

## **CLA holds annual AGM process from now until early April**

Civil Liberties Australia is about to hold its Annual General Meeting for 2013. These details comprise a formal notice to members, called for in the constitution.

The AGM is held electronically for those with individual email addresses (an email address cannot be shared): for people without email we post hard-copy versions of the ballot paper.

The eAGM process begins from today, 1 February 2013, with a call for motions from members. Members can put forward motions until 16 February. The CLA Board meets on 17 February to consider the proposed motions and the form of information/background to be provided if the motions proceed (sometimes concepts put forward are better dealt with in other ways).

Online discussion of motions will occur from 18 Feb to 9 March. There will be motions by the Board this year: one will be a proposed increase in annual subscriptions, to operate from 2014 (subs have not increased at all since foundation 10 years ago), and some tidy-up motions involving formal declaration of the vote and the wording/procedure of giving formal notice to members.

This year, as we do every second year, we will elect office bearers. The call for nominations will occur from 18 Feb, and be open until 9 March. Members must provide an under-300-word supporting statement, and can provide a photo if they wish. Fuller details will be provided to members shortly in a separate email.

The voting period is 11 March to 2 April for electronic voting: postal votes only are receivable until close of business (5pm AEST) on 4 April. The eAGM closes with declaration of results on 5 April.

## **Remarkable photos recall Wave Hill handover**

**If you haven't yet seen it**, catch this story – and the photos – on the CLA website: <http://tiny.cc/dxilrw/>

And yes, that's PM Gough Whitlam swigging champers from the bottle. Vincent Lingiari, after whom the NT electorate is named, is bottom left. He drank first.

The photos, and the story behind them, come from CLA member in Darwin, Rob Wesley-Smith, who was present at the Wave Hill ceremony in 1975.



## **Why is the Emergency Management Minister on holidays?**

Why did Emergency Services Minister Nicola Roxon take holidays at the height of bushfires raging throughout Australia, and floods inundating Queensland?

As EM Minister, she must have known that the worst time for bushfires is around late-January. If she didn't, she is very badly advised, or completely unobservant.

When floods take lives and the community of Queensland is hit by another billion dollar emergency, you would think the EM Minister would be right there, shoulder-to-shoulder with the emergency services, pulling the levers of government to deliver assistance for people in distress.

But Nicola Roxon was noticeable by her absence from January's major disasters in Australia...because, apparently, she was on holidays.

Civil Liberties Australia has long argued, and made submissions to the Prime Minister in our Australia Day letters in the past, that Australia should – must – have a separate, full-time Emergency Services Minister. The role should not be a tack-on to the vital job of Attorney-General, which is an important task in its own right.

We thought we'd won our argument when PM Gillard installed Roxon as AG, and made the former AG, Robert McClelland, a standalone EM Minister.

But when factions and Rudd-support hit the fan for the second time in early 2012, McClelland was double-dumped. The principle of Australia needing a full-time Emergency Management Minister was thrown out with him. It was a silly move.

- (NOTE: McClelland announced last month he would not contest the 2013 election).

CLA asks: PM Gillard please appoint a full-time, standalone, Emergency Services Minister. And do not allow him or her to take holidays at the height of the Australian bushfire and disaster season.

Australia is far, far, far more likely to be visited each year by national disasters than it is by terrorism. The government spends billions upon billions on terrorism measures each year, and has separate police, spooks and super-secret spooks, as well as national agencies and committees, to deal with something that hasn't happened in Australia for 30 years.

Yet for natural disasters – and you can guarantee there will be on average two or three a year – we don't even have a separate Minister. Government priorities are entirely wrong.

## [ANTI-DISCRIMINATION LAW special:](#)

### **CLA finds major flaw in Bill: genetics ignored**

The government's proposed Bill to prevent discrimination is introducing new discrimination into how people with genetic defects are treated.

Either inadvertently or deliberately, the government has omitted a key clause which was in the old Act. If it remains out of the new bill, the outcome could limit people's life insurance and superannuation, CLA warns.

Our alert – the only one to identify the major problem – was delivered in a special Supplementary Submission to the inquiry into the Bill. You can check it out here: <http://tinyurl.com/aa7tlxu>

...or you can read the CLA media release on the issue - click on the headline here: [Govt to penalise people with genetic defects](#) or go to the CLA Home page.

### **Marr calls proposed law a 'bigot's charter'**

David Marr, writing in Fairfax papers, gave the proposed rights/discrimination bill the thumbs down:

"I hesitate to say this but the Prime Minister is living in sin. I don't give a damn. Nor do most Australians. But that sort of thing bothers religious leaders. So much that Labor's Human Rights and Anti-Discrimination Bill will renew their authority to bar anyone in Julia Gillard's shoes from any job in any of their schools, hospitals and charities, even those they run with public money.

"It's a curious spectacle, a prime minister legislating against herself. ...Human Rights and Anti-Discrimination Bill offers the religious open slather. It's a bigots' charter..." <http://tiny.cc/hb3xqw>

CLA's National Media Director, Tim Vines, appeared on The World Today with Jim Wallace of the Australian Christian Lobby on this issue: <http://tiny.cc/llo1qw> - to listen or read the transcript.

### **Brandis slams mooted law as 'bid to shut down controversy'**

Shadow Attorney-General George Brandis says the Federal Government's proposed anti-discrimination laws are ideologically-driven and could be used to shut down controversial debates.

Senator Brandis says the changes are too broad and extend the reach of anti-discrimination laws to an unacceptable level. "When you drill down into this bill, what it really amounts to at its extreme reach is a law against controversy," he told ABC Local Radio.

"What this bill says is that if I claim to be offended by something somebody else says, I have a legal right to take them to court. (It) is a very deliberate and ideological attempt by (AG) Nicola Roxon, who is the ultimate nanny-state politician, to impose a code of conduct on Australians... which goes way beyond where anti-discrimination law ever went before," he said.

A Senate committee is examining the proposed changes, and hearings began last week. The inquiry has received almost 600 submissions. <http://tiny.cc/fx08qw>

## **CLA describes Bill's name as cynical and hypocritical**

In CLA's Bill submission, among other things we said it was 'cynically and hypocritically' named. "Civil Liberties Australia notes that the new Bill would have a shortened, customary form – because of how it is titled – of "Human Rights Act 2012". This is a most cynical and hypocritical action by an Australian Government. It begs the question whether this entire process was merely to enable the government to claim it has a "Human Rights Bill" or "Human Rights Act". At least have the decency, if the Australian Parliament decides to pass this legislation, to rename the Bill so that such a huge deceit is not perpetrated on the people," CLA said.

[ENDS ANTI-DISCRIMINATION LAW special](#)

## **Nothing new about Nova**

Unfortunately, there is nothing new about the plucking from outside parliament – and often, as in the case of Nova Peris for the NT Senate seat, from even outside party membership – of celebrity candidates.

Party politics are not CLA's concern: we don't play them. But, where any organisation has rules based on democracy, then thwarts those rules to the detriment of the members with voting rights, CLA has to call it as undemocratic. It's up to Labor Party members to do something about such flagrant breach of democracy, if they have the courage to do so.



Apart from that aspect, our main point in raising the NT Senate situation is that the parliament will lose one of its hardest-working and best chairs of committees. There are only two committee chairs whom CLA regularly appears before for whom we have the utmost respect: they are Senator Trish Crossin (Senate Legal and Constitutional Affairs Cttee) and MHR Kelvin Thomson (Treaties Cttee). In both cases, CLA could be assured a fair and considerate hearing, even when what we're saying, as is often the case, goes against the perceived wisdom of a Parliament House which has become overwhelmingly small 'c' conservative and buckled under to police, security, military and other forces of regimen.

*Above: Sen. Crossin with CLA President Dr Kristine Klugman.*

Crossin and Thomson stand out as beacons on the Hill, whereas many of the committee chairs (some with high qualifications in law) rank as candle flickers by comparison.

It's ironic that neither Crossin nor Thomson have made it to ministerial appointment. But perhaps that's the price you pay in the current political and parliamentary system for retaining your integrity.

Trish Crossin, we will miss your hand on the helm of one of the hardest working and most important parliamentary committees, the one that reviews legislation in the Senate for its final tick of approval, or otherwise.

## **It's official: Big Brother coming to a grandma near you!**

The Australian Government is trialling a system to remotely monitor individuals in their own home. It is being promoted as a scheme to remotely monitor elderly relatives for health and safety reasons...but the same technology could monitor citizens who aren't "elderly relatives".

The system uses high-tech sensors that can check everything from when a person leave a house to how often they turn on their taps and lights. The sophisticated Big Brother monitoring could measure heat in the kitchen or bathroom and capture medical conditions with connected biomedical devices. It could also monitor computer use, phone calls, email and text messages. Like most new technology, it could be used beneficially, as promoted by the government, or for control, as currently ignored by the government. No community consultation with privacy or civil liberties groups has occurred.

The CSIRO broadband technology will use up to a dozen sensors the size of a wristwatch around a residence. What it monitors is limited only by the imagination: number of toilet flushes (and one button or two)? are the doors locked? is the car in the garage? have you offended anybody by your speech today?

CSIRO is trialling the system with 20 elderly people living in Armidale, NSW, over 2013 but it is proposed as a key feature of the National Broadband Network. The trial is part of a \$40 million research initiative to help improve the way services are delivered in health, financial and government sectors with broadband infrastructure.

For every upside, there is a potential downside to intrusion on privacy at least, or active surveillance at worst, CLA says. The Big Brother system demands proper public consultation as to its boundaries. <http://tiny.cc/bs4orw>

### **‘Special’ Minister claims ‘electoral reforms’ will be passed soon**

Special Minister of State Gary Gray plans to pass laws by mid-year which will change the rules for the 2013 election, Michelle Grattan reported last month.

But the likelihood that a former national secretary of the Labor Party will preside over changes that benefit the people of Australia more than the Labor Party is just fanciful, CLA’s CEO Bill Rowlings said.

Senator Faulkner (Labor NSW), in pointing out the need for reform, said that every three years the people pour \$180 million into the pockets of the politicians of the main political parties.

It would appear all Minister Gray is proposing is that the ‘little people’ – who donate amounts of around \$1000 – will have to be listed, while the bigger donators, looking to feather their future nests, will still be able to hide behind ‘front’ and ‘friendly’ companies and other dodges.

“In terms of any new system being totally open and transparent, the proposed changes are simply likely to draw different wool over our same eyes,” Mr Rowlings said. <http://tiny.cc/m9qnrw>

### **Law may help assure personal end-of-life decision**

South Australians could choose voluntary euthanasia in a living will under possible new legislation.

Labor backbencher Steph Key is finalising plans for new laws here like those which exist in Belgium. A living will is a written legal document which can control personal end-of-life medical decisions by indicating whether you want to refuse treatment for selected future illnesses.

Under Ms Key's preferred model, you could state in a will what choice you wanted in "a situation where life is intolerable in a medical sense then . . . they would like to follow through with the option of voluntary euthanasia". "That doesn't mean that you have to follow through with that necessarily or you can't change your mind," Ms Key said. However, she said the decision should be made before a person became too sick.

A government bill to simplify making a living will is before parliament but it rules out medical choices that are illegal, such as voluntary euthanasia. Ms Key said she had not decided whether she would introduce a new bill or propose amendments to existing law.

University researcher and SA Voluntary Euthanasia Society member Julia Anaf said there had been a "paradigm shift" in young people's thinking about the issue. "Their comments are 'I've just seen my gran die and there's no way that's going to happen to me'," she said. <http://tiny.cc/9crgqw>

## State holds inquiry into proposed same sex marriage law

NSW is inquiring into a proposal for a new same sex marriage law, with the inquiry likely to cause ripples throughout the nation because of its broad terms of reference.

Nationals MLC Niall Blair chairs the NSW Parliament's standing committee on social issues, which is calling for submissions by 1 March.

The terms of reference include analysing any legal issue that might arise if NSW (or another state) passed marriage laws different from the Commonwealth law, such as interaction problems (between States/Territories and the Commonwealth), rights of people married under different laws in another state, and the people's rights if the marriage fails.

The committee is also charged with reviewing and reporting on how other Australian jurisdictions are handling the issue of marriage equality, as well as looking for alternative legislation like civil unions, all while reporting on "changes in social attitudes (if any) to marriage in Australia".

Now there, without any time limitation, is a biggy! Wonder what the Aborigines thought of marriage in 1788? Details via phone (02) 9230 2800 ,or [samesexmarriage@parliament.nsw.gov.au](mailto:samesexmarriage@parliament.nsw.gov.au)

## ODD SPOT: Have you seen our Odd Spots recently?

On the CLA website, our quirky Odd Spots change regularly...

Laws cover women, but king sees all <http://tiny.cc/5i9jqw>

Not now, nurse. Here's the drill – you're too sexy! <http://tiny.cc/3m9jqw>

Queen vetoed Bill giving MPs right to war vote <http://tiny.cc/et02qw>

Stylometry will prove you have the write stuff <http://tiny.cc/zh8hrw>

## It's mandatory that justice is blinded in the north

Justice Dean Mildren (right) handed down a life sentence in the NT Supreme Court last month, saying the sentence was an injustice but mandatory under minimum sentencing laws.

He gave life, with 20 years non-parole, to Zak Grieve, 20, who had pulled out of a planned murder at the last minute. Grieve was one of two convicted over the contract killing of 41-year-old Katherine man Ray Niceforo, who was bludgeoned to death in 2011.

Justice Mildren said he would recommend the Territory Administrator release Grieve on parole after 12 years. Grieve's lawyer, John Tippet QC, says mandatory sentencing laws were "a failure". "It's not sensible and it doesn't encourage people to desist," he said.



The man who carried out the murder, Christopher Malyschko, 25, will be eligible for parole in 18 years.

The NT Attorney-General, John Elferink, said that "mandatory sentences are there to satisfy public expectation". He said the mandatory sentence regime, supported by both sides of politics, will not be changed.

CLA says both sides of politics in the NT are wrong: there will always be exceptional cases, where a judge's or magistrate's discretion is needed for justice to prevail. <http://tiny.cc/g49rqw>

## MP plans foetal homicide law, denies abortion link

An MP is planning to introduce a foetal homicide law in South Australia, which would criminalise the inadvertent killing of an unborn baby, say in a car accident.

Family First MP Robert Brokenshire has drafted a proposal that would see criminal charges apply to people who cause the deaths of unborn babies in circumstances including assaults, domestic violence and car accidents where drivers are found to be at fault. Mr Brokenshire denies he is trying to re-run an abortion debate through back-door methods.

In a recent SA car crash, the unborn baby's death was included in the road toll but not reflected in the charges laid against the person who allegedly caused the crash, the ABC's *PM* program reported.

CLA member and the immediate past president of the Australian Lawyers Alliance, Greg Barns, says the question is a difficult one, on the margin between justice and conscience. "It is an area where we ought to be looking at compassion and keeping the criminal law well away, except for those extreme cases where, for example, a person deliberately assaults another person who is pregnant," he said. "Outside those cases, there's no room for the criminal law in this area."

Queensland has the type of law proposed for SA, and WA has a similar law on the backburner. <http://tiny.cc/jeo1qw>

## **Governments play fast and loose with our freedom to choose**

Governments throughout Australia are increasingly wanting to interfere in personal choices: in WA, they're thinking about stopping shops selling fast food.

"Limiting the number of outlets selling unhealthy products or those that could cause harm were a possible intervention," the state health coordinator, Dr Tarun Weeramanthri was quoted as saying. <http://tiny.cc/tf8zqw>

CLA's WA Director, Rex Widerstrom – interviewed by GWN7 – pointed out that there was a point of principle at issue: whether it is the role of the state to dictate to adults what they put into their bodies.

"Do we really need an army of bureaucrats policing what we eat? Will backyard fry cooks be raided the way meth cooks are? Will we have to line up and show our lunchboxes to a government inspector?" he asked.

Asked about how such bans would play out in remote area, Mr Widerstrom explained he worked in WA's north: the only seller of takeaway food in the town was a service station – pies, chips, fried chicken, sausage rolls, Coke. "Take that away and you take away my right and that of the townsfolk and tourists to buy lunch," he explained. "The government's role should be to educate, not bring in wowsers bans of things some politicians personally dislike."

## **Call to reopen 'murder' death inquest**

Barbara Etter, a member of CLA, has lodged a formal request for re-opening and completing of the inquest into the disappearance of Hobart hospital radiation expert, Bob Chappell, from the family yacht (*right, ABC photo*) moored off Sandy Bay in the Derwent on Australian Day 2009.

She is acting as solicitor for Chappell's wife, Sue Neill-Fraser, and her daughters. Neill-Fraser is serving a 23-year sentence in Risdon Prison for her husband's murder but with "no body, no weapon no forensic evidence linking her to the crime scene, no plausible motive, no admissions or confessions and no eyewitnesses to the actual crime".



Chappell's body has never been found: the inquest into his death has never concluded.

The case, which has been through one appeal so far, has puzzled some close observers of the Tasmanian system. "There are glaring deficiencies in police investigations in regards to call taking and door knocking, the basic building blocks of a police investigation" Ms Etter said recently. She is a former Assistant Commissioner of the WA Police.

CLA contributed to a debate last month on the [Tasmanian Times.com](http://www.tasmaniantimes.com) blog. This is what CEO Bill Rowlings wrote:

“THESE ARE WORRYING ISSUES: The issues Barbara Etter raises (about police efficiency and evidence handling) are very familiar, and need addressing nationally. Almost every single time an issue or case arises where police procedures and protocols are made public, the processes themselves are seen to be totally inadequate or inappropriate, or – where they are appropriate – the police have not followed the rules.

“The competency and effectiveness of police forces on a day-to-day basis appears to be never questioned, or reviewed by an independent process (this comment does not relate to possible corruption, just to normal police business). Ministers do not ‘manage’ Police Commissioners, because politicians are generally afraid of the voting power of the police bloc. Once appointed, Commissioners are laws unto themselves: fortunately, Australia has been mostly well served by our past and present Commissioners...but not always.

“We need a mechanism by which the people can have a greater say in management of police, and the police can benefit from the business and professional experience of those outside the notoriously ‘closed shop’ that is policing. Civil Liberties Australia suggests root and branch review of either all, or selected, police practices on a rolling, two-year basis. – Bill Rowlings, CEO, CLA. Read many other supportive comments, criticising Tasmania’s police and ‘justice’ system.

CLA wrote to the Tasmanian AG-Premier on this case two years ago, and asked for the state to review its bail laws, because Neill-Fraser spent about 18 months on remand, partly due to police inefficiencies, CLA believes. We were told the bail laws had recently been reviewed...25 years ago. <http://tiny.cc/hgonrw> <http://tiny.cc/cdonrw>

## **Wowers try to smoke their way to dominance**

We’ve paid considerable attention in January 2013 to the wower brigade, as evidenced by their assault on the freedom of choice of smokers, who consume a legal product.

Catch the recent articles on the CLA Home page at: <http://www.cla.asn.au/>

## **Australian briefs**

**Libs want voting changed:** Parts of the Liberal Party want to change federal electoral laws to limit the impact of preferencing deals, in a move that could hurt Labor and the Greens. The Opposition's spokeswoman on electoral issues, Bronwyn Bishop, has suggested the Coalition should introduce optional preferential voting at a federal level if it wins this year's election. Under optional preferential voting, people are still required to vote, but they do not have to number all candidates on the ballot paper. <http://tiny.cc/asbsqw>

**Experts to be called before inquiry:** Motor-mouth commentators Alan Jones and Andrew Bolt will be called before an inquiry, about making it easier to convict people for serious racial vilification, ordered by NSW Premier Barry O'Farrell. There have been no successful criminal prosecutions in the 24-year history of the NSW laws. Jones and Bolt are apparently on a witness list drafted by the inquiry, which will hold public hearings in early April. <http://tiny.cc/jo60qw>

**ASIO wants to terrorise your computer:** Spy agency ASIO wants to hack into Australians' personal computers and commandeer their smartphones to transmit viruses to terrorists, *news.com.au* reported last month. The federal Attorney-General's Department is pushing for new powers for the Australian Security Intelligence Organisation to hijack the computers of suspected terrorists, proposing that ASIO be authorised to "use a third party computer for the specific purpose of gaining access to a target computer". The purpose of this power is to allow ASIO to access the computer of suspected terrorists and other security interests," an AG's spokesperson said. <http://tiny.cc/e560qw>

**Justice not delivered in real time:** People won't be allowed to live tweet or blog from inside NSW courtrooms under proposed laws banning use of smartphones and the like to "transmit information that forms part of the proceedings of a court". Attorney-General Greg Smith has introduced a bill to make tweeting, blogging or publishing to a website the proceedings from within a courtroom an offence costing up to \$2200 and a year in jail. Judges can allow exceptions. Mr Smith has thrown open for public discussion the question of whether media should be exempted. <http://tiny.cc/dri1qw>

**Politicians are going to teach you about you:** A government committee wants to teach you about civics...so you'll vote 'yes' in a referendum later in 2013 for direct funding by the feds of local government. The Joint Select Committee on Constitutional Recognition of Local Government wants a referendum with the 2013 federal election to boost local government's status. It also wants a national civics education campaign, and a referendum panel of experts and key public figures to oversee campaigning and funding for groups to participate in campaigns to ensure the success of the referendum. <http://tiny.cc/wv4drw>

**No age limits?** NSW, Victoria and Queensland want blanket exemptions from the Gillard Government's proposed anti-discrimination laws, which will outlaw discrimination on 17 grounds from age to sexual orientation, medical history and nationality. They claim the new laws will stop them setting age limits for driver's licences, or insisting that public servants be Australian citizens or permanent residents. Judges could no longer be forced into retirement and public transport fares could not be discounted for children or seniors, they have told a Senate inquiry into the proposed new laws. The draft Human Rights and Anti-Discrimination Bill combines and updates five sets of federal discrimination laws covering race, sex, age and disability. <http://tiny.cc/kcylrw>

## CLA report – for January 2013

**Australia Day letter**, see website: We ask the Privileges Committee to stop another parliamentary committee censoring a CLA submission.

### Meetings:

- Geoff Pryor, cartoonist, re commissioned cartoon for use by CLA
- Prof Thomas Mautner re historical perspectives of civil liberties
- Ali Khan re communications strategy
- Estelle Blackburn re cold cases
- Dr Adam Tomison re Australian Institute of Criminology projects (*right, at left, with CLA CEO Bill Rowlings*)
- Tim Vines, Ali Khan re social media strategy
- Rob Wesley-Smith re the formal hand-back of 3236 sq km of Gurindji lands to their leader, Vincent Lingiari, 38 years ago.



### Submissions:

- To the panel reviewing Pharmaceutical Patents, read it here <http://bit.ly/VsuCLm> (Tim Vines)
- To Committee of Inquiry into Human Rights and Anti-Discrimination Bill 2012 (see 'Media' below for link)

### Media:



NATIONAL (mostly National Media Director, Tim Vines):

Airport Body Scanners:

\* Interview on camera for *Today Tonight*

\* 2CC, Canberra Radio

National Royal Commission into Sexual Abuse

\* background information to *The Australian*

Genetic Discrimination:

\* Submission to Senate Legal and Constitutional Affairs Committee (<http://bit.ly/Vja7R8>)

\* Media Release: see CLA website

\* Interview for *The Australian*

\* Interview for Radio Adelaide, SA

Anti-Discrimination Bill (free speech and religious exemptions)

\* ABC Radio interview

\* 2CC radio.

WA (Director WA, Rex Widerstrom):

Releases:

- More speed cameras won't reduce the road toll
- MPs are right to be cautious on road toll data
- Outside judges must be brought to WA to handle the Rayney appeal

Interviews:

- GWN/7 on proposals to limit stores able to sell fast food (as well as tobacco & alcohol)
- ABC radio on extending GPS tracking to arsonists and those who breach VROs (AVOs)

TASMANIA (CEO Bill Rowlings):

Commentary on request to re-open coronial inquest into death of Robert Chappell, yachtsman (see *above* for details).

NOTE: Last month we mentioned meeting with Rob Wesley-Smith and Charlie 'Wood'. That should have been 'Ward'. Charlie is the son of Russell Ward, noted Australian historian (*The Australian Legend*), and is doing his own PhD on the history of the Wave Hill walk-off by Aboriginal stockmen, the longest strike in Australian history, lasting seven years.

## INTERNATIONAL

### **Lead: did it weigh in to produce a generation of criminals?**

An article in *Mother Jones* this month sheets home blame for extraordinary crime levels on lead, the "hidden villain behind violent crime, lower IQs and even the ADHD epidemic".

Here's an excerpt trying to explain why nobody noticed much earlier:

"Mark Kleiman, a public policy professor at the University of California-Los Angeles who has studied promising methods of controlling crime, suggests that because criminologists are basically sociologists, they look for sociological explanations, not medical ones.

"My own sense (author Kevin Drum) is that interest groups probably play a crucial role: Political conservatives want to blame the social upheaval of the '60s for the rise in crime that followed. Police unions have reasons for crediting its decline to an increase in the number of cops. Prison guards like the idea that increased incarceration is the answer. Drug warriors want the story to be about drug policy.

"If the actual answer turns out to be lead poisoning, they all lose a big pillar of support for their pet issue. And while lead abatement could be big business for contractors and builders, for some reason their trade groups have never taken it seriously." <http://tiny.cc/vtkqtw>

## Australian-funded police squad kills seven

Indonesia's Australian and US funded police anti-terror squad killed seven suspected militants in three days early last month, triggering renewed allegations that the force is failing to try to take suspects alive.

Police spokesman Brigadier General Boy Rafli Amar said, according to *AP*, that no shots were fired against officers during the raids Friday and Saturday in eastern Indonesia, but that the suspects in at least one of the locations had explosives "ready" to be detonated.

Haris Azhar, chairman of the Commission for Missing Persons and Victims of Violence, says it appeared the suspected militants were victims of "extrajudicial killings" and called for an independent investigation. He said animosity toward the anti-terror squad was driving militancy.

The squad was established with US and Australian help after the 2002 Bali bombings. <http://tiny.cc/23phqw>

## UK law won't 'insult' the intelligence, as in Oz

In an almost direct contradiction to what the Australian Government wants to happen here, the use of insulting language in the UK will no longer be illegal in cases in which a specific victim cannot be identified, the British Home Secretary, Theresa May (right), said last month.

In a government climb down, the UK's Public Order Act which covers speech and writing on signs and states: "A person is guilty of an offence if he uses threatening, abusive or insulting words or behaviour", will be changed to remove the word insulting.

The move follows a high-profile campaign which united Christian and secular groups and was spearheaded by the comedian Rowan Atkinson, the human rights campaigner Peter Tatchell and the former shadow home secretary David Davis.



The push to change section five of the act followed a series of headline-grabbing arrests and prosecutions ranging from an Oxford student asking a police officer "Do you realise your horse is gay?" which Thames Valley police described as homophobic and "offensive to people passing by", to a 16 year old holding up a placard that said "Scientology is a dangerous cult".

In December 2012, the UK Government suffered a heavy defeat in the House of Lords which voted 150 votes to 54 in favour of an amendment to remove the word "insulting".

Campaigners had complained the clause had been used by police as a "catch-all" offence to arrest people on trivial matters. It will continue to be illegal to use insulting language when a victim is clearly identifiable.

The government announcement has delighted Simon Calvert, director of the "feel free to insult me" campaign which argued the law should not be used to protect people from having their feelings hurt. "It is good news for free speech whoever you are," he said. <http://tiny.cc/08m1qw>

**Read more about the gay horse:** <http://tiny.cc/tin1qw> (the case was eventually dropped).

## Chinese detain activist 'in secret'

A Chinese man who agitated for investigation of the suspicious death of an activist has been detained at an unknown location, his lawyer said last month, describing him as possibly the first to be held under a controversial new law that allows secret detention.

Authorities in Shaoyang city in Hunan province told family members of Zhu Chengzhi, 62, that he would be put under "residential surveillance" under "Article 73", Zhu's wife, Zeng Qiulian, said.

Article 73 legalises detaining people in secret, a practice that began in earnest in 2011. Fearing that anti-authoritarian uprisings across the Arab world could inspire challenges to Communist rule,

the government unlawfully held dozens of activists, including artist Ai Weiwei, for weeks or months in secret detention.

The new law allows police to detain people they suspect of crimes related to state security, terrorism or serious corruption in a designated location.

Families are to be notified within 24 hours, but police are not required to disclose the whereabouts of the person detained and can deny access to a lawyer. <http://tiny.cc/4relqw>

The Chinese laws sound similar to Australia's detention and control order regime, CLA says.

### **ODD SPOT – USA: Potheads go clubbing, legally**

With reggae music pumping and flashing disco-style lights, members of a recreational pot club lit up in celebration of the new year in Denver last month, smoking legally.

Club 64, in an industrial area opened with some 200 people paying \$29 each admission price for the bring-your-own pot club, Kristen Wyatt of *AP* reported.

Two private pot dens popped up after Colorado's Governor signed into law a constitutional amendment allowing recreational pot use. Club 64 gets its name from the number of the amendment. A similar pot club opened on the same day in the small southern Colorado town of Del Norte.

Colorado's marijuana amendment prohibits public consumption, and smoke-free laws also appear to ban indoor smokeouts. But Club 64 attorney Robert Corry said private pot dens are permissible because marijuana isn't sold, nor is food or drink. <http://tiny.cc/rjb8pw>

### **ODD SPOT - USA 2: Gays can die for – but not live with – the US military**

Gay marriage is now legal in nine states and in Washington DC. But because same-sex marriages are not recognized under federal law, the spouses of gay service members are barred from receiving medical and dental insurance and surviving spouse benefits and are not allowed to receive treatment in military medical facilities.

Spouses are also barred from receiving military identification cards, which provide access to many community activities and services on base, including movie theaters, day care centers, gyms and commissaries. Gay service members who are married are not permitted to receive discounted housing that is routinely provided to heterosexual married couples. <http://tiny.cc/box8qw>

### **Ds get booted out of the Yard, on to the streets**

Scotland Yard – the famous British police organisation – will close 65 police stations to the public across London and move its front desks into post offices and supermarkets as part of proposals to make \$760m in budget cuts.

The changes will also see the role of the detective at “the Yard”– the ‘Ds’ were once considered to be the finest investigators in the world – apparently downgraded.

There will be 1,200 more constables in London's districts, called boroughs, and neighbourhood teams will be boosted by 2,600 officers: 800 of the 1,200 extra constables will be detectives taken out of specialist squads, such as the burglary squad, and put back into uniform and on to the streets.

The aim is to hand investigative powers to neighbourhood constables for low-level crime. They will be led by a "sheriff" in each London borough, and will be supported by teams of special constables, PCSOs and some detectives within each of the 32 boroughs of the force. <http://tiny.cc/c8anqw>

### **Ministers abuse Queen's power of veto, claim**

UK government ministers have exploited the royal family's secretive power to veto new laws as a way to quell politically embarrassing backbench rebellions, it was claimed last month.

Tam Dalyell, the sponsor of a 1999 parliamentary bill that aimed to give MPs a vote on military action against Saddam Hussein, said he is "incandescent and angry" that it was blocked by the Queen.

She was apparently acting under the influence from then-Prime Minister Tony Blair's government. It also emerged that Harold Wilson used the Queen's power to kill off politically embarrassing bills about Zimbabwe and peerages.

MPs and republicans have complained the little-known power to veto or consent to new legislation grants the Queen and Prince Charles unwarranted powers and is undemocratic. Detail about its application is only now emerging as a result of a freedom of information campaign by a legal scholar – at least 39 different laws have been subject to the secretive royal consent arrangement.

No one has yet explained to what extent the Queen and Prince Charles have similar powers in Australia, an issue republicans may care to follow up. <http://tiny.cc/if7zqw>

## War on drugs has failed, says President



The west's "war on drugs" has failed and continuing with prohibition will only cost more lives, the Guatemalan president, Otto Pérez Molina (left), said last month.

He commented in an article in *The Observer*, which he repeated at the Davos forum in Switzerland where he attacked the international community for its support for prohibition, and called for a regulated narcotics market.

"I believe western countries fail to understand the reality that countries such as Guatemala and those of Central America have to live in," said Pérez Molina. "There has been plenty of talk, but no effective response. This is due to a lack of understanding on the part of western countries."

He said western leaders must look beyond their domestic agendas. "A message should be sent to the leaders of the countries with the biggest drug markets. They must think not only of... the context of their country, but of what is happening in the world, in regions such as Central America, where this destruction, this weakening of democracy, is happening. They must be open to recognising that the struggle against drugs, in the way it has been conducted, has failed."

Up to 400 tonnes of cocaine are transited through Guatemala each year, up from seven tonnes in 2008, because US-led operations in the Caribbean and the Pacific have prompted the cartels to seek alternative trafficking routes, he said.

The president does not favour full legalisation of narcotics but is arguing for the introduction of a regulated drugs market. <http://tiny.cc/lzn7qw>

## 'Blanket' criminal checks breach human rights, court rules

British Home Secretary Theresa May is facing urgent pressure to overhaul the UK's criminal records system after an appeal court ruled how it operates is unlawful and breaches human rights. Senior judge, Lord Dyson, the Master of Rolls, ruled that a blanket requirement on job applicants to disclose minor offences, including cautions, was a breach of their right to a private and family life.

In an unusual move, publishing the judgment was delayed from December to give the Home Office time to prevent implications of the ruling plunging the criminal record checks system into chaos. But after a hearing on late last month, Dyson said: "It is extraordinary that nothing has been done. The government needs to pull its finger out and introduce legislation."

The formal judgment just published involved a 21-year-old man identified in court as "T", who was given warnings by Greater Manchester police when he was 11 over two stolen bicycles.

He was asked to disclose the cautions – even though they were spent under the Rehabilitation of Offenders Act 1974 – when he applied for a job at a football club at the age of 17 and when he applied to a university sports studies course. <http://tiny.cc/d32orw>

## **Judge 'Alice' snared in Catch 22 where the law is what the govt says it is**

A federal judge in New York refused last month to require the US Justice Department to disclose a memo providing legal justification for the targeted killing of a US citizen, Anwar al-Awlaki, who died in a drone strike in Yemen in 2011.

Judge Colleen McMahon's ruling reeked of skepticism about the anti-terrorist program that targeted him, and frustration with her own role in keeping the legal rationale for it secret.

"I can find no way around the thicket of laws and precedents that effectively allow the executive branch of our government to proclaim as perfectly lawful certain actions that seem on their face incompatible with our Constitution and laws while keeping the reasons for their conclusion a secret," she wrote.

"The Alice-in-Wonderland nature of this pronouncement is not lost on me," Judge McMahon wrote, adding that she was operating in a legal environment that amounted to "a veritable Catch-22."

A lawsuit for the memo and related materials was filed under the Freedom of Information Act by The *New York Times* and two of its reporters, Charlie Savage and Scott Shane. The January decision also rejected a broader request under the act from the American Civil Liberties Union.

<http://tiny.cc/zuhkqw>

## **Editor gets 10 years for criticising the king**

A Thai magazine editor, Somyot Pruksakasemsuk, was last month sentenced to 10 years for allowing the publication of two magazine articles that defamed King Bhumibol Adulyadej and the royal family.

Bangkok's Criminal Court said: "The articles accused the king of having power over all past governments and being behind most crackdowns against demonstrators. The information in those articles was incorrect. And as the editor of the publication, the defendant should take extreme caution in publishing."

SP is the third person convicted in just one month for insulting the royal family as calls grow within Thailand to change laws used to shield the monarchy from criticism. He was arrested in April 2011, five days after helping start a campaign to change the lese-majeste law. <http://tiny.cc/ueqfrw>

## **International briefs**

**New York Times** 23 January 2013 – Quote of the Day:

"If you're a woman in distress, the last thing you want to do is go to the police."

[VRINDA GROVER](#), a human rights lawyer based in New Delhi, India.

**UK to close seven prisons:** The UK will close seven public-sector prisons by March and partially shut two others under a \$95m a year cost-saving drive announced by Justice Secretary Chris Grayling. There will be 2600 fewer "old and uneconomic places" at a time when the jail population stands at 83,632, about 5000 below the all-time record high of 88,179 in the aftermath of the 2011 summer riots. Grayling has also announced a feasibility study and search for a possible site for a Titan-size jail holding more than 2000 inmates. This would be 20% larger than any existing prison.

<http://tiny.cc/gS4oqw>

**BA women wins right to cross-dressing:** British Airways check-in worker Nadia Eweida, 60, had her right to express her religion unfairly restricted by rules preventing her wearing a cross at work, the European Court of Human Rights (ECHR) in Strasbourg has ruled, overturning a British decision. The practising Coptic Christian was awarded \$2500 compensation. Three other Christian applicants – Lilian Ladele, a local authority registrar who also lives in London, Shirley Chaplin, 57, a nurse from Exeter, and Gary McFarlane, 51, a Bristol marriage counsellor – who also claimed they had suffered religious discrimination, lost their appeals. <http://tiny.cc/fileyqw>

**British grandmum to be executed in Bali:** A 56-year-old British grandmother, Lindsay Sandiford, has been sentenced to death after attempting to smuggle \$2.4m-worth of cocaine into Bali. Police said they found almost 5kg of cocaine in the lining of her suitcase. There were gasps of surprise in Denpasar district court as the sentence was handed down; the prosecution had sought a 15-year prison term, not the death penalty, but the judge ruled that Sandiford's attempted crime had damaged Bali's image. Indonesia has one of the strictest drug policies in the world, with about 40 foreigners on death row convicted of drug crimes, and five foreigners have been executed since 1998, all for drug crimes, the Lowy Institute has reported. There have been no executions in the country since 2008, when 10 people were put to death. <http://tiny.cc/z2cbrw>

**Sex offenders have right to social network sites:** The 7th US Circuit Court of Appeals has ruled that a state law, which bans sex offenders from using social networking sites just because children are on them, is unconstitutional. The decision overturns a previous federal decision upholding the law. The circuit found that while there are legitimate concerns about the welfare of children, barring sex offenders from social networks violates their constitutional right to free speech. The case is likely to go to the Supreme Court. [AP via The Verge] <http://tiny.cc/liyerw>

**Vietnam to make death penalty chemical:** Vietnam will start producing its own chemical for executing prisoners after factories in the EU stopped shipments because of objections to the death penalty, AP reported last month. Vietnam stopped using firing squads in 2011 because of concerns it was traumatising the shooters. In 2012, the government said it was unable to execute 532 people on death row because it could not source the drugs for lethal injections. <http://tiny.cc/rvunrw>

**How great is the terrorism threat today?** Jason Burke, The Guardian. <http://tiny.cc/8haorw>

## DATES

**14 Feb, Sydney:** Prof Geoffrey Lindell delivers the 4th Annual George Winterton Lecture, 6pm, Banco Court, Supreme Court of NSW. Free but register via: [sydney.edu.au/law/events](http://sydney.edu.au/law/events)

**15 Feb, Sydney:** 2013 Constitutional Law Conference and Dinner, Art Gallery of NSW, Details: Gilbert and Tobin Centre. Details: <http://www.gtcentre.unsw.edu.au>

**23 Feb, Melbourne:** Fundraising benefit concert for race discrimination case by six young men against Victoria Police (Federal Court this month). Schoolhouse Studios, Abbotsford. Details: <http://tiny.cc/ot2xqw>

**25 Feb, Sydney:** 3rd Human Rights Tertiary Workshop, 9.30–5pm, Faculty of Law, UNSW. <http://tiny.cc/5rlgow> Free.

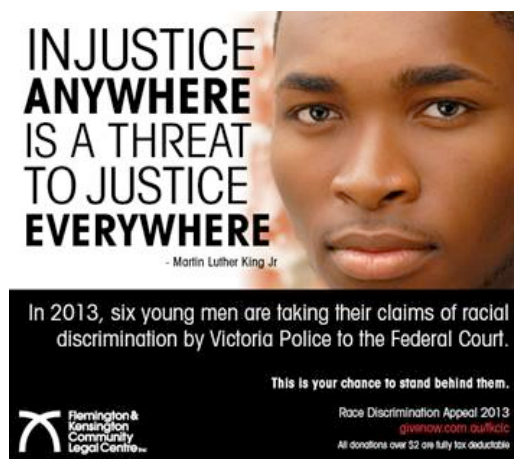
**25-26 Feb, Melbourne:** Media and Communications Law. Keynotes: Dr Mark Andrejevic (Centre for Critical and Cultural Studies, UQ) on *Pre-emptive security: Policing, Security, and the Big Data*; Professor Tanya Aplin (Dickson Poon School of Law, King's College London) on *Privacy Reform Post Leveson*; and Dr Alana Maurushat (Cyberspace Law and Policy Centre, UNSW) on *Piratage*. Details and to register: <http://tiny.cc/x6cgow>

**27 Feb, Perth:** Former High Court judge Michael Kirby on Statutory Interpretation: What Does it Mean? 9-9.45am, Lecture Theatre (G89) Business School. Free.

**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/>

**15-16 March, Brisbane:** Qld Law Society Symposium. Info: [qls.com.au/symposium](http://qls.com.au/symposium)

**4-5 April, Geelong:** Leadership for the Next Generation in PNG. Details: <http://www.deakin.edu.au/alfred-deakin-research-institute/png/>





**16-18 April, Canberra:** The Centre for Excellence in Police and Security (CEPS) at Griffith U. will hold a three-day Human Rights and Policing Conference commemorating the 50th anniversary of the United Nations Seminar on the Role of Police in the Protection of Human Rights, held in Canberra in 1963. Curators are Simon Bronitt (left) and Melanie O'Brien (right). To register interest, email [humanrights2013@griffith.edu.au](mailto:humanrights2013@griffith.edu.au) CLA will speak.



**30-31 May, Sydney:** Biometrics Institute Asia-Pacific conference 2013. Details: <http://tiny.cc/l66eow>

**5-7 June, Canberra (TBC):** Sorcery and Witchcraft-related Killings in Melanesia: Culture, Law and Human Rights Perspectives conference, ANU. Info: [richard.eves@anu.edu.au](mailto:richard.eves@anu.edu.au) College of Asia and the Pacific. Scholarship applications from potential Melanesian speakers by 15 Feb 2013.

**25-28 August, Adelaide:** 8th Australian Women and Policing Conference. Deadline for abstracts/biogs is 25 Feb 2013 to [conference@acwap.com.au](mailto:conference@acwap.com.au) Info: <http://www.acwap.com.au>

**11-13 Dec, Parramatta, Sydney:** Trans-Tasman Domestic Violence Conference, Rydges Parramatta Hotel, website: <http://www.gcadv.net/2013dvconference.htm> Call for papers (first closing 30 Oct 2012) or details and registration form, email: [chairman@gcadv.net](mailto:chairman@gcadv.net)

**2015:**

**June, England:** 800th anniversary of Magna Carta  
**Date, Place TBC:** 2<sup>nd</sup> Global Domestic Violence Conference

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