

Law schools asked to take up fight for equal justice nationwide

Law school deans throughout Australia have all been asked to lead the way towards a national right of appeal ‘in extremis’, when all normal appeals in criminal cases have expired.

The request follows a major change in the law in South Australia last month, where the *Statutes Amendment (Criminal Appeals) Act 2013* means that convictions considered by civil liberties people, academics and some practising lawyers to be grievously in error can be reviewed again.

At least four cases will be re-examined in SA, probably this year.

One, that of Henry Keogh, has been of concern since his conviction and jailing for 26 years in 1995. The other three cases likely to be considered among the first batch are those of David Szach, Edward Splat and Derek Bromley.

New forensic science findings sometimes appear to be doing as much harm as good due to poor sampling techniques, bad laboratory handling of specimens, and wrong interpretation or emphasis in presenting results. Just one forensic “expert” who is not up to the job, or is over-confident, can see a number of people behind bars unjustifiably.

It takes years for mistakes and misinterpretations to emerge clearly. Many times, people convicted have exhausted their appeal rights by the time errors are acknowledged.



Justice campaigner Dr Robert Moles (left) and a team of activists have worked to change the law in SA. Now they’re hoping that other states get behind the initiative too. “Basically, the Rule of Law is described by the High Court as a condition pre-supposed by the Constitution for Australian law,” Dr Moles said. “It requires ‘equality before the

law’, which surely means that all Australians should have the same appeal rights.

“Appeal provisions have been in ‘common form’ for the past 100 years, so that the new SA legislation should mean that the equivalent provisions in other states should be quickly brought back into ‘common form’,” he said.

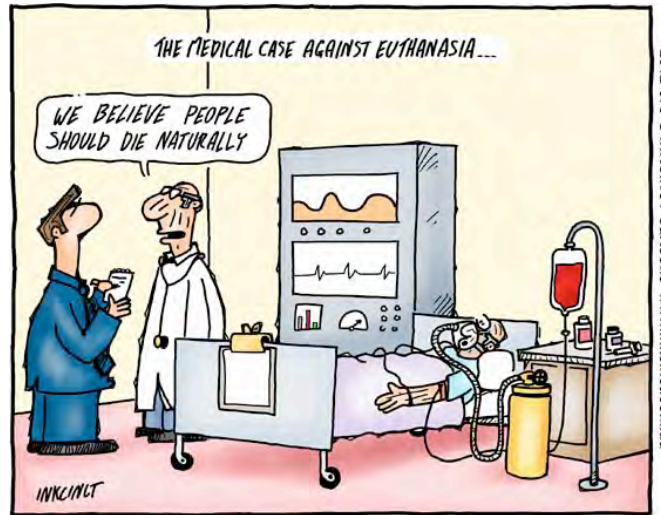
Tasmanian MPs to vote for individual freedom?

Civil Liberties Australia is urging all Tasmanian Members of Parliament to legally enforce people’s right to make decisions about their own bodies.

The request is made in a submission on the Giddings/McKim voluntary assisted dying discussion paper, and in individual letters to every MP.

“MPs have the power in their vote to permit dying people of sound mind to do with their own bodies as they wish,” CLA says. “No government should force a person of sound mind but frail body to live in prolonged suffering against their wishes.”

The CLA letters to State MPs set out basic principles on individual freedoms, and ask the politicians to vote on evidence-based facts from four places which have had voluntary assisted dying laws for years: Oregon and Washington State, Belgium and The Netherlands.



– with thanks to John Ditchburn, Inkcinct

“Every individual has the right to make decisions about their own body. It is one of the most fundamental freedoms that humans enjoy,” CLA’s Tasmanian media spokesperson, and submission author, Richard Griggs said.

“And it surely can’t be the role of government to make criminals out of compassionate health care professionals who, at the request of their patient, seek to end profound physical suffering and agony when palliative care has failed. Yet that is exactly what the current system does. This law reform is a necessary step we must take to restore people’s individual rights.”

Civil Liberties Australia also reminded parliamentarians that it’s not the state’s role in Australian society to impose religious beliefs on its citizens. “We are a secular nation under the Australian constitution. No federal or state law should impose religious beliefs on the people in society who are not religious. But that’s what the current law does.

“The proposal from Lara Giddings and Nick McKim for voluntary assisted dying laws is the right one to restore the proper balance of freedom of choice for Tasmanians,” Mr Griggs said.

Tasmanian representatives of the Australian Medical Association and religion are the most vocal opponents, he said. MPs Giddings and McKim, authors of the discussion paper, intend to table legislation this year.

NOTE: President and CEO to Tasmania: CLA President Dr Kristine Klugman and CEO Bill Rowlings will visit Tasmania this month to encourage new members, hold discussions with government and opposition leaders, meet contacts and like-minded bodies important for networking and to boost groups operating in Hobart and Launceston. Any Tasmanian member or newsletter reader who would like to meet them could make contact through secretary@cla.asn.au

Committee wants to entrench third tier of government

The Joint Select Committee on Constitutional Recognition of Local Government has recommended Australians be asked to vote for recognition in a referendum on 14 September 2013, the day of the federal election.

The proposed amendment would “guarantee the ability of the Commonwealth Government to continue to directly fund essential community infrastructure, such as building and

upgrading regional roads, through programs like *Roads to Recovery*," the committee said.

The committee also wants a national civics education program, created by "referendum experts and key public figures" to promote the referendum – committee media release, 7 March 2013. Full report: <http://tiny.cc/mb9jtw>

Heydon substituted, Keane benched

Justice Patrick Keane (pictured) joined the High Court last month, replacing Justice Heydon who retired after 10 years.

Justice Keane served as Chief Justice of the Federal Court of Australia from 2010. Before that, he was on the Court of Appeal, Supreme Court of Queensland. He was also Solicitor-General for Queensland for 13 years.

He joins Justice Susan Kiefel as the second Queenslanders on the High Court, the eighth all-time Maroon appointed a High Court judge.



ODD SPOT: Bang! and you're dead, in a puff of pastry

A 7-year-old boy in the Washington metropolis in the USA was suspended from school for two days for chewing a breakfast pastry into the shape of a gun and saying, "Bang, bang"— an offence the school described as a threat to other students, according to his family. This and seven other similar cases in the USA over the past year suggest that Al Qaeda has won, and shadow jumping has become a mainstream American sport. <http://tiny.cc/zozltw>

Senate condemns Fiji's alleged torture

The Senate has formally condemned torture of detainees in Fiji.

A motion by the Australian Greens called the alleged police beatings, seen in an online video, as "inhumane and degrading treatment". YouTube footage shows a handcuffed man savagely beaten with batons and metal bars and another set upon by a dog.

The motion calls on the interim Fiji Government to publicly condemn torture and establish an independent investigation into the incident. The NZ Parliament earlier passed a similar motion, and the UN Commissioner for Human Rights wants an independent inquiry. <http://tiny.cc/9r4wtw>

High Court unanimously strips away people's right to face factual charges

The High Court has unanimously sided with the Establishment in validating provisions of the *Criminal Organisation Act 2009* (Q) so that the Finks bikies can be nobbled.

In doing so, the High Court has nibbled away at the rights of all the rest of us.

States are writing new, over-arching laws to rein in the selling of drugs and purveying of violence by bkie gangs because police are incapable of using existing criminal laws to put criminal bikies behind bars. Instead of governments demanding better performance from their police forces, police are requiring MPs to write new laws which take away the rights of all citizens just to target a few people, the bikies.

The High Court has found that it's OK for the Supreme Court of Queensland to rely on secret "criminal intelligence" to declare an organisation to be "criminal" – that's any organisation, not just bkie groups. The High Court held that the provisions were "not inconsistent with the institutional integrity of the Supreme Court".

That, of course, is a legal nonsense. The decision proves that all High Court judges can be wrong in unison in plumping for a new status quo.

The decision opens the way for police to target groups they don't like: first, the bikies; next, juvenile gangs; maybe Aboriginal groups after that; perhaps known dissenters like social activists next; and then, of course, when they come for the group you're a member of, no-one is left to defend you. Martin Niemoller said it well last century: <http://tiny.cc/p36wtw>

The High Court seems to think that using secret "intelligence" – hearsay, scuttlebutt, innuendo, gossip – which the bikies or any other group can't know about, and therefore can't rebut, is OK. There's no need for facts, or evidence...mere "intelligence" is now enough for any organisation and its people to be declared "criminal".

"Intelligence" is not fact, is not evidence: if it were, it would be called "fact" or "evidence". The High Court of Australia has effectively lowered the bar of the rule of law throughout Australia, This decision will have sweeping impacts at every level, from magistrates' courts through supreme courts to decisions of the High Court in future. It is a downwards slide in the upwards 'progress' of justice.

The High Court held that "while the provisions may depart from the usual incidents of procedure and judicial process, the Supreme Court nonetheless retains its capacity to act fairly and impartially". The High Court held that "the provisions do not impair the essential characteristics of the Supreme Court, or its continued institutional integrity".

What a cop out, literally.

Case: Assistant Commissioner Michael James Condon v Pompano Pty Ltd & Anor <http://www.hcourt.gov.au>

Drug reformer McConnell – and CLA – speak out in Brisbane media

The Brisbane Times has published a series of interesting and informative articles - "[Wasted Lives: Queensland's drug battle](http://www.brisbanetimes.com.au/news/queensland/wasted-lives-queenslands-drug-battle-20130411)" is a special series on illicit drugs". The link to the articles is <http://bit.ly/12Xh1OK>.

Included in the series are three opinion pieces from The reformer [Brian McConnell, a member of CLA], the policer [Jon White] and the prohibitionist [Jo Baxter] at: <http://bit.ly/Z4sGDG>

Bill Rowlings, CEO of CLA, took the opportunity to comment on the article. He wrote:

It seems that Reformer McConnell and Prohibitionist Baxter agree on many things, including that government policy must change, and priority needs to be given to prevention of abuse and children's rights.

Everybody agrees that drug traffickers are the major problem, but the graph seems to indicate that drug possession attracts more police attention than drug trafficking.

It would be interesting to see what the figures would look like if police concentrated for 12 months on sell-supply offences rather than on possession charges.

Everyone agrees with Policer Jon White that the dealers must be stopped.

One approach is to police them out of existence. Another is to change the system so that the huge profit in dealing in drugs is removed.

It is an observable fact, as the graph shows, that the policing/prohibition approach is not reducing the use of drugs in the community. The 'all drug offences' line is at virtually precisely the same level as it was 15 years ago.

If 15 years of one approach has not changed anything, it must be time to try a new strategy.

If Queensland had not won a State of Origin encounter for 15 years, there would be an outcry in the media, people would be sacked, and the approach would change.

It's hard to understand why we don't apply similar standards to 'winning' in relation to drugs, particularly when it's our young people who are affected, hundreds have died over the past 15 years, and thousands upon thousands of Queenslanders have suffered.

Queen signs, heavenly quartet plays aloft

Queen Elizabeth II has signed a charter calling for an end to discrimination across the Commonwealth to keep the group of nations "fit and agile".

The 86-year-old signed the Charter of the Commonwealth in Marlborough House in London as a heavenly quartet played on the landing above.

All Commonwealth nations adopted the 16-point charter in December 2012.

It aims to protect democracy, the rule of law, international security and free speech, and contains commitments to end discrimination.

"We are implacably opposed to all forms of discrimination, whether rooted in gender, race, colour, creed, political belief or other grounds," the document reads.

Such a pity that a symbolically atrocious venue was chosen, where there's plenty of guilt but no guilt about how many Commonwealth countries don't enjoy democracy, the rule of law and freedom of speech. <http://tiny.cc/v4ettw>

See 'Where is CHOGM this year' at end this newsletter.

Senate rejects plea for less surveillance

Senator Scott Ludlam of the Greens last month tried to get the Senate to pass a law preventing the government from longer-term spying on citizens.

He argued that less than 0.5% of Australian organisations and individuals making submissions to the Joint Standing

Committee on Intelligence and Security inquiry into potential reforms of National Security Legislation supported proposals to retain data for up to 2 years.

"Of 5554 submissions made to the inquiry, 25 were explicitly supportive of data retention, 32 submissions were listed as confidential and 34 do not address the issue."

That left 5463 submissions or 98.9% of submitters from a broad spectrum of Australian society explicitly indicating their opposition to the retention of data for up to 2 years, he said.

Senator Ludlam called on the Government to:

- abandon the proposal to retain data on all Australians for up to 2 years, and
- propose national security measures that are appropriate and proportionate, and which strengthen rather than erode human rights standards at the heart of Australian democracy.

Customs find 527 'guilty' ...only 5 prosecuted

Customs and Border Protection authorities conducted 700 secret inquiries into staff in just three years, two-thirds of which led to adverse findings...but only five people were prosecuted.

The results raise serious questions about the integrity of Customs, *Fairfax* says. CLA agrees.

Allegations include trafficking of weapons and drugs, large-scale fraud and pilfering sensitive Customs intelligence.

They are recorded in Internal Affairs records that underscore the enduring vulnerability of the service to infiltration by organised crime, after a recent police taskforce arrested 17 people, including four allegedly corrupt Customs officers.

Fairfax obtained the files after a freedom-of-information fight over two years.

They show senior executives have long known that Customs officials were linked to bikie gangs, African crime syndicates, the Italian Mafia and even suspected terrorists.

Logs reveal that 930 individual matters were referred to professional standards officers between 2007 and 2010, of which 527 were substantiated. Despite this, Customs could point to only five prosecutions.

Of the total, 166 were unproven, 206 were found to relate to other agencies, and 522 were dealt with as an internal disciplinary matter.

Smuggling allegations covered not just drugs and illicit tobacco but exotic animals and, in one case, children. Crime groups attempted to bribe officers with amounts of up to \$80,000.

At least 11 officers resigned between 2008-09 and 2010-11 before inquiries into their conduct could be completed, effectively suspending those investigations. <http://tiny.cc/xn10tw>

Committee deliberates further on 75% rule

The Joint Select Committee on Broadcasting Legislation has refused to be rushed by Communications Minister, Senator Stephen Conroy.

It decided last month to not issue an interim report after taking preliminary evidence on the implications of removing the '75 per cent audience reach rule'.

It will continue to receive and consider evidence and hear arguments on the rule and on its other terms of reference. Submissions are welcome by 5 April 2013.



Committee Chair Senator Matt Thistlethwaite said 'the Committee has agreed that it is not in a position to issue an interim report and wishes to consider further evidence regarding the ongoing relevance of the 75% reach rule and the committee's other terms of reference.'

– media release 19 Mar 2013.

Website: <http://www.aph.gov.au/jscbl>

Oz ranks highly for quality of life, but not for Aborigines of course

The UN ranks Australia second behind Norway in the worlds' annual Human Development Index.

Measures covered include public health, social wealth, education, and happiness. But if Aborigines in Australia were calculated separately, they would rank 122nd, according to the UN's measure of the quality of life across 187 nations.

The NT is the worst for Aboriginal peoples but WA's Kimberley, Western Deserts and the Goldfields and SA's APY Lands are not far behind, and similar to a number of regions in Queensland and NSW. <http://tiny.cc/k8v2tw>

Juveniles should not be housed with adult prisoners, barrister

Juveniles in an adult Perth prison should be released on bail with strict conditions until their usual facility is fixed, barrister Tom Percy said last month.

About 150 juveniles are in the high-security Hakea remand prison after a riot at nearby Banksia Hill juvenile centre in January left dozens of cells trashed.

The juveniles may have to remain at Hakea for more than a year. There have been claims the teenagers are being abused by officers, denied visits, and were losing weight because of a lack of food.

Mr Percy said it was a grave breach of human rights to make 14-year-olds live "shoulder-to-shoulder" with murderers and rapists. "Having kids in there is an anathema to most people, I would have thought."

Brand new Corrective Services Minister Joe Francis said the situation was not ideal and promised it would be a top priority once he is in the chair. CLA says Mr Francis should also concentrate on the massive over-representation of Indigenous juveniles in WA jails. <http://tiny.cc/cmmauw>

WA suffers another death in custody

A 20-year-old inmate was found dead in his cell at Casuarina Prison in Perth last month.

Attempts to resuscitate Mr Bennel were unsuccessful, and a coronial inquiry is to be held.

George Newhouse, the Shine Lawyers social justice head, said the event was "tragic". He said WA had the highest jailing rate of Aboriginal Australians in the country, 50% higher than the NT.

"It's been 22 years since the Royal Commission into Aboriginal Deaths in Custody and we still haven't learnt," he said. "There is systemic failure and it starts with social services and education and travels through to the police and the justice system." <http://tiny.cc/memktw>

State tightens restrictions on defendants

The NSW Government is further restricting the rights of defendants and the defence in court.

One law abolishes the right to silence, allowing juries to draw an adverse inference if people accused of a crime chose not to take part in police interviews, but later rely on evidence they did not disclose.

The other law will make it compulsory for the defence and prosecution to outline their cases weeks before trial, to prevent the prosecution from being surprised by arguments. If the accused raises a different defence at trial, the judge can instruct the jury to draw an unfavourable conclusion.

Law Society of NSW president, John Dobson, said the changes take the NSW law beyond silence provisions in British law. "An adverse inference could be drawn simply as a result of not mentioning a fact at the time of police questioning which is later relied on at trial," he said. "There are many reasons people may exercise the right to silence, including because they are in shock or confused about the allegations, affected by drugs or alcohol, inarticulate or have poor English." <http://tiny.cc/h0q9tw>

Greens move for euthanasia debate and vote

NSW Greens MP Cate Faehrmann (right) is introducing a private member's bill to the NSW Parliament to legalise voluntary euthanasia.



As well, a social media campaign will include a video on YouTube in a bid to generate community support for the legislation.

NSW MPs will be sent a letter and booklet containing personal stories about people who want the right to die. Liberal and Labor MPs will have a conscience vote on the bill. <http://tiny.cc/gk25tw>

Judges' directions not working: report

Directions judges give to juries are not working, outdated, overly complex and need to be clearer.

A NSW Law Commission report has found that both its research and anecdotal evidence suggests jurors do not really understand the meaning of "beyond reasonable doubt". Most jurors asked to determine a person's fate struggle to understand what "beyond reasonable doubt" means.

"This position is exacerbated by the general prohibition in Australia against any explanation of the expression," the report says. "Other jurisdictions permit an explanation of 'beyond reasonable doubt' and, in some cases, allow an alternative formulation of the direction.

"There is a strong case for providing additional guidance to juries on the standard of proof."

The commission says the NSW government should ask the national Standing Council on Law and Justice to consider developing uniform legislation on directing juries about the criminal standard of proof in criminal trials in all Australian jurisdictions. <http://tiny.cc/avajuw>

Stripping children to be restricted

The ACT is restricting strip searches and the use of force in the ACT youth justice system.

Amendments to the Children and Young People Act 2008 follow a damning Human Rights Commission review into the ACT's youth justice practices, including at the Bimberi Youth

Justice Centre, which found the system was weakened by staff shortages, lacked vision and had become risk averse.

Under the changes introduced in May last year, "good order" will no longer be a legal basis for strip searches and body searches at Bimberi, and the statutory requirement for reporting the use of force to a doctor or nurse will be strengthened. However, flexicuffs or handcuffs, will remain in use at the centre.

The report by HR Commissioner Helen Watchirs and Children and Young People Commissioner Alasdair Roy found in an eight-month period in 2010-11 136 strip searches were conducted. Authorities found contraband in just 1% of cases. <http://tiny.cc/5jxbuw>

Widower campaigns for people's choice to die dignified

NT widower Graham Watson, 68, wants to use the Federal election to change euthanasia laws to allow people to die with dignity.

He has written to Kevin Andrews MP, who sponsored the Private Member's Bill which abolished the legislated right to euthanasia in the Territory, expressing his concerns.

"Nobody should have to die the way my wife did. It was horrendous," the grandfather said. "She pleaded for a tablet or an injection because she knew what the end game was going to be."

Mrs Watson was admitted to hospital on December 15 and died 12 days later.

"Claire had always been a strong person, a realistic person, a person who was never afraid of a challenge," her devoted husband said. "But she was now in the battle of her life."

Mr Watson said it was "dreadful" to watch his wife of 46 years struggle to breathe. But on Christmas Eve, she had a stroke.

"Claire would indicate with sign language that she wanted a pill or a needle to end it all but obviously this could not be done," Mr Watson said. "She pleaded with both my son and I by banging on the rail on the side of the bed." <http://tiny.cc/ch1duw>

Govt slashes red tape!

Queensland schools and community groups will no longer require liquor permits for fundraising events under new legislation in Queensland.



Attorney-General Jarrod Bleijie (left) said the move was to reduce red tape and make life easier for community groups and industry.

"Social events are often held to raise money and schools and community groups shouldn't have to incur the cost of applying for the licences and go through all the paperwork," Mr Bleijie said. "Trivia

nights and fetes are currently required to apply for a community liquor permit, have a person with a Responsible Service of Alcohol certificate and, in some instances, employ security guards.

"This creates additional costs and paperwork when these low-risk events are essentially a group of mums and dads getting together trying to raise money for their school P&C."

Mr Bleijie said the proposed changes would also mean nursing homes and hospitals are exempt from holding liquor licences to serve two standard drinks per guest.

Australian briefs

Location, location, location: Research by the Australian Institute of Criminology shows the top 10% of postal areas in Queensland generating chronic offenders accounted for 20.5% of chronic offenders. The top 10% of most costly crime locations contained 40.4% of chronic offenders and 50.5% of the total cost of chronic offenders. Identified locations had a high proportion of Indigenous youth, were in remote or very remote locations and experienced high levels of disadvantage. The authors conclude that there is an urgent need for therapeutic and place-based interventions to reduce crime and victimisation in these communities – AIC Trends and Issues in Crime and Criminal Justice, No 445.

Civilians should oversight police

critical incidents: Ombudsman Bruce Barbour (right) last month reported to the NSW Parliament that the police investigation into the death, after repeated stun gun use by officers, of Brazilian Laudisio Curti, was deficient. "The police investigation into the death of Mr Laudisio Curti failed to adequately identify and deal with the question of whether there was any police misconduct," the report said. Mr Barbour said the case highlighted why independent civilian oversight of critical police incident investigations was important. <http://tiny.cc/hc58sw>



Police open 24/7 in the Centre: Alice Springs Police Station will open 24/7 and the Darwin Police call centre will get an extra 20 staff, new NT Chief Minister Adam Giles and Minister for Central Australia Matt Conlan announced last month while in Alice Springs for a Cabinet meeting – media release, Chief Minister 19 Mar 2013.

Keep the crowing on ice: Police seizure of 585 kg of ice, whilst a great effort, only represents an estimated 6.8% of Australia's yearly usage...or one month's consumption," according to Brian McConnell, President of Families and Friends for Drug Law Reform. "The report of the 'largest drug bust ever' could lead one to believe the end of the drug trade is near, in reality the report simply camouflages the ineffectiveness of trying to prevent drugs coming into Australia. Large seizures usually indicate an increase in importation of the drug." Media release by FFDLR.

Rayney appeal for August: The State's appeal against the acquittal of high-profile Lloyd Rayney over the death of his wife, Corinne, will be heard in August. She was a Supreme Court Registrar, found dead in a shallow grave in Perth's King's Park in August 2007. Rayney was acquitted after a three-month trial, run by the NSW DPP for propriety reasons, and heard by former NT Supreme Court judge Brian Martin.

Fitness to plead: Article on fitness to plead of intellectually-disabled people, and a recent Qld case. <http://www.sclqld.org.au/lu/items/articles/867>

NT to throw away the key, literally: The NT has passed the *Serious Sex Offenders Act 2013* which means offenders could be locked up forever. A-G John Elferink said: "Under this Act, the Supreme Court will be able to detain serious sex offenders after their sentence has finished."

CLA report – covering March 2012

Main admin activities:

eAGM ballot process being conducted
Annual returns to Registrar in preparation
Preparation for networking visit to Tasmania, report in next CLArion

Personal meetings held:

- Trish Crossin MP re NT affairs, discrimination case, gene patents
- Sen Penny Wright re gene patents



PHOTO: CLA National Media Director Tim Vines and President Dr Kristine Klugman with Senator Penny Wright, Greens spokesperson on legal matters

- Daryl Melham MP
- Laurie Ferguson MP
- Dr Mal Washer MP
- Russell Broadbent MP
- Shane Rattenbury ACT Minister for Ageing, Corrections, Aboriginal and Torres Strait Islander Affairs, etc re ACT issues
- Tim Vines re CEPS address
- Rosemary Jennings re research for history
- New CLA member Tony Hanley re ACT land tenure and fundraising
- LexisNexis re newsletter project and articles
- Estelle Blackburn re cold cases, investigations

Submissions lodged:

Citizens-Initiated Referendum
Voluntary Assisted Dying (Tasmania)

Media:

WA:

Media release on cost/waste of excessive numbers being sent to jail

Interview 6PR on prison officers' strike.

Interview Channel 7 on AMA call to video people admitted to Emergency under the influence of drink or drugs.

Civil Liberties Australia A04043

Tasmania:

Voluntary Assisted Dying: comments from CLA included in article in the Saturday Mercury newspaper after CLA lodged submission.

Recent media focus on civil liberties issues has includes a private member's bill to shift abortion laws from criminal law statutes to health regulations, and a Tasmanian Supreme Court judge's frustration at certain police officers' repeated failure to follow legislated requirements for interviewing suspects.

National:

March

- * Double Jeopardy reform - interview with journalism student
 - * Article on 'rights of nature' in Journal of Law and Medicine
- ##### February
- (omitted from last newsletter)
- * Data Retention - On camera Interview with About The House TV (federal Parliament)
 - * Genetic discrimination article (and media release) - New Matilda and PS News
 - * Genetic discrimination interviews Radio Adelaide, The Australian and backgrounder for Lateline.
 - * Prisoner rights in ACT - backgrounder for ABC Radio
 - * Freedom of speech - backgrounder for ABC Sydney, World Today (and briefing of new contacts)
 - * Same sex marriage in Tasmania- Seven News (online)

Feb/March: ACC Drugs in Sport report sham(e) - website, press release and AFR interview.

INTERNATIONAL

How the Brits plan to regulate the press

- A new, independent press regulator would be established by a "royal charter", similar to the way charities, universities or the BBC are set up.
- The royal charter will be protected from government interference, requiring a two-thirds majority of parliament to make changes or dissolve it.
- Publishers of news, opinion and gossip, in print or online, will voluntarily join the body.
- Non-members face extra "exemplary" damages and higher costs in court if they have shown "a deliberate or reckless disregard of an outrageous nature for the claimant's rights".
- The board of the regulator will be independent from the press (which will have a small say in initial appointments), and the press will have no power to veto its members.
- The regulator will adjudicate a code of conduct written by a panel made up of newspaper editors, journalists and lay people, and approved by the board.
- The regulator may hear complaints from individuals or on behalf of groups such as asylum seekers who believe they have been vilified in the press.
- Alleged victims will get free and speedy arbitration of their complaints.
- If the code has been breached, the regulator can direct that a correction and apology be published – and where in the newspaper it appears. It can also order a newspaper to pay a fine of up to \$1.5m.

Source: [Royal charter on Self-regulation of the press](#)

Read more: <http://www.smh.com.au/world/uk-mps-reach-deal-on-press-regulation-20130319-2gbo1.html#ixzz2NzHhbT3w>

Laptops get 'reasonable' protection at border

An appeals court in the USA has ruled the government cannot search laptop computers at the border without reasonable suspicion.

Traditionally, searches at the border require no suspicion at all — they have been 'reasonable' because a sovereign power has control over goods and people who enter or exit its territory.

The full appeals bench of the Ninth Circuit ruled last month in *US v. Cotterman* that, given the comprehensive and intrusive nature of laptop searches, the government must articulate a "reasonable suspicion" before it may search the contents of a computer system. The US Administration is expected to appeal to the Supreme Court. <http://tiny.cc/akcptw>

UK strip-searching of children is 'child abuse'

There were 43,960 recorded incidences of strip searches involving children as young as 12 over a 21-month period in the UK to December 2012 – but in only 275 searches were illicit items found.

Contraband was discovered in eight of every 1,000 searches in one year, and just three in the next year. Tobacco was the most common item found, with no recorded discoveries of drugs or knives.

A leading children's rights campaigner described the practice as "institutionalised child abuse".

Two years ago, the Youth Justice Board announced that the routine strip-searching of incarcerated children would stop. But the information obtained under FOI shows children were made to strip naked 43,960 times in 25 young offender institutions (YOIs), secure children's homes (SCHs) and secure training centres (STCS) in the 21 months up to December 2012.

<http://tiny.cc/hj6ftw>

Reporting rape leads to being lashed

A Maldives court has sentenced a 15-year-old alleged rape victim to 100 lashes and eight months under house arrest after she admitted having premarital sex in a separate incident.

During a police probe into allegations that the girl had been raped by her stepfather, investigators uncovered evidence that she had had consensual sex with another man. Premarital sex is illegal under the Indian Ocean nation's strict Islamic law. It is unclear if the girl's male partner will also be charged with having premarital sex.

The child's stepfather faces 25 years in prison if convicted of rape and murder, after he allegedly killed a baby which resulted from his alleged rape of his stepdaughter. <http://tiny.cc/k8a7sw>

By your phone shall you be known

US court documents obtained by the American Civil Liberties Union reveal just how vulnerable people are to prying government eyes that get a hold of their phones. It's more than just your text messages, folks. It's every connection point their phones have used.

The "extraction report" ([PDF](#)) details the huge amounts of data the US Department of Homeland Security was able to pull off an iPhone seized during a raid.

In a single data extraction session, the US government agency collected a huge array of personal data from the phone, including:

- call activity
- phone book directory information
- stored voicemails and text messages
- photos and videos
- apps
- eight different passwords
- 659 geolocation points, including 227 cell towers and 403 WiFi networks with which the cell phone had previously connected. <http://tiny.cc/ubx5sw>

ODD SPOT – USA: DWM...medal will hover 15cm off chest

Drone pilots ('flying' from bases in mainland America) are set to receive Distinguished Warfare Medals.

"Sometimes I think it should be a rule of war that you have to see somebody up close and get to know him before you can shoot him."
– Colonel Potter (M.A.S.H.)

Colonel Potter's observation applies in spades to the armed US drones terrifying Afghans and piloted by joystick jockeys in Nevada who hardly know their oft-innocent quarry. The Pentagon has nevertheless figured out a way to appropriately recognise its remote assassins, with the new, oxymoronic, Distinguished Warfare Medal – Roger Fitch, Esq., writing on the blog *Justinian*.



UK strips citizenship, leads to drone killings

The British Government is secretly stripping people of their British citizenship on national security grounds – and two of the men have been subsequently killed by American drone attacks.

The Independent says that since 2010, the Home Secretary, Theresa May, has revoked the passports of 16 individuals, many alleged to have had links to militant or terrorist groups.

Critics say ministers are "washing their hands" of British nationals suspected of terrorism who could be subject to torture and illegal detention abroad. The secret program also allows those stripped of citizenship to be killed or "rendered" without any onus on the British to intervene.

At least five deprived of UK nationality by the government were born in Britain, and one man had lived there for almost 50 years. People 'de-citizenized' have their passports cancelled, and lose their right to enter the UK – making it very difficult to appeal against the Home Secretary's decision. <http://tiny.cc/mgj8sw>

Police pilgrim's progress with women off the database smorgasbord

A Police Community Support Officer in the UK accessed the confidential criminal intelligence system to target single mothers and victims of domestic violence for sexual affairs, a court has heard.

Peter Bunyan, a married officer with Devon and Cornwall police, used the computer system as a "dating agency" over several years, Taunton crown court was told last month. He ran background checks on women and their former partners

after carrying out what he said were "welfare" visits to their homes.

Bunyan abused his position to have affairs with five women, the court heard. He slept with them while on duty, or on his way to work, turning his police radio down or off as he had sex with them.

Bunyan, a father of two, denies 12 counts of misconduct in public office which allegedly took place over a five-year period – from 2006 to 2011 – while he worked as a PCSO in the Camborne and Redruth areas of west Cornwall.

During interview the officer – who has been suspended – admitted having sex with four women who include single mothers, young women and victims of domestic violence. He denied having sex with a fifth woman. The court heard that he said in interview: "I ain't proud of what I have done but I haven't done anything illegal. I was caught with my dick out ... I am gutted; I love my job."

"On occasions not only was he in his full uniform in people's houses conducting sexual relationships while on duty, but on occasion turning down or off his police radio." the prosecutor said. Bunyan is also accused of obtaining a loan from one of the women and not paying it back. <http://tiny.cc/u6fitw>

US wins over Dotcom on evidence details



Maverick FBI baiter Kim Dotcom became the father of twin girls in late March, his fourth and fifth children with wife Mona. When asked what he wanted done with the placenta, he suggested sending it to the FBI so they could verify it contained no pirate DNA - TorrentFreak.

Prosecutors are closer to having the Megaupload founder, Kim Dotcom, and three of his colleagues extradited from NZ to the USA.

Wellington's appeals court last month overturned a ruling allowing him and the others broad access to evidence against them at the time of their extradition hearing, scheduled for August. The four are accused of facilitating copyright fraud through an internet filesharing site.

The court ruled that extensive disclosure would bog down the process and that a summary of the US case would suffice.

Mr Dotcom, a German national, says he is innocent and cannot be held responsible for others using the site to illegally download songs and films. US prosecutors are also seeking the extradition of Finn Batato, Mathias Ortmann and Bram van der Kolk, each of whom held senior positions at Megaupload before American authorities shut the site down in 2012.

Paul Davison, one of Dotcom's lawyers, said he planned to appeal the case to New Zealand's Supreme Court. <http://tiny.cc/6fn9sw>

Dotcom can sue over spook raid

The NZ Appeals Court has ruled that the founder of Megaupload, Kim Dotcom, can sue the NZ spy agency for illegal surveillance, opening the government up to more scrutiny over its role in an unlawful 2012 police raid on the internet entrepreneur's home.

The court rejected an application from the NZ Attorney-General, acting on behalf of the Government Communications Security Bureau (GCSB), to exclude the agency from the lawsuit. NZ's High court ruled last year the agency could be held liable for illegally spying on Dotcom.

Dotcom is seeking damages from the government for its role in a raid in January 2012, when NZ police helicopters swooped on the entrepreneur's mansion at the request of US authorities.

The FBI claims Dotcom led a group which netted \$170 million since 2005 by copying and distributing copyrighted content without authorisation.

The GCSB was found to have spied on Dotcom in the run-up to the 2012 raid, prompting an apology from the Prime Minister. Dotcom is a German national with residency in NZ, which made it illegal to spy on him. <http://tiny.cc/jwyltw>

Court's ruling on books resale likely to have wide reach

In a 6-3 decision, the US Supreme Court last month supported Supap Kirtsaeng, a Thai math student at Cornell University, who generated roughly \$900,000 in revenue reselling in the USA cheap textbooks that his friends and relatives sent from Thailand.

Publisher [John Wiley & Sons](http://www.wiley.com) had argued that Mr Kirtsaeng was infringing on its copyright by importing the books without permission. The publisher said this short-circuited its ability to segment markets by price — selling the books more expensively to American students than to poorer Thai students who could otherwise not afford them.

But the court held that the publisher's right to ban imports was trumped by Mr Kirtsaeng's right of first sale.

He might not be allowed to make unauthorized copies of the books. But as with old library books or secondhand Gucci bags at a flea market, if the books had been bought legally, whether imported or sold originally in the United States, Mr Kirtsaeng could sell them.

The decision could have major implications for the entire information economy, the *New York Times* commented, much as the same court's decision 28 years ago about recording rights changed the motion picture industry and created the video industry. <http://tiny.cc/n7emuw>

US finds new ways to surveil even more people

The US government is expanding a cyber security program that scans internet traffic headed into and out of defence contractors to include more of the country's private, civilian-run infrastructure.

More private sector employees than ever before, including those at big banks, utilities and key transport companies, will have emails and web surfing scanned against cyber attacks.

Under a new White House executive order on cyber security, the scans will be driven by classified information provided by US intelligence agencies – including data from the National Security Agency – on new or especially serious espionage threats and other hacking attempts. Spy chiefs said last month that cyber attacks have supplanted terrorism as the top threat to the USA.

In other words, they have found a new bogey man, Civil Liberties Australia says.

The Department of Homeland Security will gather the secret data and pass it to a small group of telecommunication companies and cyber security providers with employees holding security clearances. Those companies will then offer to process email and other internet transmissions for critical infrastructure customers that choose to participate in the program. <http://tiny.cc/el4guw>

Police falsely label 88-year-old a 'domestic extremist'

Three British appeal court judges have ruled that police violated the human rights of an 88-year-old peaceful campaigner when they secretly labelled him a "domestic extremist" and recorded his political activities.

John Catt, who has no criminal record, was shocked when he discovered police had clandestinely kept a detailed note of his presence on more than 55 demonstrations over a four-year period.

Last month he won his legal action to have the records deleted from a secret database of so-called "domestic extremists". <http://tiny.cc/1jsxtw>

Clinton wants court to overturn marriage law

Former US President Bill Clinton, who signed the Defense of Marriage Act in 1996 barring federal recognition of same-sex weddings, last month called on the Supreme Court to overturn it.

With the court about to hear a case challenging the law, former President Clinton said he had come to believe that the law was unconstitutional and contravened the American values of "freedom, equality and justice above all." He joined President Obama in arguing for repeal.

"As the president who signed the act into law, I have come to believe that DOMA is contrary to those principles and, in fact, incompatible with our Constitution." – <http://tiny.cc/zoomtw>

International briefs

Female – P – leads Secret

Service: US President Barack Obama has appointed the first woman to lead the US secret service in its 148-year history. Julia Pierson (pictured), a secret service veteran who spent much of her career based in Florida, takes on responsibility for the safety of Obama and his family, the vice-president, other leading Washington figures and visiting international dignitaries. She is at present chief of staff at the secret service. She began her career as a policewoman in Florida. Will she be known as 'P', in line with Bond's 'M'? <http://tiny.cc/z4vluw>



Saudis behead seven: Saudi Arabia has executed seven men for an armed robbery, despite an appeal for clemency by UN human rights investigators. Some of the seven were under 18 when the crime was committed in 2006. Activists said they had been executed by firing squad, but the Saudi official news agency said they had been beheaded. The original sentences called for death by firing squad and crucifixion. <http://tiny.cc/gawvtw>

Pen knives can fly again: Travelers are now allowed to carry small pocket knives on board US planes for the first time since the terrorist attacks of 11 September 2001 under a changed ruling from the US Transportation Security Administration. Knives with blades that are 6cm or less in length and less than 1.25cm wide are allowed, the TSA said. Other items that will be allowed on board again as part of a passenger's carry-on luggage include billiard cues, ski poles, hockey sticks and lacrosse sticks. <http://tiny.cc/oczitw>

Innocent man, freed after 23 years, has heart attack: A New York man freed last month after spending 23 years in prison for a murder he did not commit suffered a heart attack after just two days of freedom. David Ranta, 58, was convicted of killing Rabbi Chaskel Werzberger in New York in February 1990, but was freed last month after the conviction integrity unit of the Brooklyn district attorney's office concluded that the case against him was fatally flawed. Prosecutors had joined Ranta's defence in asking the court to overturn his conviction "in the interest of justice". <http://tiny.cc/nd3shuw>

ODD SPOT, I swear: A magistrate in Papua New Guinea has ordered Clarence Lote to pay his mother \$230 compensation for swearing at her. He will go to jail for six months if he does not pay up. Lote swore at his mother Esther after she told him to stop swearing at his wife. After unloading a string of expletives, he told his mother it was her fault for giving birth to him. Esther was so outraged she complained to police, who arrested Lote and charged him with the summary offence of swearing. <http://tiny.cc/3a7ftw>

Print a bong? 3D printers are gaining in popularity, with uses spanning the spectrum from moon bases to firearms, but there's another area where the ability to construct complex shapes is beginning to provide benefits: getting high. Online magazine *Motherboard* has published the story about the slow but inevitable rise of 3D-printed bongs. MakerBot's Thingiverse site returns almost two dozen template results when searching for "bong," all of which are downloadable in STL format and printable on tons of different 3D printers. <http://tiny.cc/oiuktw>

DATES

3 April, Parramatta: Climate Change and its Impact on Human Rights: Displaced People in Bangladesh, Abdul Awal Khan, Moot Court, Bldg EO, Parramatta Campus, UWS, 11.30-12.30, details: Cathy McFall c.mcfall@uws.edu.au Phone: 02 9685 9576

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

12 April, Brisbane: Criminalising competition law in the UK, Prof Mark Furse, U. Glasgow. 12-1pm, U. Qld, Sir Samuel Griffith room 1-W341, Forgan Smith Building.

17 April, Perth: *Probation worker responses to turbulent conditions*, Anne Worrall, Prof Criminology, Keele U. UK. 6pm, Social Sciences Lecture Theatre, UWA. Details: <http://www.ias.uwa.edu.au/lectures/worrall>

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 on the 50th anniversary of the UN Seminar on the Role of Police in the Protection of Human Rights, in Canberra in 1963. Curators are Simon Bronitt and Melanie O'Brien. CLA will speak at a plenary session of the conference. Details: humanrights2013@griffith.edu.au

3 May, Melbourne: Justice Edwin Cameron of the Constitutional Court of South Africa speaks at annual HR dinner of the HR Law Centre and Public Interest Law Clearing House, 6.30 for 7pm, Sofitel Melbourne on Collins, \$170/100. Details 03 8636 4400 or toni.hynes@pilch.org.au

5-9 May, Brisbane: CIF World Congress 2013: Construction Law Stream, Brisbane Convention Centre. Details: <http://www.constructionlaw.org.uk>

24-25 May, Townsville: North Queensland Law Association conference. Info: <http://nqla.com.au>

29 May, Parramatta: The Power to Declare War in Australia: Crossing the Rubicon or the Delaware? Kristian Boehringer. 11.30am-12.30pm Moot Court, Bldg EO, Parramatta Campus, UWS. Details: http://www.uws.edu.au/home/events/school_of_law_seminar_series3

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 College of Asia and the Pacific. Scholarship applications from potential Melanesian speakers by 15 Feb 2013.

25-26 June, Canberra: State of the Pacific: inaugural conference including state of democracy (elections, constitutions, etc). Email: ssgm.admin@anu.edu.au to be kept informed, and later to register.

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

9 Oct, Parramatta: Space, Technology and the Challenges for International Humanitarian Law, Prof Steven Freeland, 11.30-12.30, Moot Court, Bldg EO, Parramatta Campus UWS. Details: Cathy McFall c.mcfall@uws.edu.au or 02 9685 9576

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

2015:

June, England: 800th anniversary of Magna Carta
Date, Place TBC: 2nd Global Domestic Violence Conference

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for election comment in CLArion is taken by CLA's Public Officer, Bill Rowlings, of Fisher, ACT. Please feel free to report or pass on items in CLArion, crediting CLA and/or the original source. We welcome contributions for the next issue: please send to: [mailto:secretary\[at\]cla.asn.au](mailto:secretary[at]cla.asn.au)

ENDS ENDS ENDS

Where in the world is CHOGM this year?

From 15 to 17 November 2013, Sri Lanka will host the 2013 Commonwealth Heads of Government Meeting (CHOGM).

The Prime Minister of Mauritius will host the 2015 CHOGM and Malaysia will host the 2019 CHOGM.

Sri Lanka and Malaysia are embroiled in ongoing international controversy over governance issues...and some Australians and British people haven't yet forgiven Mauritius for illegally detaining the man who named Australia, explorer Matthew Flinders, for six years in the early 1800s.

CHOGM was held in Perth in October 2011...



Photo: Commonwealth Secretary-General Kamalesh Sharma and Australian Prime Minister Julia Gillard at the CHOGM media conference in Perth on 28 Oct 2011.

Sometimes, CHOGM throws up surprises, like an off-the-cuff comment about Australia's response to terrorism threats from PM Julia Gillard at CHOGM in Perth 2011, during the above media conference, which became the subject of CLA's 26 January 2012 Australia Day letter: http://www.cla.asn.au/Article/2012/AustDayletter.pdf?zoom_highlight=chogm#search=%22chogm%22

We have not received an answer to our letter.