

## CLA's electronic AGM starts 1 February

Civil Liberties Australia electronic annual general meeting (eAGM) process begins today, 1 February, with voting taking place between 19 March and 2 April 2012.

A formal call for Notice(s) of Motion(s) from CLA members is made for this year's eAGM from today. Lodging is open to 5pm on 18 February 2012.

This year's eAGM does not involve electing office bearers: the term of current office-holders expires in 2013 under CLA's two-year term of Board membership.

The eAGM will consider any major notices of motion put forward and, as required, conduct voting on the annual reports of CLA. If you are considering putting forward a motion, please read this page: [www.cla.asn.au/eagm.php](http://www.cla.asn.au/eagm.php) and contact the President or Secretary first, as outlined on that page. Alternatives to a notice of motion are available for considering member issues.

e-Voting will be available for members of CLA who are financial. If you are in any doubt, and would like to check your status, please contact the Treasurer: [treasurer@cla.asn.au](mailto:treasurer@cla.asn.au)

For e-voting, each CLA member must have a unique email address (rather than, say, one email address covering two or three members of a family, as happens in a few cases). Without a unique email address, a member cannot participate in e-voting, but can still lodge a postal vote. Members receiving the monthly CLArion newsletter by post will receive a postal ballot paper and information advising of postal voting arrangements.

If you have used your email address on CLA's on-line membership system, you do not need to do anything more than advise us if your email address has changed. If in doubt, please contact the Webmaster: [webmaster@cla.asn.au](mailto:webmaster@cla.asn.au)

## Australia Day letter: PM asked to evaluate Oz freedom, democracy

In our traditional Australia Day letter, Civil Liberties Australia in 2012 has highlighted an outstanding statement by Australia's Prime Minister, Julia Gillard, on not allowing terrorists to change Australians' lives and lifestyle or to lessen our freedom and democracy.

CLA is calling for the PM to follow-up her memorable words by establishing an inquiry to measure whether and how the lives and liberties of Australians have been changed by 10 years of counter-terrorism measures.

CLA's annual Australia Day letter this year asks her to announce the inquiry early in 2012, to report on or by Australia Day 2013. "Her words are memorable, even inspirational...but have gone unreported," CLA's CEO Bill Rowlings said.

The PM answered a journalist's question at CHOGM in Perth in October (see photo below) with a blueprint for evaluating how Australia stacks up as a society a decade after the 9/11 terrorist attacks, the Bali bombings and other atrocities. She said:



*"We in our country have had to work through our own domestic responses and international work on counter-terrorism. But we've always brought the perspective to that, that the purpose of terrorism is to cause us to be afraid to live our lives and enjoy our freedoms. We shouldn't, in any response to terrorism, effectively give terrorists what they were seeking in the first place, which is driving us to live differently, or with less democracy, or less freedom than we had initially."*

Mr Rowlings said the next logical step in the PM's strong leadership on the issue was to set up a national inquiry to evaluate how anti-terrorism measures have impacted on Australia and Australians since 2001.

“Her answer raises the crucial question: how much has the intensive legislative, bureaucratic, diplomatic, police, security, defence and corporate response to the fear of terrorism in Australia since September 2001 curtailed the ‘freedom and democracy...we had initially’.”

Until a detailed public inquiry is held into the issue, we do not know the answers to these questions, he said. These are the questions which the PM has put on the public agenda:

- has the threat of terrorism caused Australians to be afraid to live our lives in any way?
- have counter/anti-terrorism measures taken over the past decade lessened the ability of Australians to enjoy our freedoms?
- has Australia’s response to the threat of terrorists in any way given terrorists what they were seeking in the first place?
- are Australians living differently than before the events of 9/11?
- does Australia, and do Australians, have less democracy than we had before 9/11?
- does Australia, and do Australians, have less freedom than we had before 9/11?

CLA believes Australians have less democracy and less freedom than we had in September 2001. If so, we and the PM particularly must do something to restore our civil liberties.

### **ABS asked some tough questions**

CLA, working in partnership with the Australian Privacy Foundation, is asking the Australian Bureau of Statistics to clarify where its power to force people to fill in general surveys comes from.

CLA and the APF are responding to a big increase in complaints received from people being told they must fill in the current Health survey. This survey asks a person to fill in intimate personal details about the health, and health services received, of not only the individual required to complete the forms, but members of their household as well.

Some Australians are up in arms about the survey, and what they see as a bullying and threatening attitude by ABS.

While the ABS’s power to make the five-yearly Census compulsory is clear, there are legislative provisions which the ABS must undertake before it is allowed to make other surveys mandatory. It is not immediately apparent that the ABS has followed its own legislative requirements.

CLA and the APF are asking Australian Statistician, Brian Pink, for:

- a clear statement of the legal authority under which responses to the surveys (the wide range of non-Census surveys which ABS undertakes) are compulsory; and
- copies of the texts that the ABS is required to place before both Houses of Parliament in respect of each such survey before the survey becomes compulsory.

### **AG’s Department tries to hide ‘minutes’ of secret meeting on piracy**

Citing the “public interest”, the Attorney-General’s Department (AGD) has censored from documents released under FOI laws eight pages of notes taken by one of its staff at a secret industry meeting last year to address internet piracy, after initially claiming no minutes were taken of the meeting.

The meeting, held on 23 September, saw major Australian ISPs sit down with the representatives of the film, television and music industries to discuss a potential industry resolution to online copyright infringement. Top telcos, including Telstra and Optus, attended the meeting, although most organisations present were from content industry organisations, including the Asia-Pacific branch of the Motion Picture Association and the Australian Federation Against Copyright Theft.

In October 2011, the AGD denied an FOI request for the minutes of the meeting, stating that no such document existed.

But in FOI documents released to the Australian Pirate Party late last year, AGD disclosed that eight pages of hand-written notes had been taken at the meeting by one of its officers. However, those pages were deleted from a comprehensive swathe of documents released about the meeting as part of the FOI request.

"The following eight pages, including this one, are handwritten notes taken by an officer of the AGD of the 23 September 2011 meeting," the FOI document states. "These notes are exempt pursuant to s47C."

The Australian Pirate Party told *Delimiter* online magazine that it failed to understand why the AGD felt it necessary to initially claim no minutes were taken of the meeting. According to Section 47C of the Act cited by the Department when censoring the notes, access to information must generally be given unless it would be contrary to the public interest.

"How on earth is a meeting discussing possible regulatory regimes for file-sharing on the internet 'not in the public interest' to know about?" said Simon Frew, Deputy President of Pirate Party Australia. <http://tiny.cc/fidh2>

**PS:** The claim by AGD in this case is identical to its claim that no minutes are ever taken of meetings of the Standing Committee on Law and Justice (SCLJ) – nicknamed SLUDGE – which was formerly the SC of Attorneys-General. That claim is also unbelievable, and records by a name other than 'minutes' are obviously taken.

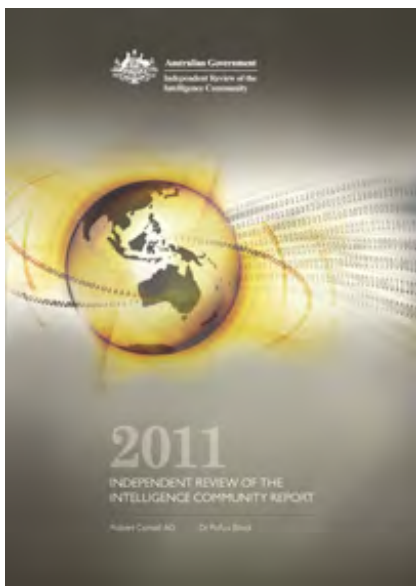
## Spy agencies costs and personnel escalate dramatically

Australia's spies and their agencies cost more than \$1 billion a year to run...and the spook personnel have been breeding like mushrooms over the past decade.

The combined budget of the six spook agencies has grown by 14.6% a year from \$317m in 2000 to \$1.07bn in 2010. ASIO alone grew by 471% over the same period...the growth to 1860 staff demanded new headquarters worth \$590m in Canberra in a prime water view location.

The first "Independent" Review of the Intelligence Community since 2004 found that "Australia has seen the dramatic expansion of...intelligence in the last 10 years," according to former senior public servant Robert Cornall and management consultant Rufus Black in their report last month.

They reviewed domestic security agency ASIO, foreign intelligence service ASIS, electronic intelligence agency DSD, analytical Office of National Assessments, the Defence Intelligence Organisation and its geospatial partner DIGO.



The report (pictured) found that the increased powers and new laws created by Coalition and Labor governments since 2001 were "sound" and subject to adequate oversight.

This is hardly a surprising finding: Cornall was Secretary of the Attorney-General's Department (AGD) from 2000 to 2008 and therefore responsible for drafting and implementing most of the anti-terror laws, including the oversight measures his "independent" report has just praised. He was gonged with an Order of Australia in 2006 for his contributions to public policy, "particularly counter-terrorism arrangements".

On his retirement, it was reported that the AGD had grown rapidly under Cornall – from about 550 to more than 1500 people, and its budget expanded from a few hundred million dollars to just over \$1 billion.

An "independent" inquiry? Hardly. <http://tiny.cc/rc6se>

Note: The AGD was and is responsible for human rights law, but the civil liberties, rights and freedoms of Australians have

shriveled in importance over the same period in both Attorney-General's and Foreign Affairs departments. For a decade, governments have mishandled the balance between security and the traditional Australian way of life and justice system.

## Australia is leading light on the 'surveillance planet'

Australian law enforcement agencies were issued 243,631 warrants to obtain telecommunications logs in the period from July 2010 to June 2011.

According to Greens' Senator Scott Ludlam, that vastly overshadowed the 3500-odd legal intercepts of communications and makes us part of what privacy activist Jacob Appelbaum calls the "surveillance planet".

The figures come from the Telecommunications (Interception and Access) Act 1979 Annual Report for the year to 30 June 2011, which reports on the usage and effectiveness of the three categories of warrants to conduct surveillance.

To obtain a warrant to conduct an intercept — that is, to record the contents of communications — law enforcement agencies must believe that the target is involved in a serious crime for which they could be jailed for seven years or more.

But there's a much lower threshold to merely obtain data about telecommunications – everything except the content of the communication itself — for example, the source's internet protocol (IP) address, the addressee, and the latitude and longitude of the location a phone call was made from. "[This data also includes] the URLs that you visited, but not the web page itself, which I think is kind of funny," Ludlam told the Penguin Dinner at the [Linux.conf.au](http://linux.conf.au) conference in Ballarat last month.

A much wider range of agencies can obtain communications data warrants, including any agency that collects government revenue.

The report reveals that the agencies granted warrants in 2010-2011 ranged from the Australian Federal Police, state police forces and the Department of Defence to the Australian Fisheries Management Authority, the Royal Societies for the Prevention of Cruelty to Animals in Queensland and Victoria, the Victorian Taxi Directorate and Victoria's Transport Accident Commission.

None of these figures include intercepts conducted by the Australian Security and Intelligence Organisation (ASIO). <http://tiny.cc/yje8o>

## **Federal government wants more secret surveillance of citizens**

Federal Resources and Energy Minister, Martin Ferguson, has secretly pushed for increased surveillance by federal police of environmental activists protesting peacefully at coal-fired power stations and coal export facilities, according to news reports.

Documents released to Philip Dorling of the *Sydney Morning Herald* under FOI laws confirmed last month that police were "continually monitoring" anti-coal mining and other environmental groups. Much of the intelligence collection is carried out for the AFP by a private contractor, the National Open Source Intelligence Centre, the *SMH* reported.

The documents reveal that Mr Ferguson, prompted by lobbying from energy companies, has urged stronger criminal penalties against protests that disrupt "critical energy infrastructure".

The Greens have called on Prime Minister Julia Gillard to haul Mr Ferguson into line, and demanded that new Federal Attorney-General Nicola Roxon come clean on the degree to which Australian intelligence bodies are diverting resources to spying on environmental campaign groups. <http://tiny.cc/re7sm>

## **ATO seeks to mine data coerced from citizens under non-ATO legislation**

The ATO and federal law enforcement agencies want to intensify their campaign against offshore tax evasion, with increased penalties and greater powers for investigators.

Documents released under FOI reveal the Tax Office and other agencies participating in the long-running Project Wickenby, an inter-agency task force targeting offshore tax evasion, have been developing a comprehensive range of measures to combat abuse of "secrecy havens" – countries with secretive tax or financial systems offering minimal taxes for non-residents.

The ATO is seeking the introduction of measures to stem tax evasion before funding for Project Wickenby expires next year, Philip Dorling revealed in the *SMH* late last month.

Documents released by the Attorney-General's Department show the ATO has convened a series of meetings and workshops to develop tax reform proposals with the Australian Crime Commission, the Australian Federal Police, the Commonwealth Director of Public Prosecutions,

the Australian Securities and Investments Commission, the anti-money laundering agency AUSTRAC, the Treasury and the departments of the Attorney-General, and Immigration and Citizenship.

New anti-tax avoidance measures being developed include improved information flows between Australian government agencies such as better sharing of information obtained through the use of coercive powers like those exercised by the Australian Crime Commission; greater use of telecommunications interception powers; expanding the definition of money in anti-money laundering laws; greater information exchanges with foreign governments; strengthened international debt recovery measures and reciprocal recognition of foreign tax debts.

Nearly \$594 million in outstanding tax revenue has been recovered, while \$1.18 billion in tax liabilities has been raised, but Project Wickenby operations will have cost \$430.9 million by 2012-13.

(It is unclear whether these figures include all or some of the \$95m spent on external legal services in 2010-11 by the ATO. Perhaps the ATO is 'hiding' some of its expenses in non-accessible buckets...hang on, isn't that what the ATO is complaining that citizens are doing?) <http://tiny.cc/ma4v5>

## **Two state civil liberties groups opt to focus on ASIO powers**

The NSW Council for Civil Liberties, along with Liberty Victoria, have established campaigning against ASIO's disproportionate powers as a major focus for 2012.

They will campaign particularly on the issue of adverse security assessments for refugees.

NSWCCL Secretary Stephen Blanks and Dr Clinton Fernandez from the political program at UNSW's Canberra campus will speak on the topic at the Politics in the Pub forum at the Gaelic Club in Surry Hills, Sydney, on Friday 16 March 2012.

The two groups have written to the government, asking it to:

- implement legislative change to ensure adverse ASIO security assessments can be meaningfully challenged;
- implement a review of the grounds upon which ASIO are issuing people with adverse security assessments; and
- review the criteria for adverse assessments and ensure that those criteria are publicly available.

ASIO and the federal police have been proven wrong more than 40% of the time in cases where their work is publicly reviewed – 16 of 38 alleged terrorists being found totally innocent before Australian courts in high-profile 'terrorist' cases – where they would surely use their best people to collate their best-possible case against the accused.

*( 'Since 2000, four major terrorist plots have been disrupted in Australia. To date, 38 individuals have been prosecuted as a result of counter-terrorism operations and 22 have been convicted.' – then Attorney-General Robert McClelland speaking in the Australian Parliament on 12 September 2011)*

If these agencies are so wrong (about 42% of the time) in publicly-reviewed cases, the very strong likelihood is that they are wrong more than 50% of the time in cases where their decision-making is totally secret, and un-reviewable, such as their determinations on refugee claimants.

The NSW/Vic initiative is very well worthwhile. ASIO should be accountable to the people.

## **Anonymous claims pose additional danger**

Alleged victims of sexual assault in NSW can now go online to report an attack anonymously.

The Sexual Assault Reporting Option allows victims to give information confidentially about the incident without having to take part in a formal police investigation.

It is claimed that less than 30% of sexual offences are reported to police. If the claim is accurate, it is an abysmal state of affairs...though how anyone can accurately estimate the number of offences not reported is a mystery.

CLA fails to see how a non-admissible, non-reviewable, anonymous complaint made to police affords justice to anyone. We note that there will never be any justification for this scheme to be expanded to allow police to arrest someone on the basis of an anonymous phone complaint. Anonymous allegations are double jeopardy on steroids – they have no place in a ‘justice’ system. <http://tiny.cc/d85yj>

## Mystery yacht death: appeal decision due

A decision is expected this month on an appeal over the conviction of Susan Neill-Fraser for killing her husband, former Royal Hobart Hospital chief radiation physicist Bob Chappell.



The 56-year-old businesswoman was sentenced last year to 26 years for murdering Mr Chappell, her husband of 18 years, aboard the couple's yacht, *Four Winds*, on Australia Day in 2009. (The photo shows the couple together).

Victorian psychologist Eve Ash told *Hobart Mercury* reporter Brian Ward there were significant holes in the investigations that led to Neill-Fraser's conviction.

"There are several things that just don't add up," Ms Ash said "There is the DNA found on the boat that was not Sue's; the grey dinghy that was seen in the area, which has not been properly investigated; no body; no witnesses; no murder weapon – that's too many variables for the case to have been proven 'beyond reasonable doubt'."

Ms Harrison said hundreds of people had signed an online petition for a retrial, with a decision on Neill-Fraser's appeal expected early in 2012. <http://tiny.cc/kvpf2>

Petition: <http://susanneillfraser.org/sign-the-petition/>

Last year CLA asked then Tasmanian Attorney-General to review the state's bail laws, which saw Neill-Fraser imprisoned for nearly 15 months before her case – which was always based on circumstantial evidence – came to court. Ms Giddings refused, saying there had been a recent review (it was 20 years ago).

## MP wants to hammer music festival with banning law

Queensland can't stop a claimed "neo-Nazi" music festival due to be held in Brisbane in April, according to the Attorney-General, Paul Lucas.

He dismissed calls for a new law to prevent the Hammered Music Festival taking place, but said the State Government would act if anyone in attendance incited violence or committed racial vilification, according to the *Courier-Mail*.

The white supremacist festival has been held on the Gold Coast for two years, organised by the Southern Cross Hammerskins and "white resistance" group Blood and Honour Australia, which states its mission is to "secure the existence of our people and a future for white children".

"We are not in the business of banning people who express moronic, stupid and wrong points of view," Mr Lucas said of the festival. However, MP for Burnett, Rob Messenger, is promoting a private member's bill to do just that. <http://tiny.cc/8va17>

## Police want more powers...when relevant crime is dropping

*You probably missed the ABC spot. It would have been headlined something like, 'Hoons Torch Cars', Dr Buck Emberg wrote last month about doings in his native Tasmania. Here is the rest of his letter:*

*No one likes the image of a burnt-out hulk along the road..*

*As always the police response is the same. They call for 'tougher laws' and 'steeper penalties' and 'liberty to investigate' these terrible happenings and get after anyone who might know who the driver was and treat those who know the drivers as criminals as well.*

*Suddenly the prison gets bigger.*

*This is their classic reaction to problems they do not seem to be able to solve or understand. We can say that there are now fewer police on duty because of budget restraints, possibly true, and perhaps the young hoons are smarter now with all of the IT machines they use. This torching of cars must be brought to an end but giving the cops more power is no answer.*

*However, by the department's own admission on the ABC segment, car theft is down 43% for the same period of last year. Wait a minute. Theft is down, the police and laws must be working very well. Yet, they want MORE POWER to pursue, arrest, investigate and interrogate. Why?*

*Police, the world over (I have lived in 12 countries and travelled in about 120) always want more power, more arrest abilities, more of everything to make their success ratio higher.*

*My New Year's wish is for the police to be satisfied with the laws which are already too plentiful and get on with the job of simple law and order. They are not politicians trying to get new laws passed to make their work easier.*

– by Dr Buck Emberg, a long-time resident of the Tamar Valley, first reported at: <http://www.tasmaniantimes.com.au/index.php>

## **Police union wants more powers for beat cops**

The police union in NSW wants new laws allowing the seizure of assets from criminals to be extended to regular officers.

Currently the unexplained wealth legislation can only be used by the NSW Crime Commission, through an application to the state's Supreme Court, the ABC's Danuta Kozaki reported last month.

The president of the Police Association of NSW, Scott Weber, says the most effective way to stop local gangs is to take away the money they make from their crimes.

"NSW police have to utilise the NSW Crime Commission and again that's just a level of bureaucracy that we don't need," Mr Weber said.

"What we do actually need is that as soon as police officers do make arrests or it does come to their attention we can start to utilise the legislation. It means straight away we can start to confiscate assets.

"We've seen a delay at the present moment because only one agency can utilise the legislation and again they have limited resources as well." <http://tiny.cc/t9v6h>

## **CLA member seeks help with refugee health survey**

Humanitarian Research Partners, a Canberra-based research group headed by a CLA member, is undertaking a study of refugee and asylum seeker access to healthcare in the community.

HRP is seeking healthcare providers and community organisations to help administer short questionnaires, both to refugees/asylum seekers and the medical practitioners who treat them.

The survey will gather much needed data on access to healthcare for vulnerable people in Australia to highlight gaps in the protection network. To become part of the project, contact: [info@humanitarianresearchpartners.org](mailto:info@humanitarianresearchpartners.org)

## **Australian briefs**

**Hey big spender...with our taxpayer dollars:** The Australian Tax Office spent almost \$5.5 million on taxis last financial year. The 22,000 staff spent an average of \$250 each on cabs. Despite the Opposition questioning the spending and suggesting more video-conferencing, the ATO defended its policies, saying staff used "strict internal travel guidelines". The spending was revealed in the Senate Estimates Committee, where the ATO said it would cut its workforce by 1284 people. The ATO also spent \$95m on external legal services last year. <http://tiny.cc/9612l>

**No urgency in filling 'security' slots:** Six of Australia's top security positions are vacant, and some have been so for six months. The position of national security adviser has been vacant since

early August, when former Special Air Services (SAS) commander Duncan Lewis stepped down to become secretary of Defence. Five other positions within the departments of Defence and Prime Minister and Cabinet are also being filled by acting staff: the two new associate secretary positions within Defence; the chief executive of the Defence Materiel Organisation; the deputy NSA; and the PM&C's national security chief information officer. <http://tiny.cc/8qv11>



**New spray targets outlets' arch enemies:** Fast-food restaurants in Australia are allegedly planning to combat suspected thieves by squirting them with an invisible DNA spray as they flee the premises. The spray supposedly remains on the suspect's skin for two weeks and on clothes for up to six months, according to *The Daily Telegraph*. It was developed in the UK by a police officer and a chemist, and has been used by fast-food outlets in Britain and Europe. <http://tiny.cc/asmhd> Pic courtesy SelectaDNA.

**ABC Radio covers needle program:** A recent documentary on ABC Radio covers the proposed needle and syringe program in the ACT's Alexander Maconochie prison: <http://tiny.cc/79dsp> The jail will possibly become the first in the country with such a program – a decision by the ACT Government is expected early in 2012.

**Kids should be fine-free over bike helmets:** After a member asked for clarification on the issue at the AGM of the Queensland Council for Civil Liberties, the executive considered whether the organisation's opposition to compulsory bicycle helmets extended to the application of those laws to children. Taking the view that it was not going to be appropriate to fine or gaol children for failing to wear a helmet, the executive decided that the law should not apply to children, with ultimate responsibility on this issue falling to parents.

**Inquiry probes proposed changes to donations law:** An inquiry into the NSW Government's proposed changes to political donation laws is due to report by 15 February. Corporations, unions and not-for-profit organisations would be banned from donating under the changes. Only individuals on the electoral roll would be permitted to make donations. A question for the inquiry is whether the bill is constitutionally valid, according to an ABC report. A Legislative Council committee chaired by Greens MP John Kaye is holding the inquiry. <http://tiny.cc/aqc2c>

**Tenderer to review legal services:** Australia's federally-funded legal services are set to be reviewed, Attorney-General Nicola Roxon announced last month. The services are the Legal Aid Commissions, Community Legal Centres, Aboriginal and Torres Strait Islander legal services, and family violence prevention legal services. The government wants a tenderer to do the review: info at [www.tenders.gov.au](http://www.tenders.gov.au). Tender closing date is 24 February 2012.



**Rights expert appointed law dean:** Murdoch University in Perth has appointed European international law rights expert Professor Jürgen Bröhmer as its new Dean of the School of Law. Prof Bröhmer previously headed the University of New England's School of Law in Armidale NSW for four years after coming to Australia in 2006. Prior to this he held what would be the equivalents of lecture and senior lectureships in Australia at the Europa-Institute of Saarland University in Saarbrücken, Germany.

### CLA's main activities for January:

The customary CLA Australia Day letter was the most significant single activity in January. We congratulated the PM on her CHOGM statement, which related to ensuring the anti-terror laws do



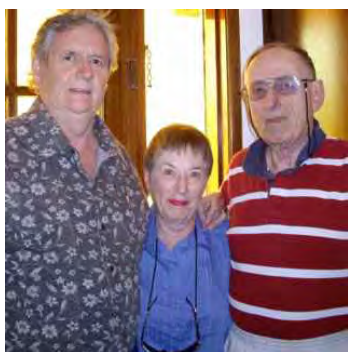
not effect our traditional liberties, and called on her to institute an inquiry to evaluate what extent people's lives have been affected by terror laws. See story above, and CLA website.

Otherwise January was a quiet month, with most people on holidays, which gave an opportunity for thinking and planning. The Secretary, with input from other Directors, is preparing the annual report (CLA operates to a calendar year) and the Treasurer is finalising the accounts ready for audit. The Webmaster and Secretary have been deeply involved with completing arrangements for electronic voting for the eAGM.

The National Human Rights Action Plan Baseline Study (an initiative under Australia's Human Rights Framework) was issued, calling for further comment by 29 February. Rhys Michie is preparing CLA's response. The ongoing farce of an "action" plan is a justification by the government for failing to introduce a bill of rights, despite the finding of 80% public support by the National Human Rights Consultation (the Brennan report). Yet the spurious reason the government gives is that a bill of rights would be "divisive". This latest iteration – the paper on which we are asked to comment – does not list who made previous submissions or provide copies of them, and basically consists of a cut and paste on past inquiries. You can find it on the AGs website.

### **Meetings with members**

January, a period for seeking feedback and ideas for activities for the coming year, saw meetings with the following members:



- Ken Davidson and Lesley Vick (pictured, with Bill Rowlings, left)
- John Parsons
- Phylli Ives
- Lynne Mitchell
- Tim Vines and Saskia Vervoorn
- Phil Schubert
- Benjamin Smith
- Lance Williamson
- Garth Setchell
- Lynne Bliss

### **Interstate/overseas:**

- Raff Piccolo becomes SA spokesperson;
- Rex Widerstrom working on police speeding camera issues in WA;
- Brian Tennant on court and prisoner justice issues in WA;
- Erina Early on privacy issues in the NT;
- several overseas members, particularly on human rights in China and Vietnam.

### **Meetings**

Speaker, ACT Legislative Assembly, Shane Rattenbury (Greens) and Richard Griggs: re Crimes Legislation Amendment Bill, Public Interest Disclosures Bill, police chases, Criminal Sentencing, law and order election 2012, strict liability clauses, release on license, FOI Amendment Bill, Law Reform Advisory Committee and Sexual Assault Reform Program. Meeting attended by President, VP-ACT, one other Director and member Benjamin Smith.

### **Media releases:**

- Australia Day letter; and
- roof-mounted speed cameras in police vehicles (WA).

### **Upcoming events:**

- ANU Law Careers Day (where students approach CLA for 'internships' and to become involved in submissions on legislation and other projects);
- Meetings in Brisbane, UNE Armidale, Grafton, Byron Bay (President and Secretary), April-May;

- Meetings with several federal MPs being sought, including Robert Oakeshott (Ind) how the ATO operates and treats its clients. Mr Oakeshott is chair of the parliament's 'ATO Committee'.

### Activity under consideration:

CLA lectures to U3A, volunteer to arrange and coordinate invited: could occur in each capital city.

### Ongoing:

- Radio advertisements – writing and recording under way
- ANU law internships
- ANZAC project, provide balance between rampant jingoism/nationalism and remembrance of war - committee planning under way. Comments sought.
- Sports Rights Panel: seeking coordinator, someone with time and interested in liberties, rights and responsibilities in sport.

### Requests for submissions:

#### Australia:

- **Crimes Legislation Amendment (Powers and Offences) Bill 2011** (House of Reps Standing Cttee on Social Policy and Legal Affairs) [www.aph.gov.au/spla](http://www.aph.gov.au/spla) – closes 9 Jan 2012. Benjamin Smith, CLA university coordinator, is managing this research, analysis and critical comment process. LODGED. CLA to appear before committee on 10 Feb.
- **Crimes Amendment (Fairness for Minors) Bill 2011** (Senate Legal & Constitutional Affairs Legn Cttee) [http://www.aph.gov.au/Senate/committee/legcon\\_ctte/fairness\\_for\\_minors/index.htm](http://www.aph.gov.au/Senate/committee/legcon_ctte/fairness_for_minors/index.htm) 31 Jan 2012
- **Personally Controlled Electronic Health Records Bill 2011** (Senate Community Affairs Legn Cttee) [http://www.aph.gov.au/Senate/committee/clac\\_ctte/pers\\_cont\\_elect\\_health\\_rec\\_11/index.htm](http://www.aph.gov.au/Senate/committee/clac_ctte/pers_cont_elect_health_rec_11/index.htm) – 12 Feb 2012. Australian Privacy Foundation is lead body on this, with CLA supporting.
- **National action plan for human rights:** [www.ag.gov.au/nhrap](http://www.ag.gov.au/nhrap) closes 29 Feb 2012 to [nhrap@ag.gov.au](mailto:nhrap@ag.gov.au) CLA's Rhys Michie is preparing submission.

#### ACT:

**Crimes Legislation Amendment Bill 2011** AG Simon Corbell wants judges to give longer sentences if the victim has "special occupational vulnerability as a provider of an important public service". In his presentation speech, he gives the example of a police officer, parking inspector, nurse, member of the emergency services or bus/taxi driver...but the Corbell Clause could also apply to prostitutes, priests and politicians! 26 Jan 2012

### Scheduled appearances before committees:

Federal Parliament:

**7 Feb:** on Human Rights in China and Vietnam, before the Human Rights sub-committee Joint Standing Committee on Foreign Affairs, Defence and Trade. Request for CLA to appear follows our detailed submission on the DFAT annual report 2010-11 made to the same committee in 2011.

**10 Feb:** On Crimes etc (Powers and Offences) Bill (see above). Request for CLA to appear follows CLA submission made in January 2012.

## International

### What's your view? Are the West's non-judicial killings justified?

Mehdi Hasan, a British journalist who works for *New Statesman* but blogs for *The Guardian*, penned a stirring article last month saying that Iran's nuclear scientists were not being assassinated, they were being murdered.

He was referring particularly to 11 January when 32-year-old Mostafa Ahmadi Roshan, married with a young son and the deputy head of Iran's uranium enrichment facility at Natanz, was blown up by a magnetic bomb attached to his car door, apparently from a passing motorcycle.

"This isn't complicated; there are no shades of grey here," Hasan wrote. "Do we disapprove of car bombings and drive-by shootings, or not? Do we consistently condemn state-sponsored, extra-judicial killings as acts of pure terror, no matter where in the world, or on whose orders, they occur? Or do we shrug our shoulders, turn a blind eye and continue our descent into lawless barbarism?"

Here are links to articles in the *Guardian* and in the *Sydney Morning Herald*...perhaps the most interesting part is the hundreds of comments made by people with diverse views:

<http://www.guardian.co.uk/commentisfree/2012/jan/16/iran-scientists-state-sponsored-murder?intcmp=239>

<http://www.smh.com.au/opinion/politics/statesponsored-killing-is-just-murder-by-another-name-20120118-1q6dv.html>

## **Jamaica? No, she's dropping the Queen of her own accord**



Jamaica's new Prime Minister, Portia Simpson Miller, has pledged to ease poverty, boost the economy, heal political divisions and drop the Queen as head of state.

She said her government would abandon the British monarch as Jamaica's official head of state and adopt a republican form of government. Jamaica declared independence from Britain in 1962 but remains within the Commonwealth and has the Queen as head of state.

PM Simpson Miller said she could replace the Privy Council in London with the Trinidad-based Caribbean Court of Justice as Jamaica's highest court of appeal. She said this would "end judicial surveillance from London". <http://tiny.cc/0gak6>

## **Court rules against state of the union**

Israel's supreme court has upheld a controversial law that bans most Palestinians who marry Israelis from living inside the Jewish state.

The court agreed in a 6-5 ruling that Palestinians who gain Israeli citizenship through marriage pose a security threat. The law prevents thousands of Palestinians from living with their spouses. The Israeli parliament passed the law in 2003, at the height of the second Palestinian uprising, when militants from the West Bank were frequently entering Israel to carry out attacks.

Civil rights groups had argued that Israel's Basic Laws – the country's de facto constitution – grant all citizens the right to family life. <http://tiny.cc/s915n>

## **Brits fine people for not filling in census**

In Britain, at least 120 people have been convicted for failing to complete their 2011 census forms, according to figures from the Office for National Statistics.

While some may have simply forgotten, others see themselves as conscientious objectors who are being prosecuted for refusing to fill out the forms because of the involvement of the defence contractor Lockheed Martin UK, which won the £150m contract to run the census.

By late last month, the ONS had referred 369 cases to the Crown Prosecution Service; of those, 157 prosecutions have been brought to court, with 120 resulting in convictions. Those found guilty face a maximum fine of \$1500 and a criminal record. The remaining 37 cases are classified as "conversions", where the defendant completed the census form at court.

The number of forms deliberately not filled in is unknown, but the ONS expected 24.5 million forms to be returned and received 22.9 million, a shortfall of 1.6 million. Once anomalies, such as vacant properties, have been taken into account, that number will fall. <http://tiny.cc/qw0vu>

## **August panel recommends limited right-to-die**

MPs in Britain should consider changing the law on assisted suicide to allow some terminally ill people to end their lives at home with the help of their doctor, a major new report has concluded. The Commission on Assisted Dying, chaired by former Lord Chancellor Lord Falconer, says a choice to end their own lives could be safely offered to some people with terminal illnesses, provided stringent safeguards were observed.

Describing the current law on assisted dying as "inadequate and incoherent", the commission has outlined a legal framework that would permit only those who had been diagnosed with less than a year to live to seek an assisted suicide, and then only if they met strict eligibility criteria. These would include:

- Two independent doctors were satisfied with the diagnosis.
- The person was aware of all the social and medical help available.
- They were making the decision voluntarily and with no sense of being pressured by others or feeling "a burden".
- They were not acting under the influence of a mental illness, and were capable of taking the medication themselves, without help.

The 400-page report follows a year of investigation by the commission, whose members also include the former Metropolitan police commissioner Lord Blair, a former president of the General Medical Council, a leading consultant in disability equality, an Anglican priest, and medical, mental health, palliative care and social care specialists.

It was commissioned by the campaign group Dignity in Dying and funded by the author Terry Pratchett, who has Alzheimer's disease, and Bernard Lewis, a businessman. <http://tiny.cc/coozc>

## **DOJ sides with plaintiff against Baltimore police**

The US Department of Justice's Civil Rights Division has urged a federal court to side with a Maryland man in a lawsuit over his cellphone being seized by Baltimore police at the Preakness Stakes horse races after he filmed officers making an arrest.

The federal attorneys say the lawsuit "presents constitutional questions of great moment in this digital age." They asked US District Judge Benson Everett Legg to rule that citizens have a right to record police officers and that officers who seize and destroy recordings without a warrant or due process are violating the Fourth and 14th amendments to the US Constitution.

The American Civil Liberties Union of Maryland, which is representing the plaintiff, Christopher Sharp, said it believes this is the first time the Department of Justice has weighed in on the topic of recording police. <http://tiny.cc/vxic6>

## **Double-check: free to fly quickly if you give up privacy**

PreCheck, a new pre-screening program of the Transport Security Administration of the USA, allows selected, pre-approved, frequent travelers to make it from check-in to take off in record time – if they give the government access to lots of information.

The TSA began rolling out the program in October, working with Delta and American Airlines to invite certain flyers to apply. After gathering information about their flying habits, payment types and other personal information (TSA won't provide all the specifics), some flyers became eligible for the expedited screening.

The specially selected bunch get perks at the airport: they keep their belts and shoes on, leave their laptops and zip-locked liquids in their carry-on bag, and even walk through their own dedicated security lane (but no red carpet). Think airport e-pass, only with a background check.

According to the head of the TSA, the initiative gets travelers "we know and trust the most" through security faster, freeing up time to monitor unknown or riskier travelers. There are about 85,000 members and it is only used at a few airports: Atlanta, Detroit, Dallas, Miami and Las Vegas, with expansion plans to two more early in 2012, along with an extension to some airline crew members and members of the military. <http://tiny.cc/iewgj>

## **Blacks stopped/searched 30 times more than whites**

Black people are 30 times more likely than white people to be stopped and searched by police in England and Wales, according to new analysis last month which reveals that "racial profiling" is on the increase.

Researchers say the findings, based on government statistics, represent the worst international record of discrimination involving stop and search.

The figures refer to the use of section 60, the contentious police power that allows officers to stop and search people without reasonable suspicion: it was cited as an aggravating factor behind last August's riots in England.

Analysis by the London School of Economics and the Open Society Justice Initiative shows during the past 12 months a black person was 29.7 times more likely to be stopped and searched than a white person. That figure was 26.6 the previous year. <http://tiny.cc/3xi7t>

## **Presidential candidate courts chaos**

Republican presidential candidate Newt Gingrich last month pledged that, on his first day as president, he would order the military to defy a US Supreme Court ruling extending some legal rights to foreign terrorism suspects and captured enemy combatants in US custody.

He also told anti-abortion activists at a presidential forum in South Carolina that as president he would ignore Supreme Court rulings he regards as legally flawed, implying that his ignorance would also extend to the 1973 decision, Roe v Wade, which legalises abortion in America.

"If the court makes a fundamentally wrong decision, the president can in fact ignore it," said Gingrich to cheers. He said the court would lose in any showdown because it was the least powerful and least accountable arm of government.

Gingrich has said before that he regards the president as above the court when the two branches have fundamentally differing views but at the Greenville forum he went further in committing himself to setting up a constitutional crisis on his first day in office. <http://tiny.cc/3rvdz>

## **How the decline of an empire accelerates...**

The activity behind the Wikipedia (and others) internet blackout, and lobbying by the Motion Picture Association of America for two internet-conscripting Bills, SOPA and PIPA, is as fascinating as any soap opera on TV.

Chief villain is Chris Dodds, lobbyist for the MPAA who vowed to never become a lobbyist after serving as a Democrat in the Senate for 30 years. Perhaps the soap opera could be named 'The Doddles'.

If anything describes the sickness at the heart of the American political system, it is the saga of the two Bills, the undemocratic processes originally behind them, and the background of the man at centre stage. But perhaps there's a more promising outlook emerging from what began as a most sordid affair: the internet – at its best when it represents "little" people – is starting to realise its potential power.

If the world is ever completely connected, then legislatures like the US Congress might become increasingly irrelevant...like what is gradually happening to state government in Australia – Ed.

<http://www.techdirt.com/articles/20120120/14472117492/mpaa-directly-publicly-threatens-politicians-who-arent-corrupt-enough-to-stay-bought.shtml>

<http://www.techdirt.com/articles/20120119/21092917484/why-chris-dodd-failed-with-his-sopapipa-strategy.shtml>

[http://en.wikipedia.org/wiki/Chris\\_Dodd](http://en.wikipedia.org/wiki/Chris_Dodd)

## Facebook denial to cost civil servant five years in jail

Indonesian police say a civil servant in Padang, Western Sumatra, who posted "God does not exist" on Facebook faces a maximum penalty of five years behind bars for blasphemy.

Thirty-one-year-old Alexander Aan was taken into police custody after his remarks triggered public outcry in the province. He was attacked by a mob on his way to work.

Indonesia, a predominantly Muslim nation of 240 million, recognizes the right to practice five other religions. But atheism is illegal. <http://tiny.cc/3n54m>

## International briefs

**Crime plummets in America:** The FBI reported last month that, in the first half of 2011, violent crimes in the USA were down 6.4%, while property crimes fell 3.7%. Murder declined by 5.7%, rape by 5.1%, and robbery by 7.7%. The falls continue a long-term trend: crime in America peaked in 1991 and fell steadily before flattening out somewhat in the mid-2000s. But since 2006, both violent crime and property crime have plunged. Your chance of being murdered in the USA in 2012 is lower than it was in the late-1950s, and robberies have been cut by half since their peak. <http://tiny.cc/rllav>

**Spain to cut back on teenager's abortion rights:** Spain's new Justice Minister, Alberto Ruiz Gallardon, says he will reform the country's abortion law to make parental permission obligatory for 16- and 17-year-olds wanting to end pregnancies. The former Socialist government updated a 1985 law in 2010 to allow abortions without restrictions in the first 14 weeks of pregnancy and for 16- and 17-year-olds to have the operation without their parents' permission.

**Court is 152,800 cases behind:** The European Court of Human Rights' backlog of cases stands at 152,800. It is estimated that two-thirds of these cases are inadmissible under the court's rules. Russia accounts for 26.6% of the backlog. Britain hopes to reform the institution so it concentrates on the "big issues" of human rights across Europe, rather than acting as a "small claims court" and overturning the findings of long-standing, august courts like those of Britain. <http://tiny.cc/fzmt3>

**EU plans to tighten data protection:** The European Union is proposing tough new rules for how corporations handle Internet users' personal data, which could have far-reaching implications for web giants such as Google and Facebook. Viviane Reding, vice president of the European Commission, said last month that the new data-protection legislation was needed to protect users and cut red tape for businesses in Europe. The legislative process is likely to take at least two years, so the rules could still change considerably. Internet companies will not be required to comply before 2014 or 2015. <http://tiny.cc/cbk2b>

**Lammy wants more whammy:** Legislation on smacking of children needs to be relaxed so British working-class parents can instil discipline in their homes without fearing prosecution, says a senior Labour politician. MP for Tottenham David Lammy claimed UK Labour's 2004 decision to tighten smacking law was partly to blame for last year's riots, which erupted in his north London constituency. <http://tiny.cc/fpj8c>

## DATES

**1 Feb, Canberra:** *What happens when citizens decide? Identifying what works:* 4-5.30pm, The Lobby, King George Tce. \$40. Organised by ANZSIG. Contact: Nilima Mathai 02 6201 5607 or E: [nilima.nathai@canberra.edu.au](mailto:nilima.nathai@canberra.edu.au) <http://tiny.cc/o59xt>

**2-4 Feb, Melbourne:** *After Homosexual: The Legacies of Gay Liberation*. On the 40th anniversary of the publication of *Homosexual* and to mark Professor Dennis Altman's retirement from Latrobe U., a conference on the impact of the book and the legacy of gay liberation. Details: <http://www.latrobe.edu.au/humanities/about/events/after-homosexual>

**11-12 Feb, Canberra:** Current Issues in Federal Crime and Sentencing conference, Hedley Bull Theatre, 9am Sat -12.45pm Sun. Ann O'Connell on 02 6125 6653 or E: [sentencing@law.anu.edu.au](mailto:sentencing@law.anu.edu.au)

**12 Feb, Sydney:** American playwright/women's rights activist, Eve Ensler, gives Australian Human Rights Centre annual public lecture, Sydney Theatre Company. Info: [www.justiceforall.unsw.edu.au](http://www.justiceforall.unsw.edu.au)

**14-15 Feb, Sydney:** Justice for all? The International Criminal Court – Ten Years in Review <http://www.justiceforall.unsw.edu.au/>

**17 Feb, Sydney:** Gilbert and Tobin annual constitution law conference. Details: [www.gtcentre.unsw.edu.au](http://www.gtcentre.unsw.edu.au) Speakers include Senator Marise Payne, Shadow Minister for COAG on 'The Role of the Commonwealth Parliament in the Age of COAG'.

**17-18 Feb, Adelaide:** 'Is social democracy exhausted?: Pathways, reflections, dilemmas' conference at Flinders U., Adelaide: <http://www.flinders.edu.au/sabs/saps/social-democracy/home.cfm>



**12 Mar, Brisbane:** CEPS (Centre of Excellence in Policing and Security): Professor Mark G Stewart presents 'The Evidence of the Value of Counter-Terrorism Expenditure' – key findings of a new book 'Terror, Security, and Money: Balancing the Risks, Benefits, and Costs of Homeland Security' (Oxford University Press, September 2011): 12.30-1.30pm Room 5.01, Social Science Bldng, Mr Gravatt Campus, Griffith U. [RSVP to melanie.davies@griffith.edu.au](mailto:melanie.davies@griffith.edu.au) by 5 March 2012.

**20-21 Feb, Melbourne:** International Conference on Human Rights in Closed Environments at Monash University Law Chambers. Details: [info@conorg.com.au](mailto:info@conorg.com.au) or +61 3 93492220 or at <http://www.law.monash.edu.au/castancentre/events/2012/closed-environments.html>

**15-16 Mar, Sydney:** Critical Infrastructure Resilience conference – another government fear-raising activity. Details: [cirevent@ag.gov.au](mailto:cirevent@ag.gov.au) or phone 02 6141 2944

**16 Mar, Sydney:** Politics in the Pub, Gaelic Club, Surry Hills, 6-7.45pm. 'Extraordinary Abuse of ASIO Powers': speakers NSWCCCL Secretary Stephen Blanks and Dr Clinton Fernandez of the political program at UNSW (Canberra). Info: 02 9692 0005; email: [odl\\_bradley@pacific.net.au](mailto:odl_bradley@pacific.net.au)

**20 Mar, Adelaide:** Law Careers Fair, 5-7pm, Union Bldng, Flinders U. Info: Julia Stott 08 8201 2832 [julia.stott@flinders.edu.au](mailto:julia.stott@flinders.edu.au)



**13 April, Canberra:** Jennifer Cavenagh, senior legal officer, Office of International Law, Attorney-General's Department, will discuss the UN Human Rights Committee and the right to enter one's own country (Nystrom v Australia case), Staff Library, Law School. Info: <http://tiny.cc/zt40z> or contact Kristian Draxl on 02 6125 1096 or E: [coast@law.anu.edu.au](mailto:coast@law.anu.edu.au)

**19-22 April, Sydney:** Commonwealth Lawyers Association regional law conference. Info: [www.commonwealthlaw2012.org](http://www.commonwealthlaw2012.org)

## 2013:

**12-14 Mar, Brisbane:** NatStats Conference, "A better informed Australia: the role of statistics in building the nation". <http://blog.abs.gov.au/Blog/natstats.NSF/>

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