

## See-through scanners raise extra alarms

CLA has co-produced an online airport see-through scanner video, in a bid to get the government to rein in their excesses. Go to: [http://www.cla.asn.au/page/Has\\_Your\\_Freedom\\_Flown.php](http://www.cla.asn.au/page/Has_Your_Freedom_Flown.php)



Two in five passengers who took part in a trial of airport see-through body scanners – set to become mandatory on 1 July – had to submit to further searches after they triggered alarms, the *SMH* reported last month.

During seven weeks of trials at Sydney and Melbourne's international airports, just 57% of the 23,500 volunteers undergoing body scans were cleared immediately to proceed to their flights, according to a Department of Transport submission to a federal parliamentary inquiry.

Cash, boots with buckles, hairclips, watches, jewellery, studs and zips were the most common causes of the alarm going off in the scanners, which the department has admitted proved slower than the metal detectors now in use.

The scanners will make departure security lanes much slower.

The department said public reaction to the trial was positive but admitted it showed screening officers needed training so they could "exhibit empathy and be able to put themselves in the shoes of passengers who may believe that they are being unduly inconvenienced or mistreated". The submission warned that "language barriers will become more apparent" and it acknowledged that some passengers would become anxious about the scanners.

The government has announced the see-through scanners will operate from July, with a tough "opt-out, no-fly" policy at Australia's eight international airports. <http://tiny.cc/P4df2b>

CLA has made submissions to not one, but two, parliamentary inquiries on the topic: there are separate House of Representatives and Senate inquiries under way.

## Voting ends on 2 April

CLA's electronic Annual General Meeting ends tomorrow, 2 April.

Members have been sent email voting 'tokens' which allow you to record an online vote. CLA knows whether or not a member has voted, but not which way the member has chosen to vote. Reminders have been sent to members who have not voted.

If you did not receive an email invitation to vote, contact the Secretary immediately – [secretary@cla.asn.au](mailto:secretary@cla.asn.au) – so we can send you a new token for voting before 5pm on 2 April.

## High Court restricts right to free speech

A High Court ruling last month has lessened Australians' right to free speech: a parole board – and maybe a lot of other bodies – can take it away.

It seems that any judicial authority could order an Australian to silence if the authority deemed safety might be at risk, or it feared a crime might be committed.

The police state is here, officially, courtesy of the High Court.

One judge even thought the relevant Queensland prisons law was OK because it focused on journalists, not prisoners. It is apparently OK by Australia's HC if a journalist commits a criminal offence by talking to a prisoner.

The HC ruled a man jailed over riots on Palm Island, now on parole, could be prevented from talking to the media or attending public meetings on the island due to a clause in his parole agreement.

Lex Wotton, 44, was jailed in 2008 for his role in riots after the death of Cameron Doomadgee in police custody in 2004. He was released on parole in July 2010, on condition that he not communicate with the media and not attend public meetings on Palm Island.

His legal team argued that the terms unlawfully curbed Wotton's implied constitutional right to free speech. But the High Court unanimously dismissed the appeal, saying the terms of the Queensland government's Corrective Services Act were "reasonably appropriate" and "adapted to serve a legitimate end". The law's intentions – "the need to consider community safety and crime prevention" – were expressed clearly in the act. The parole conditions were consistent with the act and complied with the constitutional limitations of the state, the court said.

Justice Susan Kiefel said the Corrective Services Act had not completely prevented Wotton from speaking on political matters, and noted that it was focused on journalists rather than on prisoners. <http://tiny.cc/0yo3h>

## **Human Rights Committee established at last**

The Parliamentary Joint Committee on Human Rights began on 13 March 2012 when the Senate agreed to a resolution from the House of Representatives, passed on 1 March 2012.

The committee is established by the *Human Rights (Parliamentary Scrutiny) Act 2011*. Section 7 of the Act sets out the functions of the committee:

- to examine Bills for Acts, and legislative instruments, that come before either House of the Parliament for compatibility with human rights, and to report to both Houses of the parliament on that issue;
- to examine Acts for compatibility with human rights, and to report to both Houses of the Parliament on that issue;
- to inquire into any matter relating to human rights which is referred to it by the Attorney-General, and report to both Houses of the Parliament on that matter.

However, the Parliament is under no obligation to take any notice whatsoever of the HRC, if it doesn't want to. It will be interesting to see whether this toothless, gumless tiger can gain some 'bite' by the character of its leaders and members.

## **Have your say on same-sex marriage**

The Australian Parliament is holding another inquiry into same-sex marriage, but this time it is calling for submissions from all Australians.

Two bills, one sponsored by the Labor Party, and the other by the Greens, are currently being considered by a Parliamentary Committee.

Parliament is calling for all Australians to complete a survey on the two bills. Go to: [http://aph.gov.au/Parliamentary\\_Business/Committees/House\\_of\\_Representatives\\_Committees?url=spla%2Fbill+marriage%2Findex.htm](http://aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=spla%2Fbill+marriage%2Findex.htm) to share your views.

Civil Liberties Australia has put together a document showing the differences between the two bills, you can find that here: [https://docs.google.com/document/d/16M2deXTCTIZtff6\\_IDF-NkMcszgzC0W5NK6N6bSpn00/edit](https://docs.google.com/document/d/16M2deXTCTIZtff6_IDF-NkMcszgzC0W5NK6N6bSpn00/edit)

CLA is in favour of legalising same-sex marriage, and believes the Marriage Act should be changed to remove discrimination against same-sex couples in Australia and also against those who married legally overseas.

## Extradition: new law, annual reporting promise

The Extradition and Mutual Assistance in Criminal Matters Legislation Amendment Bill 2011 passed the Parliament last month.

While parts of the new law inevitably make open slather information exchange possible, without proper safeguards, there are some better protections which CLA argued for in committee.

They include providing specific grounds for refusing assistance to a foreign authority if it is believed it would result in a person being tortured, and also requiring Australia to refuse to extradite a person if he or she may be prejudiced by reason of his or her sex – *media release 6 March 2012*.

As well, CLA was promised that there would be new, annual reporting to Parliament by the Departments of Attorney-General and Foreign Affairs on all details of Australia's extradition and mutual assistance program each year. While not in the new law, CLA expects the reporting to be made mandatory by ministerial direction.

CLA was the only organisation to campaign for such annual reporting to parliament. We will closely monitor how well – openly and transparently – it is done.

## Judges complain about 'unjust' sentences

Judges say they have been forced to impose excessive, arbitrary and "manifestly unjust" sentences on people smugglers because of mandatory three-year minimum jail terms.

The claim is in a submission by the Judicial Conference of Australia, which represents judges and magistrates, to a Senate inquiry examining a Greens proposal to abolish the mandatory penalties.

Submissions show the number acquitted is rising and less than half of people smuggling cases since January 2011 produced convictions. The accused often spent 12 to 18 months in jail before trial. All but three of the 208 awaiting trial were crew members, not organisers. <http://tiny.cc/q7vhbw>

## Judges soft on white collar crime, judge says



Former Federal Court judge Ray Finkelstein (pictured) has slammed the judiciary for being too soft on white-collar crime, saying lenient sentencing creates the impression of one law for the rich and another for the poor.

Mr Finkelstein, who retired from the Federal Court last year and headed the government's recent media inquiry, also raised the possibility that for some white-collar crimes the level of proof required to convict could be lowered from the traditional criminal level of "beyond reasonable doubt".

In an opinion piece published in the Tax Office magazine *Targeting Tax Crime*, he said judges tend to regard imprisonment of white-collar criminals as a "last resort".

The defence lawyer Rob Stary, a past president of the Law Institute of Victoria's criminal law section, said someone who held up a milk bar and netted a few hundred dollars would serve about the same jail time – between 18 months and two years – as someone who committed a million-dollar fraud. <http://tiny.cc/vggybw>

## More complaints against judges anticipated

The federal government is obviously anticipating more and major complaints against judges – it has introduced two new bills, the *Judicial Misbehaviour and Incapacity (Parliamentary Commissions) Bill 2012* and the *Courts Legislation Amendment (Judicial Complaints) Bill 2012*.

The first will make it easier for Parliament to remove a judge from office by setting up a Parliamentary Commission to investigate serious allegations of misbehaviour or incapacity leading to removing a judge under paragraph 72(ii) of the Constitution.

The second bill makes it easier for chief justices of the Federal Court and the Family Court, and the Chief Federal Magistrate, to manage complaints in their bailiwicks. They will be able to set up a Conduct Committee to investigate and report to them about a complaint – *AG media release*.

## **AG plans more advertising, PR...and yet another ‘framework’**

Attorney-General Nicola Roxon wants comment on how anti-corruption systems can be improved. She proposes a “National Plan” with a risk analysis and a “framework” to address risks. Inevitably – though she does not say so – there will be a public relations program and an expensive TV advertising campaign. Public submissions to a discussion paper – [www.ag.gov.au/anticorruptionplan](http://www.ag.gov.au/anticorruptionplan) – close on 20 April (from media release).

## **New mental laws could sterilise children aged 12**

Psychiatrists have slammed mooted WA laws that would require mentally ill children as young as 12 to give their consent to sterilisation, electroconvulsive therapy and psychosurgery.

While parents may be consulted about the radical but anachronistic treatments being performed on their children, lawyers warn they may have no right to veto the therapies under the draft laws.

The draft legislation will be introduced into the WA parliament later this year after a review of the state's mental health laws. <http://tiny.cc/3lg3aw>

CLA has made a submission on the proposed laws: see <http://tiny.cc/d0eybw>

## **Police chief takes over running local, state government policy**

WA Police Commissioner Karl O'Callaghan appeared to think he sets public policy last month: he was reported by *ABC Radio* as being “fed up with the Aboriginal protesters at Heirisson Island” and wanting the City of Perth to intervene.

An Aboriginal protest group then camped at the site for six weeks in opposition to the WA Government's proposed \$1 billion native title deal which would see the Noongar give up claims to native title over Perth and the South West in exchange.

Mr O'Callaghan told *ABC Radio* the camp needed to be cleaned up once and for all.

"What I think we need to see is the City of Perth move in, issue the orders and we'll help to execute those orders and clear them out," he said. "Because, the longer this goes on, the higher the risk is of anti-social behaviour and possibly other offences as well."

Mr O'Callaghan says it is up to the City of Perth to take action. "We are urging the City of Perth to take some action so we can assist them to do their business," he said.

"Once they issue the orders we can assist them to move the illegal campers off the island and diffuse the situation completely."

Soon WA won't need a parliament: the Police Commissioner can decide everything for everyone, and order all representative bodies how and when to act...so that “we can do...their business.”

Apparently Mr O'Callaghan – who now considers himself part of a special elite – is unaware that he is personally exhibiting “anti-social” behaviour by his attitude and comments. <http://tiny.cc/2zerbw>

## **Hobart woman's appeal cuts sentence...to 23 years**

The Hobart woman sentenced to 26 years' jail for killing her partner – whose body has never been found – has had her sentence reduced by just three years.

Susan Blyth Neill-Fraser (right, with Chappel) was sentenced to 26 years' jail with a non-parole period of 18 years in October 2011 for murdering radiation physicist Bob Chappel, last seen on board the couple's yacht *Four Winds* on Australia Day, 2009. Neill-Fraser appealed both her conviction and the sentence.

A full bench of the Tasmanian Court of Criminal Appeal last



month rejected the appeal against the conviction...but Justice Ewan Crawford, Justice Shan Tennent and Justice David Porter reduced her 26-year sentence to 23 years with a non-parole period of 13 years (down from 18 years).

Many Tasmanian and other legal observers believe the woman's conviction, on circumstantial evidence, remains puzzling. Neill-Fraser has been granted leave to appeal to the High Court. <http://tiny.cc/IIIe2b>

## NSW acts to prevent worst mental health delays

Recent changes to NSW mental health provisions that allowed seriously ill psychiatric patients to be held without review for up to a month will be overturned, after an independent report found patient rights were not being protected.

The NSW Government will almost double the funding for the reviews to speed them up.

Psychiatrists and lawyers who fought against the 2010 changes, which moved the reviews from within a week of detention to at least three weeks, see the move as a significant victory but say more work is needed to safeguard patient rights.

Patients will still have to wait about two weeks after their detention before their case is reviewed by the Mental Health Review Tribunal. The Minister for Mental Health, Kevin Humphries (pictured), said the government had passed legislation to establish a mental health commission, and part of its function would be to ensure the smooth operation of the tribunal. <http://tiny.cc/kyuhbw>



## Crime plummets...but parliaments keep making new laws

The key statistics in the AIC's Australian Crime: Facts and Figures report for 2011 are:

- Break-ins cut by about half since 1996;
- Car theft dropped about 61% over the past decade;
- violent crimes decreased in 2010 except for kidnapping and abduction: of five violent crime categories, victims were down in homicide, assault, sexual assault and robbery;
- In homicide in 2009–10, a knife was the most common weapon, in 39% of homicides: firearms were used in 13%;
- Homicides dropped 27% between 1996 and 2010, 11% between 2009 and 2010; the homicide rate is 1.2 per 100,000 population;
- Robbery victims in 2010 are the lowest since 1996, with 14,582. Victims peaked in 2001 with 26,591;
- Murder and sexual assault happened most where people live — 61% of murders and 63% of sexual assaults occurred in a residential dwelling;
- Assault rates dropped from 801 per 100,000 people in 2009 to 766 per 100,000 in 2010;
- In 2010, sexual assaults were down – 17,757 compared with 18,807 the previous year;
- The rate of fraud victimisation dropped by 11% from 2009 to 2011 – since peaking in 1998-99, it has declined by 35%;
- In 2009–10, the offending rate for people aged 15 to 19 years was almost four times the rate for all other offenders (6,751 compared with 1,821 offenders per 100,000);
- In 2009–10, 2,767 arrests involving heroin were made, 81% down on the past decade;
- In 2009–10, cannabis accounted for the highest number of drug-related arrests with 57,170 arrests, up 3% from 2008–09; and
- In 2009-10 cocaine arrests increased by 47%, rising to 1,244 from 848 in 2008-09...but cocaine arrests remain lower than for any other drug type.

The full report can be accessed online at [www.aic.gov.au](http://www.aic.gov.au)

## **Odd old couple to investigate job-age discrimination...slowly**

Well, maybe they're going to be a bit slow because they're both getting on...but then, aren't we all: the Odd Old Couple, Ros and Sue, are planning to take 12 months to complete the ageing inquiry they began on 12 March.

Australian Law Reform Commission supremo Prof Rosalind Croucher and Age Discrimination Commissioner Susan Ryan are inquiring into workforce barriers – only – for aged people.

The pseudo concern for older people's rights won't tackle all age-related discrimination, just that which might stop seniors being cajoled or forced back into the workforce by the government. AG Nicola Roxon says it is another of the holey struts on which the "human rights framework" sits — *AG media release*.

## **ALRC opines on censorship and classification**

The Australian Law Reform Commission has handed down its report on reviewing Australia's Classification – censorship – scheme.

The report makes a number of recommendations, including:

- a new National Classification Scheme and a single agency responsible for this scheme
- reforms relating to classification markings, modifications, time zones and advertising
- a single set of classification categories that apply to all classified media content
- changing the name of the 'Refused Classification' category to 'Prohibited'
- developing Industry Classification Codes
- new laws to enforce classification laws under Commonwealth legislation.

The review is available from the ALRC's website: <http://www.alrc.gov.au/publications/classification-content-regulation-and-convergent-media-alrc-report-118>

Another review, the Convergence Review, was due to submit its own final report to the Government by the end of March (yesterday).

## **WA brings in online vigilante-enabling register**

A new law to create a public sex offender register in WA is now in place.

Anyone will be able to access information through a public website on sexual offenders. Parents and guardians can inquire from police about any person who has access to their children.

WA authorities already monitor the movements of such offenders but the new legislation allows the public to track the names and images of serious or repeat offenders in their suburb through a police website.

The register will allow vigilante groups free rein, CLA warns. <http://tiny.cc/gcthbw>

## **R18+ category to come in, despite Atkinson**

Legislation for an R18+ category for computer games passed the House of Representatives last month, and moved to the Senate.

The classification of computer games will fall into line with existing categories used to classify films, and make Australian classification more consistent with international standards.

The introduction of an R18+ category for computer games was 'black-balled' for many years by the then South Australian Attorney General, Michael Atkinson <http://tiny.cc/yb2fbw> Effectively, Australia had to wait until he retired as AG to get a proper law\*.

When the federal AG's Department released a discussion paper on introducing R18+ in 2009 they received 58,437 submissions in response with 98% supporting the new category.

The new national scheme is due to start on 1 January next year, once the various Houses of Parliament nationally have passed required laws. The ACT has already introduced "mirror" legislation to its parliament.

\* The same 'black ball' system continues to operate at national meetings of Attorneys-General, under which any AG can prevent an item even being discussed.

## **Vic Govt surprisingly moves to protect rights charter**

The Victorian Baillieu government is to strengthen Victoria's charter of rights and responsibilities by making it harder for MPs to make legislative changes that affect basic freedoms.

The government – opposed to the charter on taking office, but convinced of its worth after a public consultation process – will introduce new laws requiring MPs who want to significantly amend a bill to explain to Parliament how those changes impact on human rights, *The Age* reported.

AG Robert Clark, who had been a vocal critic of the charter, said the move would strengthen parliamentary scrutiny and provide a safeguard that currently did not exist. <http://tiny.cc/ps2fbw>

## **Longer sentences don't reduce crime, research shows**

A NSW Bureau of Crime Statistics and Research study of violent crime between 1996-2008 has found longer prison sentences do not deter criminals from breaking the law.



Bureau director Dr Don Weatherburn (pictured) said a 10% increase in the risk of arrest or imprisonment had a small impact, but increasing jail sentences had no effect at all.

"The question most offenders are asking is, am I going to get caught? They're not sitting down and thinking, well if I am caught will I go to jail and if I do how long will I go for?" Dr Weatherburn said.

He said the study found a booming economy was the surest way to reduce crime. A 10% increase in household income produced an estimated 19% reduction in property crime over the long term and a 15% cut in violent crime.

<http://tiny.cc/wkthbw>

## **TV network on trial over murder 'interview'**

The Seven Network will appear in Darwin Magistrates Court on 4 April over an interview with Bradley John Murdoch, who was convicted of murdering British backpacker Peter Falconio.

Seven's *Sunday Night* program in 2011 broadcast a discussion between former lawyer Andrew Fraser and Murdoch, who is serving a 28-year sentence in Alice Springs jail.

In court last month, presenter Rahni Sadler, Fraser and the Seven Network were all charged with "communicating with a prisoner" without permission from the NT's executive director of Corrective Services.

The body of Mr Falconio has never been found. Murdoch maintains his innocence of the murder and assault-related charges involving Falconio's girlfriend Joanne Lees. He has lodged two unsuccessful appeals against the convictions. <http://tiny.cc/bajz3>

## **Signs the government is out of touch**

The federal government says it is putting up more "respectful" signs across the NT to show where alcohol and pornography are banned.

The Indigenous Affairs Department erected the signs on Indigenous lands and roadsides across the Territory in 2007 under federal intervention laws. Indigenous people, and others, have told the Federal Government the signs humiliate Aborigines.

New wording shows "alcohol" replaced with "liquor", and "prohibited materials" appearing instead of "pornography". But the government does not appear to understand the presence of any such signs, regardless of the precise wording, is the problem.

CLA suggests the same type of signs should be erected outside federal parliament in Canberra, on all four sides, to indicate that people inside may have trouble with alcohol and that pornography is not permitted. <http://tiny.cc/ce74aw>

## Norfolk gets some mainstream rights

Norfolk Islanders will now enjoy the same legal right to have government administrative decisions, such as social security and planning, reviewed like other Australians.

AG Nicola Roxon said residents of Norfolk Island can now apply to the Administrative Appeals Tribunal (AAT) for merits review of a range of decisions of the Norfolk Island Administration.

Soon there will also be a Norfolk Island Ombudsman so residents can ask for review of all public administration on the island – *media release 1 March, AG et al*

## Barristers' behaviour damages their ancient right to not be sued

The ancient principle shielding barristers from damages claims awarded against them may be revisited after a Victorian Supreme Court judge sharply criticised lawyers and barristers who advised a suicidal man to agree to a heavily lopsided divorce settlement.

Justice Kevin Bell said he found it "deeply troubling" that while Melbourne man Paul Fritsch should be entitled to \$675,000 of damages from his former lawyers, they remained fully protected from any claim under the principle of "advocates' immunity".

In a bizarre twist, it is Mr Fritsch who must pay \$68,000 of fees to his lawyers, plus interest and their legal fees. Mr Fritsch's lawyer, Brian Mulcahy of Mulcahy's Solicitors, said the troubling conclusions should be a signal to overturn the immunity principle.

The lawyers' immunity principle was abolished in England in 2002. It was last considered by the High Court of Australia in 2005, Leonie Wood reported in *The Age*. <http://tiny.cc/ux86aw>

## Feds keep secret their agreements over what you can know

The Federal Government has declined to reveal almost any information about a second secret industry meeting held in February to address the issue of Internet piracy, *Delimiter* has reported.

The online technology blog said the Attorney-General's Department used a variety of complex justifications to avoid releasing virtually any detail of the meeting under FOI laws.

The closed door meeting, held on 8 February, saw major Australian ISPs sit down with the representatives of the film, television and music industries and the AGD, to discuss a potential industry resolution to online copyright infringement. It was the fourth such meeting, with three held in 2011 under equivalent secrecy.

Basically, they are deciding what information Australians will be allowed to access. <http://tiny.cc/wljebw>

## WA CCC to get tougher on police brutality



WA's Corruption and Crime Commission is to focus more on police brutality.

*(Photo shows a restrained Kevin Spratt being repeatedly stunned by WA Police. Officers were found by WA Police to have "acted appropriately").*

A parliamentary committee report found the CCC investigated one only of 381 complaints received about excessive use of force by police officers.

In his response to the committee, the Attorney General Christian Porter says the new head of the CCC, Roger Macknay, has identified police misconduct as an important focus area.

Parliamentary committee chairman, Liberal MLC Nick Goiran, said Mr Macknay should be congratulated for taking action. "It's long overdue, certainly it's taken six months to get to this point but what a welcome relief it is that the CCC's now going to make police oversight its highest priority," he said. <http://tiny.cc/209obw>

## **NT puts its statehood bid on hold**

The NT has put on hold its move to become Australia's seventh state until after its Legislative Assembly election in August.

The current Labor Government last year launched a major campaign, opened an Office for Statehood, and hired a lawyer to draft a new constitution to take to a constitutional convention as a framework for discussion. The statehood office is closing its doors and all materials are being archived.

Constitutional Convention Committee chairwoman, Labor's Marion Scrymgour, says it is disappointing. <http://tiny.cc/cghtbw>

## **Coroner wants help to reduce young – Aboriginal – suicide**

NT Coroner Greg Cavanagh wants help, including counsellors for at-risk children, because of the alarming rate of people taking their lives.

He said NT had the country's highest youth suicide rate, with 18 deaths per 100,000 from hanging alone, compared with just 1 per 100,000 in NSW.

Mr Cavanagh told an NT government inquiry into youth suicide that there were 40 or 50 suicide deaths each year in the NT, with at least another six which could be added on from single-vehicle car crashes. Most young suicide deaths were in Aboriginal communities, he said.

He suggested at-risk children should have access to youth counsellors to help them deal with their problems, Xavier La Canna reported in the *NT News*.

The Select Committee on Youth Suicides in the NT was due to table its findings to the NT Parliament on 27 March. <http://tiny.cc/xvnebw>

## **Police get power to remove helmets**

ACT police can now order people to remove headwear when they deal with alleged traffic offences or in trying to identify people.

The ACT Legislative Assembly unanimously passed the new laws last month, allowing police to order the removal of headwear during roadside drug and breath tests, or when trying to identify people. People can ask to be taken somewhere private, and to have the facial covering removed in front of someone of the same sex only. <http://tiny.cc/arugbw>

## **Australian briefs**



**Raff climbs to new heights:** CLA spokesperson in Adelaide and SA, Raff Piccolo, is taking on what he calls the "challenge of a lifetime": he will climb Mount Kilimanjaro in July 2012 to raise funds for Amnesty International Australia. You can follow his progress, and donate to his cause if you wish, at: <http://kilimanjarochallenge2.gofundraise.com.au/page/PiccoloR>

**NT leads the way on 'community' sentences:** The NT Government has introduced new sentencing orders for low-level offenders which they say will help prevent re-offending. Courts now have the option of sentencing non-violent offenders to serve time in the community, rather than go to jail. The Corrections Minister Gerry McCarthy says it is not a soft option, because offenders will be forced to work and complete training. CLA congratulates the NT Government on the initiative, and suggests other governments follow suit. <http://tiny.cc/dqw9z>

**More brown paper bag spending:** Almost \$2 million from the government's official brown paper bag – money confiscated from criminals – will be provided to 16 Police and Community Youth Clubs and Blue Light organisations who will work in partnership with community groups around Australia. The sum of \$1,026,085 will be used at crisis accommodation shelters for installing security fencing, CCTV cameras, lighting and the like.

**Facing up to ID fraud:** NSW is extending laws covering identity checks. From the end of April, anyone asking Justices of the Peace or lawyers to witness documents must show their face. Police, prison officers and court officials were given the right to demand face coverings be removed last year. AG Greg Smith says it is a way of addressing identity fraud – media releases. <http://tiny.cc/YJef2b>

**Jag bust hits the dust:** Police in NSW thought seizing his golden Jaguar was a sure way to hurt an alleged drug dealer. But the idea quickly turned into a lemon when police learnt the luxury – but aged – car was valued at just \$800 and was costing them thousands in storage fees. Instead of dropping their push against the supposed dealer, police rejected a \$1000 offer for the release of the vehicle, along with a \$2000 1996 Toyota sports car. An 18-month legal battle ensued, at a cost to taxpayers of more than \$20,000. The original alleged drug dealing case is still not decided. <http://tiny.cc/orh1aw>



**Juveniles still to be crowded in new centre:** The Inspector of Custodial Services in WA, Neil Morgan (pictured), says redeveloping the Banksia Hill Juvenile Detention Centre will not eliminate overcrowding. The centre is undergoing a transformation which will see female and male juveniles detained in the same facility, sentenced or on remand. Rangeview Remand Centre will no longer be used for juveniles, making Banksia Hill the only juvenile detention centre in WA. It will have 210 beds but last year the number of children in detention peaked at 227. <http://tiny.cc/z67hbw>

**DNA testing may be delayed:** The Health Service Union in NSW is warning that cuts to 21 forensic jobs will delay DNA examination, and hence court cases. Director of the NSW Health Department's Division of Analytical Laboratories, Kevin Forward, said there were 3200 cases in process, down from 5200 about a year ago and some 8000 the year before. The government will use police to collect forensic samples, instead of lab technicians. <http://tiny.cc/h964aw>

**AFIC gets new head:** Hafez Kassem of Sydney has been elected president of the Australian Federation of Islamic Councils. He replaces Ikebal Patel of Queanbeyan, now v-p, who has headed the organisation for the past few years after leading it out of an in-fighting phase (Mr Patel is a member of CLA).

**Police stun gun use down...but deadly:** Stun guns were deployed by NSW police 881 times in 2011 compared with 1151 times in 2010, the police say. They now have 1272 stun guns. Critics have called for their use to be suspended, with the Greens' Legislative Councillor David Shoebridge saying their use increased nearly tenfold from 2008 to 2010. The calls come after the death of Roberto Laudisio Curti, a Brazilian living in Sydney, after being stunned by police chasing him on suspicion of a minor theft. <http://tiny.cc/50tgbw>

**NT has 4.5 times national imprisonment rate:** Australian Bureau of Statistics figures show the national average daily imprisonment rate was 166 prisoners per 100,000 adults during the December quarter of 2011. The ACT had the lowest rate, with 86 prisoners per 100,000 adults, while the NT had the highest by far with 772. However one-third of prisoners in the ACT remained unsentenced, the highest proportion of any jurisdiction: the national average was 23%.

## CLA's main activities for March:

### Administrative

- e-voting underway, postal ballots sent to members without emails
- meeting between four executive members re membership process, updated system of financial records.

### Seminar:

High Court group – Your Rights and Liberties, by President and CEO, part of the investigations for a possible U3A course to be available nationwide. Funding may be sought from Govt Human Rights “Framework” education grants to develop a course.

### Meetings with members:

Lynne Bliss

John Parsons re radio ads: first radio ad recorded as tester.

### Submissions:

ACT government on self government act – Bill Rowlings

Mental Health WA legislation – Rhys Jones

Airport scanners: House of Reps and Senate submissions – Bill Rowlings

Migration amendment: remove mandatory penalties – Bill Rowlings

Optional Protocol, Convention Against Torture (OPCAT) – Rhys Michie

### Meetings attended:

Dying With Dignity, constitution for ACT group

### Promotion:

Video on airport body scanning – CLA's first online video, produced with help from Koozoo, posted online during March.

Radio ads project being progressed.

### Planning:

Extensive time in March taken in planning for CLA promotional visit to northern NSW and southern Queensland, scheduled for late-April (8 appointments so far confirmed).

## International

### New UK control order system better, says reviewer

More than 20 men suspected of involvement in Islamic terrorism were sent into internal exile across the UK under the now-defunct system of "preventative" control orders, a report says.

The Independent Reviewer of Terrorism Legislation, David Anderson QC (pictured), describes the orders as being "towards the more repressive end of the spectrum of measures operated by comparable western democracies". But he praises their replacement, the Terrorism Prevention and Investigation Measures (TPIMs), which came into force early this year, as not being "a rebadged control order, but a new model" involving changes "motivated by civil liberties concerns".



The annual report sets out the full extent of the control order system between 2005 and 2011. Of the 52 men suspected of Islamic terrorism in that period, 23 were "were subject to involuntary relocation to a different town or city in the UK".

The restrictions imposed under control orders included curfews of up to 16 hours, confinement within a geographical boundary, tagging, financial reporting requirements and restrictions on association and communication. "Relocation" – effectively exile from a suspect's home town or city – was supposed to break up any networks of support they had created. <http://tiny.cc/oo2rbw>

## **Groups combine for children's rights push**

UNICEF, Save The Children and the UN Global Compact launched Children's Rights and Business Principles in London last month.

Nearly a third of the global population are under 18, David Mepham wrote in the Huffington Post blog, the rights of millions of children across the world are routinely violated or denied, and business practices have wide-ranging effects on children. Human Rights Watch has been documenting violations of the rights of children for many years, including instances in which large international corporations have been linked to abuses, in places like Kazakhstan, Papua New Guinea and China.

[http://www.unglobalcompact.org/Issues/human\\_rights/childrens\\_principles.html](http://www.unglobalcompact.org/Issues/human_rights/childrens_principles.html)

[http://www.huffingtonpost.com/david-mepham/childrens-rights\\_b\\_1344129.html](http://www.huffingtonpost.com/david-mepham/childrens-rights_b_1344129.html)[www.cla.asn.au](http://www.cla.asn.au)

## **State bill targets sharia and other 'foreign' laws**

A bill to ban using foreign laws in American courts is progressing through Florida's state assembly, like nearly 40 similar bills being pursued in 24 states, *Associated Press* reported last month.

Opponents say the bills simply address a made-up threat and could threaten agreements made under Jewish or other religious law.

"There have been all sorts of wild accusations about what this bill does," said Senator Alan Hays, a Republican representing Umatilla, who sponsored the Senate bill in Florida. "This is very clear, very simple: In American courts we need American laws and no other." The Florida measure passed the House on 92-24, and was on its way to a full vote in the state Senate.

If passed, Florida would join three other states – Louisiana, Arizona and Tennessee – in approving legislation curtailing the use of foreign laws. An Oklahoma ballot measure got 70% approval, but it goes a step further in specifically mentioning Sharia, the Islamic system of law. A federal court has blocked the measure's implementation until its constitutionality is determined. <http://tiny.cc/t3wq5>

## **UK moves to contract in, cop out**

Private UK companies could take responsibility for investigating crimes, patrolling neighbourhoods and even detaining suspects under a radical privatisation plan being put forward by two of the largest police forces in the country.

West Midlands and Surrey Police have invited bids from G4S and other major security companies on behalf of all forces across England and Wales to take over the delivery of a wide range of services previously carried out by the police.

The contract is the largest on police privatisation so far, with a potential value of \$2.2bn over seven years, rising to a possible \$5.2bn depending on how many other forces get involved.

This scale dwarfs the recent \$295m contract between Lincolnshire police and G4S, under which half the force's civilian staff are to join the private security company, which will also build and run a police station for the first time. <http://tiny.cc/rvui5>

## **Student's film is fair cop for police harassment**

An Italian student has won an out-of-court settlement with London Metropolitan police after she was stopped under anti-terrorist legislation while filming buildings in London, and later arrested, held in a cell for five hours and then fined.

Simona Bonomo filmed the moment she was approached by two police community support officers (PCSOs) in Paddington, west London.

The video, which went viral, showed one of the officers – PCSO Thomas Cooke – question the art student about why she was filming buildings "iconic to us" and demand to see images on her camera. In doing so he claimed to have powers that he did not have.

He and another PCSO then departed, only to return with other police officers who accused Bonomo, 34, of being aggressive. She was bundled to the ground and arrested.

After five hours in a cell, Bonomo was told to sign an \$120 fixed penalty notice for causing "harassment, alarm and distress". In court, Bonomo was found not guilty of any offence and the Crown Prosecution Service said it was unclear why she had even been arrested.

Soon after the incident in November 2009, Bonomo began legal action against the Metropolitan police and lodged a complaint against the officers involved. The case was due to be heard at the high court, but the Met recently settled out of court. <http://tiny.cc/t5vgbw>

## **Drugs go synthetic: banning increases popularity**

Moves to criminalise the new wave of synthetic drugs appear to have backfired in London after a survey showed mephedrone is more popular among clubbers than when it was not banned.

The *Journal of Substance Use* reported last month on a survey which built on work conducted in July 2010, three months after the drug was made illegal. Then, researchers found the popularity of mephedrone had surpassed that of all other drugs, with 27% of people questioned in two dance clubs reporting that they had or were going to take it that night.

The follow-up study at the same two clubs in July 2011 found mephedrone had become even more popular, with 41% of club-goers who had taken or intended to take mephedrone that night.

The popularity of mephedrone, which produces a mild sense of euphoria but has been blamed for paranoia, heart palpitations, insomnia and memory problems, has led to price increases. A gram of the synthetic drug costs around \$37 now compared with around \$30 a year ago. Before the ban it cost \$15 a gram. Its increased popularity is thought to be partly the result of the falling quality of cocaine, which costs around \$60 a gram but is mixed with other agents so is only about 25% pure.

The survey found the dance drug GHB – also known as GBL – was the second most popular drug among clubbers, with 24% of those questioned saying they intended to take it that night. Of 309 people questioned, 17% said they would be taking cocaine, while 16% said they would use cannabis. <http://tinyurl.com/6tyjapo>

## **Manning held in torture-like conditions, Mendez says**

The UN special rapporteur on torture, Juan Mendez, has formally accused the US government of cruel, inhumane and degrading treatment towards Bradley Manning, the US soldier who was held in solitary confinement for almost a year on suspicion of being the WikiLeaks source.

Mendez has completed a 14-month investigation into Manning's treatment since his arrest at a US military base in May 2010. The special rapporteur says that the US military was at least culpable of cruel and inhumane treatment in keeping Manning locked up alone for 23 hours a day over an 11-month period in conditions that he also found might have constituted torture.

"The special rapporteur concludes that imposing seriously punitive conditions of detention on someone who has not been found guilty of any crime is a violation of his right to physical and psychological integrity as well as of his presumption of innocence," Mendez writes.

Manning, 24, has been charged with 22 counts, including aiding the enemy, relating to the leaking of a massive trove of state secrets to whistleblowing website WikiLeaks. <http://tiny.cc/krx3aw>

## US tries new snitching strategy on Gbay prisoners

The first new US military commission prosecution was recently announced, against the Pakistani Majid Khan, Roger Fitch reported in the *Justinian* online legal blog last month.

A plea bargain quickly followed. Mr Khan, held without charge since 2003, will be sentenced in 2016. Is that speedy, or what, Fitch asks?

Like all the other people charged in commissions since US President 43 first set them up in November 2001, he will not stand convicted of any crime applying to him under the law of war. Khan, who finished school in Baltimore, is the only Gbay prisoner with American resident status. The new push is part of a strategy to get prisoners to testify against each other in return for "lighter" plea-bargained sentences, or simply better treatment while awaiting justice, Fitch says. Prisoners will have to denounce each other to save their lives, or at least escape lifelong extrajudicial detention.

## Israeli Supreme Court refuses to flout rule of law

The Israeli supreme court has rejected the state's request to postpone dismantling a large, unsanctioned West Bank settler enclave until late 2015.

A Palestinian spokesman was sceptical the ruling would be carried out.

The state submitted the delay petition this month, seeking to bypass the high court's earlier order to dismantle Migron outpost by 31 March because it was built on privately held Palestinian land.

Binyamin Netanyahu, the Israeli PM, scrambled to find a solution that would satisfy both settlers and the court. His government asked the court to let Migron's settlers stay put until new homes were built for them on a nearby West Bank hilltop by November 2015.

But the court ruled late last month that accepting the state's agreement would be tantamount to flouting the rule of law. "The obligation to fulfil the [earlier] ruling is not a matter of choice," it said.

Even so, it extended the evacuation deadline to 1 August. <http://tiny.cc/uv2rbw>

## International briefs

**Parking is a human right claimed:** A Canadian woman is claiming that parking in front of her home is a human right. Pamela Howson has alleged discrimination against the city of Ottawa in a case before the Ontario Human Rights Tribunal because zoning regulations do not permit parking on the street in front of her home in the Canadian capital, which is located in a heritage preservation district. – *Agence France Press* <http://tiny.cc/GvWf2b>

**What do you do to bequeath your online afterlife?** A *ReadWriteWeb* article explores options, with some US states proposing a new law to solve this problem entirely by giving representatives legal possession of Facebook profiles, Twitter accounts and other online information. Soon, your passwords could become a standard part of your digital will. Until then, the ghosts of Facebook, Twitter, LinkedIn and Google+ continue to roam the social networked afterlife, slipping amongst the living like ghosts. <http://tiny.cc/povhbvw>

**Kettling OK, court rules:** The European Court of Human Rights ruled last month that the UK police practice of corralling people, known as 'kettling', to maintain public order was legal. A demonstrator and others not allowed to exit a police cordon for almost seven hours during a protest against globalisation in 2001 had asked for the ruling. The court found that people within the cordon had not been deprived of their liberty within the meaning of the (Human Rights) Convention." Police had blocked off an area of Oxford Circus in London on May Day 2001 and held everyone inside – including some officer workers on their lunch break. *Press Association* – <http://tiny.cc/y8m7aw>

**UK police in for a shake-up:** British police look like they're in for a radical shake-up, including ending the ban on compulsory redundancies and introducing must-pass annual fitness tests. The aim is to end the "job for life" culture of [police](#) by bringing in new recruits with business backgrounds to join the senior ranks without having to start as a constable on the beat. The ideas are included a comprehensive review of police pay and conditions by Tom Winsor, and would, together with the reforms of pay and working condition proposed in the first part of his review, deliver more than \$2.8bn in savings over five years on the annual police pay bill. <http://tiny.cc/sao7aw>

**Executions resume:** Japan last month has carried out its first executions in more than 18 months, hanging three people and dashing hopes the country was moving towards abolishing the death penalty. Reports said the three men were hanged at prisons in Tokyo, Hiroshima and Fukuoka. They included Yasuaki Uwabe, who was convicted of killing five people at a train station in 1999. The executions are the first since July 2010; none of the 132 people on death row was executed in 2011, the first time a year had passed without executions in Japan for 19 years. <http://tiny.cc/m9kxbw>

## DATES

**4 Apr, Melbourne:** *Business and Human Rights: Recent Developments and Future Trends*, 12.30-2pm, 176 Little Lonsdale St. Cost \$20/10. Human Rights Law Centre. [www.hrlc.org.au](http://www.hrlc.org.au)

**8 Apr, ONLINE:** Taxation panel judges of the Federal Court of Australia propose to convene a 'National Taxation User Group' Forum at 4.30pm EST. It will be interactive from all registries across the court nationally through video conference from the Sydney registry. To lodge a paper, and to register: [http://www.fedcourt.gov.au/aboutct/national\\_taxation\\_event\\_20120418.html](http://www.fedcourt.gov.au/aboutct/national_taxation_event_20120418.html)

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



**20 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, Australian National University. 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)

**13-14 June, Sydney:** Anthropology – Culture and Rights: scepticism, hostility, mutuality: exploring the relationship between the concept of culture and the concept of human rights, U. Sydney. Info: <http://sydney.edu.au/news/arts/2247.html?eventid=9138>

**14-15 June, Sydney:** Crime prevention and communities: Social and environmental strategies for safer neighbourhoods – Sydney Convention & Exhibition Centre. <http://tiny.cc/j1xa8>

**12-13 July, Hobart:** The ANZ Critical Criminology Conference 2012, Faculty of Arts, Sandy Bay Campus, U. Tas. Email: [R.D.White@utas.edu.au](mailto:R.D.White@utas.edu.au); Telephone: 03 6226 2877

**6-8 Aug, Canberra:** CIPL Workshop, ANU: Connecting International Law with Public Law, Engendering governance: from the local to the global. Info: [Katharine.Young@anu.edu.au](mailto:Katharine.Young@anu.edu.au)

**27-31 Aug, Rarotonga (Cook Is):** 43rd Pacific Islands Forum. <http://tiny.cc/t24en>

**20-22 Sept, Canberra:** Public Law Weekend (including International Law Day) at ANU: Law's Challenge to Democracy – Democracy's Challenge to Law. Details: [cipl@law.anu.edu.au](mailto:cipl@law.anu.edu.au)

**20 Sept, Canberra:** Annual Kirby Lecture on International Law at ANU to be presented by former International Court of Justice Judge Christopher Weeramantry, now at Monash U.

**21 Sept, Canberra:** 15th Geoffrey Sawer lecture at ANU: to be presented by Professor Adrienne Stone, University of Melbourne, constitutional law expert currently engaged on a four-year project researching "Freedom of Expression in Democratic States".

**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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