category...but at the expense of getting rid of the old one. This is a clever tactic, as we might end up with basically increased censorship sold as lighter censorship, with 15, 16 and 17-year-olds suddenly missing out on a category of games.

The Rau proposal appears to be to not change the requirements for MA15+, but simply re-label all MA15+ games as R18+. The upshot is that many games would still be banned or modified for Australia, but you would also have to be an adult to play some milder games.

It's hard to know why Ministers want to ban, restrict and censor: surely they could have more faith in the good sense of the people who elect them...or are the people who elect them dumb?

Australian briefs

TIC nogat tok bilong pepaspra: The Tasmanian Integrity Commission (TIC) undertook to investigate the situation where police capicum-sprayed a 13-year-old Burnie child in January 2011. CLA checked late in April, but still after three months there is no report on the incident. There's a saying about justice delayed being justice denied. One month would appear to be ample to sort out what happened, and report on it.

iRobs add to security money wastage: Three new high-tech armoured rescue vehicles from the USA are being handed over to the ACT, NT and SA (other mainland states already have something similar...but not poor, island Tassie!). The vehicles cost \$400,000 each. They are bullet-proof and blast-proof and are designed to protect police in very hostile or high-risk situations, help to rescue hostages or injured people, and somehow act as an anti-terror device, according to A-G Rob McClelland who 'launched' the latest trio last month. Maybe they should be called iRobs?

Law is big business: The Australian Bureau of Statistics says that 15,000 entities provide legal services and legal support services in this country. The sector employs nearly 100,000 people, including more than 5,000 barristers and 34,500 solicitors in private practice. Private firms and other legal services account for almost 85,000 legal sector employees, with more than 9,500 employed by government solicitors, public prosecutors offices, legal aid commissions, community

legal centres and Aboriginal legal services. Eleven Australian law firms maintain a physical presence in 37 locations overseas – from speech by AG Robert McClelland 31 March 2011.

Austlii is major export success: Incidentally, one of Australia's most unlikely legal export winners is Austlii, the UNSW-founded legal 'look up' system that allows users quick, easy and accurate access to case histories through all Australian jurisdictions. Austlii directors have sold the concept worldwide: it is even helping to organise India's massive legal database. <http://www.austlii.edu.au/>

Chases result in smashed police cars: At least nine police cars were smashed during high-speed pursuits on Northern Territory roads last year. Documents obtained through a Freedom of Information request by the NT News show one police vehicle is being wrecked nearly every month. Police figures gave seven wrecked vehicles...but the NT News found two more cases in its files! NT Coroner Greg Cavenagh recommended officers be trained in mock high-speed pursuits following the death of six people during a police chase outside Alice Springs in 2007. He made the same recommendations after investigating the death of Damien Wayne in 2005.

Bracelets for 'outmates': Courts in the NT will soon be able to order offenders to wear electronic ankle bracelets and serve sentences outside the Territory's bursting jails. The 2011 NT budget has an allocation of more than \$1.5m for 30 bracelets, Conor Byrne reported in the NT News. Corrections staff will monitor the movements of offenders wearing ankle bracelets under community custody orders and community-based orders which Corrections Minister Gerry McCarthy plans to introduce later this year. Alice Springs jail is so full that prisoners are being flown to the already overcrowded Berrimah jail in Darwin which was operating beyond its capacity at 700 inmates, NT Prison Officers Association spokesman Phil Tilbrook said last month.

Flew appointed to Classifications review: Professor Terry Flew is the newest member of the Australian Law Reform Commission, appointed to conduct a comprehensive review of the National Classification Scheme. He is Professor of Media and Communications at the Queensland University of Technology. The ALRC will consider the suitability of existing classification laws and categories in light of changes in technology, media convergence and the global availability of media content. The ALRC will release an issues paper this month, a discussion paper by the end of August and a final report by 30 January 2012.

Children's rep gets more powers: The NT Children's Commissioner (CC) gets wider investigative powers in new child protection reform legislation agreed by the local parliament recently. The CC, Dr Howard Bath, will be able to conduct own motion investigations and now has broader powers to investigate complaints relating to vulnerable children in the NT. The Minister for Children and Families, Mr Kon Vatskalis, said the CC had an extensive background in child protection and dealing with vulnerable children. "The Solicitor General (Michael Grant) has advised that the Children's Commissioner is completely independent and that both he and the Ombudsman will be able to confer with each other when undertaking investigations."

'Phantom' needs to put his stamp on new role: Leading Sydney barrister Bret Walker is the inaugural Independent National Security Legislation Monitor, surely now to be known as 'The Phantom'. The government finally made the appointment last month, more than 12 months after passing enabling legislation. His role is to ensure that all Australia's excessive anti-terrorism laws (more than 50 new laws since late-2001) operate properly, and that the secret agencies behave themselves in applying the enormously wide powers the new laws give them. Precise details of how he will operate are yet to be worked out: Mr Walker should walk firmly on toes in the early days to cement both the width and the depth of his remit.

CLA's main activities in April:

Submissions:

Review of the Dept Foreign Affairs and Trade annual report: URL (when the committee decides to post it online): http://www.aph.gov.au/house/committee/jfadt/review%20fa_tr_2009_10%20annrep/index.htm

Media:

- National Media Spokesperson, Director Tim Vines:
[Cancer Council tips more apartment smoking bans](#). Monique Ross, ABC News nationwide 18 April
- same issue with *WA Times* also
- CEO Bill Rowlings:
[Warning: this art debate may contain adult themes](#). Wendy Frew, p1, SMH 18 April.\
- WA: Rex Widerstrom:
Western Independent (Curtin U., WA): Smoking bans in the home
- Death Penalty: Alexia Hall:
Articles in preparation.

FOI requests:

Prepared for Commonwealth, NSW and Queensland on SCAG and R18+ Classification for Video Games (thanks to Lisa Visentin)

Network meetings:

Dalma Dixon: (Federal) Parliamentarians for Drug Reform group;
Rosemary Budavari re Law Council activities, collaborative activities;
Roger Clarke, Graham Greenleaf, Australian Privacy Foundation and Austlii;
BBQ for young and new CLA members, plus workers.

Development:

Darwin/NT, arrangements made for meetings in consultation with Ombudsman Carolyn Richards:
14 appointments made so far.

Representations:

ACT AG Simon Corbell re Juries Act, Sexual Assault Reform Program, ACT Policing/AFP, COAG/
SCAG

Management meetings:

Webmaster re membership recording, update of website.

Project meetings:

Emma de Landre re (CLA) Liberty Tree for national arboretum;
Why Diggers Fought: responses published on website;
FOI submitted for agendas COAG, SCAG meetings, NSW-ACT-Queensland.

Meetings:

Journalist/author Andrew Fowler, editor-at-large Jack Waterford re Fowler book on Assange.

Cases:

FOI response on Waldon case (Moama), advice not to proceed.

FAQ highlights:

Unequal impact of sharia law on expatriates in Dubai; inequities in justice system in Tasmania;
possible barring of condom handouts at NT music festival - these matters are being progressed.

Report on eAGM – excerpts from report posted online last month:

Overall, there were 251 members who could vote, and 148 responded to the invitation to do so, which is a 58.9% response rate. Of those, the results were:

- Approve President's Report: 98.65% (2 no answer)
- Approve Annual Report: 98.65% (2 no answer)
- Approve Treasurer's Report: 98.65% (2 no answer)
- Do you have a comment: 18 people said yes, 121 No:

Most comments were extremely complimentary towards the Board and the activities/initiatives of Directors, such as:

Terrific work!

Congratulations to our Office-bearers – they do a great job.

Keep up the good work.

Very impressive (voluntary) work. I commend all involved.

I applaud CLA's scrutiny of COAG and SCAG...

One person had trouble opening the Annual Report (*we'll work to make it simpler to do so next year*).

Full report is at: <http://www.cla.asn.au/index.php/2011/report-minutes-of-2011-eagm>

INTERNATIONAL

DFAT denies AFP watched alleged abuse

The Department of Foreign Affairs has expressed concern over the conduct of local security forces working with the Australian Federal Police in Sri Lanka.

Two former Christmas Island detainees arrested by Sri Lanka's Criminal Investigation Department (CID) after they were deported from Australia in 2009 claim to have been abused by members of the unit in the presence of an AFP officer. Their lawyer, Lakshan Dias, says CID officers beat the men with wooden planks and threatened to rape their family members.

He says an AFP agent was visiting the CID headquarters in Colombo at the time. The AFP strenuously denies witnessing the abuse but has confirmed one of its officers was in the building. <http://www.abc.net.au/news/stories/2011/04/21/3198514.htm>

UK dilemma: making machines obey the 'rules'

Britain is grappling with "machine morality": the growing use of unmanned aircraft in combat is raising huge moral and legal issues, and threatens to make war more likely as armed robots take over from human beings, according to an internal study by the UK Ministry of Defence.

The report warns of the dangers of an "incremental and involuntary journey towards a Terminator-like reality", referring to the 1984 movie, in which humans are hunted by robotic killing machines.

Britain must quickly establish a policy on what will constitute "acceptable machine behaviour", the report says. "It is essential that before unmanned systems become ubiquitous (if it is not already too late) ... we ensure that, by removing some of the horror, or at least keeping it at a distance, we do not risk losing our controlling humanity and make war more likely," warns the report, titled *The UK Approach to Unmanned Aircraft Systems*.

The report was ordered by Britain's defence chiefs, and coincides with continuing controversy about drone aircraft use in Afghanistan, and growing Pakistani anger at CIA drone attacks against suspected insurgents on the Afghan borders. <http://tiny.cc/zds8a>

Full-frontal scanner radiation won't harm you, researchers say

The Transportation Security Administration has deployed full-body scanners in airports throughout the USA in response to the "underpants bomber" ... whose bomb would not have been detected by the new scanners.

Opponents of the machines cite privacy concerns and fear of radiation emitted by the backscatter x-ray scanners, one of the two types of machines in use.

However, researchers say the scans deliver an amount of radiation equivalent to 3 to 9 minutes of radiation received through normal daily living. Since flying itself increases exposure to ionizing radiation, the scan will contribute less than 1% of the dose a flyer will receive from exposure to cosmic rays at elevated altitudes.

The estimation of cancer risks associated with the scans is difficult, they say, but using the only available models, the risk would be extremely small, even among frequent flyers. They conclude that there is no significant threat of radiation from the scans. <http://tiny.cc/cfzsq>

Bahrain sentences four Shias to execution

A Bahraini military court has sentenced four Shia protesters to death over the killing of two policemen during anti-government protests recently.

Three others were sentenced to life in prison in the first verdicts related to a pro-democracy uprising, crushed with military help from Saudi Arabia and other Gulf countries under emergency rule declared on 15 March.

The seven were tried behind closed doors on charges of premeditated murder of government employees. Their lawyers denied the charges.

Government officials have said that four policemen were killed during the unrest in February and March, at least three of whom were run over by cars around 16 March.

Iran doubles sentences of Bahai 7

Seven Bahai leaders in Iran have 10 year jail sentences upped to 20 years: the Australian Bahai community is "stunned and appalled", spokesperson Tessa Scrine said recently.

The Iranian Appeal Court in late 2010 decided to reduce the sentences of the leaders to 10 years: that decision has been rescinded and the original 20-year term reinstated, Ms Scrine said.

The seven organised Iran's Bahai community with the knowledge and tacit consent of the Iranian authorities until they were rounded up and jailed in 2008, she said. Two of the leaders have siblings in Australia, and others have other relatives here.

Followers of the Bahai faith are generally persecuted throughout the Middle East: Islamic leaders claim the Bahai faith is a breakaway from Islam, and that it is not a separate religion. Similar persecution occurs in Indonesia on members of the Ahmadiyya sect.

Islamists believe Mohamed was THE "Prophet" and so there can be no prophet/sect/religion dating from after Mohamed's time...which both the Bahai and Ahmadiya do.

Czech Constitutional Court rejects data retention law

An ongoing campaign by the civic rights organisation Iuridicum Remedium (IuRe) against public spying on everyday communication has produced considerable success.

The Czech Constitutional Court has decided to repeal legislation allowing records of emails, phone calls, SMS as well as the websites accesses of every citizen to be retained for six months.

"The Constitutional Court accepted all points of our complaint and we consider this a great success. Now the time has come to open discussion on new ways of implementing the Data Retention Directive into our legal system in order to meet the highest standards with respect to privacy protection...(if) the Directive will not be repealed as a whole," explained IuRe legal expert Jan Vobořil.

The Constitutional Court agreed with IuRe privacy protection activists and a group of 51 MPs who in March 2010 called for the repeal of sections of the Electronic Communications Act.

<http://www.edri.org/czech-decision-data-retention>

Euthanasia debate renewed over arthritis death

A leading Scottish campaigner for assisted dying has opted to die in Switzerland despite having no terminal illness, renewing debate around euthanasia terminology.

Nan Maitland, 84, who suffered from agonising arthritis, said she didn't want to suffer a "long period of decline, sometimes called 'prolonged dwindling', that so many people unfortunately experience before they die".

Two weeks before her death, Maitland, separated with three children, wrote in a message: "For some time, my life has consisted of more pain than pleasure. I have a great feeling of relief that I will have no further need to struggle through each day. I have had a wonderful life, and the great good fortune to die at a time of my choosing."

She was an active member of Friends at the End (Fate), a Glasgow-based campaign group, and one of the founders in 2009 of the Society for Old Age Rational Suicide (Soars), which campaigns for "elderly, mentally competent individuals" who suffer from non-terminal health problems to be given the right to choose. Other groups believe choosing death should be available to the terminally ill only.

Dr Michael Irwin, a friend of Maitland's for 15 years who accompanied her to Switzerland, said she had become increasingly debilitated by arthritis. "It was slowing her down; she was walking less.

She had begun to use a wheelchair, and standing for more than a few minutes was agonising.”
<http://snipurl.com/27ql5j>

Dissident lawyer jailed for wanting democratic change

A dissident lawyer and son of a communist revolutionary leader has been sentenced to seven years in prison and a further three years' house arrest for calling for an end to Vietnam's government and its one-party system.

Cu Huy Ha Vu was sentenced after a dramatic one-day trial in Hanoi in which one of his defence attorneys was ejected by the judge and his other three lawyers walk out in protest. Vu was left alone to defend himself and had several heated exchanges with the judge.

The court convicted him of conducting propaganda against the state for calling for a multiparty government system, demanding the abolition of the Communist party's leadership, defaming the state and distorting Vietnam's struggle for independence by calling the country's war against the US a civil war. Vietnam does not tolerate any challenge to its one-party rule.

The 53-year-old Vu is the son of Cu Huy Can, a famous Vietnamese poet and revolutionary leader in the government formed by the late president, Ho Chi Minh, when he declared independence from France in 1945. <http://snipurl.com/27ql7q>

EU arrest warrant abused by some countries

The European Commission is becoming alarmed about misuse of the European arrest warrant – the one being used to try to drag Julian Assange back to Sweden to face dubious sex charges (that is, the charges are dubious, rather than necessarily the sex!).

The warrant was introduced supposedly for major crimes only, but the fast-track extradition system is handed out like parking tickets in some countries, most notably Poland, which in 2009 issued 4,844 warrants compared to the UK's 220.

[Fair Trials International](#)'s Catherine Heard, writing in *The Guardian*, said there is a need for a fairer European arrest warrant system, with a proportionality test to weed out trivial cases, as well as basic fair trial safeguards for people facing extradition, like Assange.

“Extradition has an enormous impact on individuals and their families, yet this ‘no questions asked’ system leaves judges no real discretion to refuse warrants – even when there are serious human rights concerns about sending someone off to the other side of Europe to be prosecuted or imprisoned. Legislative change may be the only answer.” she said. <http://snipurl.com/27sp9k>

EU Commission report: <http://snipurl.com/27spbz>

High Court rules police illegally contained demonstrators

About 5000 people found by the British High Court (HC) to have been illegally detained for hours by police at a central London protest may sue Scotland Yard for false imprisonment.

The HC has ruled that the London Metropolitan police broke the law in the way it ‘kettled’ (contained within police lines) demonstrators at the G20 protests in London on April 2009.

The judges heard police used the tactic of mass detention against protesters that they accepted were peaceful, with officers meting out punches to the face, slaps and shield strikes as they tried to move a demonstration against climate change. Judges found that the force used by police was “unjustified”, criticised “imprecise” instructions given by senior officers about releasing innocent people, and said the mass detentions for five hours were an unlawful deprivation of liberty under article 5 of the European Convention on Human Rights.

The case was brought by Josh Moos and Hannah McClure, who were among the crowd held by police. During the G20 protest on 1 April 2009, a bystander returning home from work as a newspaper seller, Ian Tomlinson, died after being struck by an officer. <http://snipurl.com/27susb>

Britain to kill trade in execution drugs

Britain is to ban export to the USA of drugs that are used to execute prisoners on death row – pentobarbital, pancuronium bromide and potassium chloride – by lethal injection. The UK

Government's Business Secretary, Vince Cable, is urging a Europe-wide ban on sales of the drugs to the USA.

"We oppose the death penalty in all circumstances and are clear that British drugs should not be used to carry out lethal injections," he said. "Because of the importance and urgency of the situation this is an issue on which we felt we had to take the lead."

The move comes after a British parliamentary inquiry heard that enough pharmaceutical drugs have been sold to the US by licensed British wholesalers since last summer to execute 100 death row inmates. The Department for Business, Innovation and Skills in November 2010 imposed export controls on sodium thiopental, a rarely-used anaesthetic, after it emerged that a small-scale wholesaler working out of the back office of a west London driving school had sold the drug to Georgia's and Arizona's department of corrections.

Top scholars berate Barack's barracks abuse of Bradley

More than 250 of America's most eminent legal scholars have signed a letter protesting against the treatment in military prison of the alleged WikiLeaks source, Bradley Manning, contesting that his "degrading and inhumane conditions" are illegal, unconstitutional and could amount to torture.

The list of signatories includes Laurence Tribe, a Harvard professor. He is one of America's foremost liberal authorities on constitutional law who taught constitutional law to Barack Obama and was a key backer of his 2008 presidential campaign.

Earlier this year PJ Crowley resigned as US State Department spokesman after deriding the Pentagon's handling of Manning as "ridiculous and counterproductive and stupid".

The US soldier had been held in the military brig since last July, charged with multiple counts relating to the leaking of thousands of embassy cables and other secret documents to the WikiLeaks website. He was kept in solitary confinement for 23 hours a day, checked every five minutes under a "prevention of injury order" and stripped naked at night apart from a smock.

Finally, in late-April, he was moved to a more normal detention facility in Kansas and treated as general prisoner. <http://snipurl.com/27spch>

MoD must disclose agreement on the captured: what of Australia?

The UK Ministry of Defence must disclose its involvement in the US-led rendering of terror suspects seized in Iraq and Afghanistan to prisons where they were likely to be abused or tortured.

The Information Rights Tribunal has rejected MoD claims that providing the data would be too costly and damage Britain's international relations.

The tribunal, which hears disputes arising from Freedom of Information Act disclosure requests, says it was "difficult to see how any responsible government ... with whom we have friendly relations could take offence at open disclosure" of the terms of agreement or arrangements over the practice "to ensure that the law is upheld".

The tribunal's ruling came in response to a request, made three years ago by the all-party parliamentary group on extraordinary rendition, chaired by the senior Conservative backbencher, Andrew Tyrie. It follows allegations by Ben Griffin, a former member of the Special Air Services (SAS), that detainees captured by British special forces had been transferred to US forces under whose authority they had been tortured or unlawfully removed from Iraq. <http://tiny.cc/sg3ik>

The Australian Defence Force passed anyone it captured to the Dutch when they were the lead force in the sector of Afghanistan where Australia was operating...but the Dutch role ended in August 2010. Presumably, Australia is now passing captured people to the USA, in which case CLA will be most interested in what the formal agreements are, with Britain and with Australia.

International briefs

US proposes centralised ID system: The US Commerce Department is proposing a national cyber-identity system to give everyone a single secure password for all digital transactions. The National Strategy for Trusted Identities in Cyberspace would be voluntary counter to online fraud and identity theft. A person would use a single "credential" to log in, with far more security than a

password alone would provide, which could be anything: a smart card, a cell phone, a keychain fob, or some other type of gizmo. <http://tiny.cc/sbjhz>



Court asked to decide warrantless GPS tracking: The Obama administration last month [asked](#) the US [Supreme Court](#) (pictured) to determine whether police need warrants to track a suspect's movement using global position systems (GPS) technology. The government is appealing last year's lower court decision that [prohibits the use of warrantless GPS technology](#). The [US Court of Appeals for the District of Columbia Circuit](#) ruled that prolonged use of GPS to monitor suspects' vehicles violates the US [Fourth Amendment](#) protection against unreasonable searches and seizures. <http://tiny.cc/xdkva>

US AG sets 10-year benchmark for jail without trial: "We must face a simple truth: those restrictions are unlikely to be repealed in the immediate future. And we simply cannot allow a trial to be delayed any longer for the victims of the (11/9/2001)attacks or for their families who have waited nearly a decade for justice." – US Attorney General Eric Holder, quoted in the *New York Times* announcing that he has cleared military prosecutors at Guantánamo Bay, Cuba, to file war-crime charges against five detainees over the aircraft attacks on America case. CLA asks if 10 years has become the acceptable and official US benchmark for acceptable delay of trials...it is, after all, an arbitrary half-'life' sentence without being convicted in a court. <http://snipurl.com/27qtao>

Aussie chairs UN committee: The Australian, Professor Ron McCallum, has been re-elected chair of the UN Committee on the Rights of Persons with Disabilities for another two years. He has chaired the committee since 2009. Australia was one of the first western countries to ratify the Convention on the Rights of Persons with Disabilities.

Justice Minister to tackle rising prisoner numbers: The rate of jailing people in the UK is "financially unsustainable", according to the Justice Secretary, Kenneth Clarke, who plans to overhaul the penal system. Clarke plans to cut the \$6bn prison and probation budget by 20% over four years, promising to end a Victorian-style "bang 'em up" culture and reduce high reoffending rates by tackling the root causes. He is proposing large sentence discounts in return for early guilty pleas and diverting the mentally ill away from jail. The goal is a 3000 cut in the record 85,000 jail population in England and Wales in four years. <http://snipurl.com/27suxg>

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

1 May, Australia: May Day events : CLA CEO Bill Rowlings will speak in Canberra about freedom, 3pm, Garema Place, Civic. Info: Workers Solidarity Network: wsrcampaigns@gmail.com

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

6 May, Melbourne: Annual human rights dinner, Australian of the Year Simon McKeon and CEO ACOSS Dr Cassandra Goldie, 6.45m, Melbourne Convention Centre, South Wharf. Details: (03) 8636 4450.

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

13 May, Sydney: Launch of 'Justice Campaign' for the Australian Government to launch an independent inquiry in the David Hicks affair, 11am, 79 Myrtle St Chippendale. speakers Katie Wood and former Guantanamo Bay guard Brandon Neely. E: aloyiab@hotmail.com

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.

18-19 May, Sydney: Meeting the Needs of Victims of Crime conference, Info: aic.events@aic.gov.au

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>

27-29 May, Cambodia: LAWASIA Children and the law conference, *The Children's Voice*, at Siem Reap. Info: http://lawasia.asn.au/Children_home.htm

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 June, Canberra: Kirby Lecture on International Law – Louise Arbour, President and CEO, International Crisis Group, Brussels, Belgium, Finkel Theatre, ANU. Info: <http://law.anu.edu.au/cipl/Events.asp>

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](http://law.anu.edu.au/UpcomingConferences)

25 June - 1 July, Bali: Criminal Lawyers Association of the NT, 13th biennial conference, 'Extremes in Justice', Bali Hyatt Hotel, Sanur, details: solusi@bigpond.com of 0437 710 090

4-8 July, Launceston: The History of Human Rights will be 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 Sawyer lecture to be delivered by the CJ of the Canadian Supreme Court, Beverley McLachlin. Conference opening by Professor Michael L'Estrange, Director of 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.

15-17 Nov, Perth: 3rd Australian Public Sector Anti-Corruption Conference – conference organised by the corruption bodies of WA, Qld and NSW. Details: <http://www.iceaustralia.com/apsacc2011/index.html>

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 for the next issue: please send to: [mailto:secretary\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au)

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