

CLA starts election campaign: wind back terror laws into Crimes Act

CLA is campaigning for the powers given Australia's intelligence agency to combat terrorism, including being able to detain suspects without charge, being scaled back after a major review in 2015.

We believe all counter-terror laws should be reviewed and re-written into the Crimes Act.

There are signs that the current government is amenable to a review: Attorney-General Mark Dreyfus said that two reports tabled last month were well-considered, that security circumstances "do change" and that Australia should debate whether amendments were needed.

Both the Independent National Security Legislation Monitor, Bret Walker, and the COAG Review of Counter-Terrorism Legislation recommended getting rid of excessive and unused powers. The draconian laws were introduced in haste and panic soon after the 9/11 aircraft attacks in the USA.

Both reports called for an end to ASIO's ability to hold a terror suspect for up to a week without charge. Mr Walker described the power as a drastic interference with personal liberty and freedom.

CLA will be campaigning for all major parties to make the review a key election promise as part of the 2013 election. <http://tiny.cc/xp33ww> and <http://tiny.cc/4i96ww>

Five issues lay groundwork

CLA will campaign on five main issues in the lead-up to the 14 September election, preparing for active discussions with whomever is in power after it:

- incorporating the "terror laws" (there are more than 50) into the normal Crimes Act;
- introducing a 'Right to Appeal' where there is new and compelling evidence (as well as fighting for establishment of a national Criminal Cases Review body);
- winding back anti-association (the claimed "bikie") laws which could be abused by governments in the future targeting any groups they dislike, as the laws don't say "bikies";
- developing consistent Foreign Affairs policies relating to support for Australians on death rows overseas (and for consular and other assistance to imprisoned Australians, and people we extradite); and
- preventing excessive restrictions – censorship – of Australians' internet access.

The CLA Board, at its 19 May meeting, also agreed a position on constitutional recognition of local government: if recognised in the Constitution, CLA believes local governments councils must accept, and publicly report on annually, their accompanying civil liberties and human rights commitments. Such commitments should included in as part of any constitutional change.

Learning lessons from murder

The soldier killed in Woolwich in London last month was apparently a murder of one man by two other men.

What elevated it to an international issue was the horrendous way the murder was carried out, and "live" international media coverage, CLA's CEO, Bill Rowlings, says.

"There is no reason for over-reaction in Australia to a British crime of murder, or any reason why two alleged murderers in England should change the direction of Australia's national security arrangements. Ours are heading towards a pull back from the excesses legislated in panic mainly in the 2002-2007 period.

"It is to be hoped the British don't over-react. But it is certainly preferable that Australia does not, as we patently did after the 9/11 attacks in the USA and the 7/7 attacks in London," he said.

President re-elected, new Vice-President



At the CLA Board's first meeting after the electronic AGM, Tim Vines (left) was elected Vice-President of the organisation in the only major change to the Board.

He replaces Lance Williamson, who decided to step down from vice-presidential duties, but continues to

provide exemplary service to CLA as Webmaster, a demanding role in its own right.

The Board re-elected Dr Kristine Klugman, who has headed the organisation since its founding in 2003. Other positions were also reconfirmed. The Board is: President: Dr Kristine Klugman OAM; Vice-Presidents: Noor Blumer, Tim Vines; Secretary/CEO: Bill Rowlings; Asst Secretary: Saskia Vervoorn; Treasurer Phil Schubert. Other Board Members are Anthony Williamson, Lance Williamson, Frank Cassidy, Rex Widerstrom (WA) and Richard Griggs (Tas).

The new V-P, Mr Vines, is a lawyer with the public sector in Canberra. He is a former ANU student association board member and president of one of the halls of residence, where he also edited the newsletter. He graduated in 2008 with honours in law, and his speciality is health law, in particular ethics and genes, on which he has written and co-authored numerous articles. He is also CLA's National Media Spokesperson.

Indigenous suicide rates alarming, and rising

Dumbarton Aboriginal Corporation CEO Robert Eggington and his grief counsellor wife Selina Eggington held a half-day summit last month to address alarming and rising rates of suicide among Indigenous peoples, particularly youth.

"According to the Australian Bureau of Statistics, suicides accounted for 4.2% of all registered deaths of people identified as Aboriginal and Torres Strait Islanders in 2010, compared with 1.6% for the general population of Australia," said Mr Eggington.

"Our children are dying as young as eleven years old, from suicide. In a number of towns and Aboriginal communities in Western Australia the suicide rates amongst Aboriginal populations has reached 100 times the national average." <http://tiny.cc/0x0oxw>

Between 2001 and 2006, the Northern Territory suicide rate for those aged 15 to 24 was 3.5 times that in the rest of the nation. A recent report highlighted the young ages at which Aboriginal youth were committing suicide and the rise of young Aboriginal women suiciding. <http://tiny.cc/b60oxw>

Australia's biggest bullies need reining in

The biggest bullies in Australia are the Australian Crime Commission and the Australian Tax Office.

We believe they abuse the wide, draconian powers given them to deal with the worst-of-the-worst Mr Bigs of Crime and major tax cheats. Instead, they mostly intimidate and harass ordinary Australians, the little guys who are easy pickings for the pair of big bullies.

Both government agencies should be reined in dramatically. The ACC could and should be abolished. Its functions – now mainly “intelligence” only, which is contrary to its original charter – should be transferred to the myriad other policing and security agencies which have grown like mushrooms since 9/11. CLA has warned previously how dangerous is the position of head of the ACC, a role with even wider reach, including internationally, than that of J. Edgar Hoover in America when he ran the FBI as an apparently corrupt fiefdom for 30-plus years.

It is pleasing to report that Shadow Treasurer Joe Hockey apparently has his eyes set on reforming the Australian Taxation Office. He said in a post-Budget National Press Club address that it had “an insular and inward looking culture”. He threatened to break it up.

Hockey said a Coalition government would immediately set up a parliamentary committee to oversee tax administration. The Taxation Oversight Committee's first task would be to set dates for regular public hearings with the Commissioner of Taxation, like the public grillings where the Reserve Bank Governor is called to account before Parliament.

The TOC's second job would be to work out the most effective organisational structure for independently handling and resolving formal taxation disputes.

We would add a third task: establish operating principles based on civil liberties, the rule of law and a fair go for Australian taxpayers, where the ATO has to prove it is right and you are wrong, rather than the other way around.

Hockey repeated his earlier-expressed “deep reservations about the ATO being both an administrator and prosecutor”. Civil Liberties Australia agrees, in spades. <http://tiny.cc/Opeixw> Now, will Shadow Attorney-General George Brandis (right) have the courage to take on the ACC?



Creepy govt increases its spooky powers

RoLIA's Malcolm Stewart was interviewed by senior writer for the *The Age*, John Watson, about the creep of coercive powers in Australia. Here are some extracts from the article entitled '*More Power, Fewer Rights*':

Stewart, vice-president of the Rule of Law Institute of Australia, says the Australian Crime Commission is “the most secretive body in Australia” after the spy agencies. Yet, he says, it released a report based on incomplete investigations and untested intelligence. “I can only describe that report as a smear on sport in Australia.”

RoLIA was set up in 2009 in response to the growth of agencies' powers “in what we thought was an uncontrolled way”, Stewart says.

For example, he says, at one time state agencies had to prove a person was guilty before they could take punitive action. Now, in many circumstances, that person must prove they have not done anything wrong. The reversal of the onus of proof began with the Tax Office and has spread to

employment and unfair dismissal laws, occupational health, “unexplained wealth” seizure powers, and anti-discrimination legislation. Stewart says rule of law principles are not adhered to as much as they have been in the past. ‘You see this massive spread of powers governments are giving themselves.’ <http://tiny.cc/0zhuww>

Sneaky government censors internet, thrice

The government has sneakily introduced mandatory web filtering through the back door of a little-known law..and been found out by a chance stuff-up.

Delimiter last month revealed the Australian Securities and Investments Commission used section 313 of the Telco Act to ask major internet service providers (ISPs) to block a website it believed was defrauding Australians. Three ISPs at least — Telstra, Optus and Vodafone — complied.

The censorship became apparent when the ASIC move inadvertently caused the blocking of the Melbourne Free University website and 1200 other sites, hosted on the same web server as the allegedly fraudulent website.

ASIC gave the ISPs the IP address of the shared server the websites were hosted on, rather than disclosing the allegedly fraudulent website's domain name, which would have resulted in only blocking it and not others. Subsequently the government admitted that the AFP and a ‘national security agency’ had also censored the internet. <http://tiny.cc/a7f7ww> and <http://tiny.cc/oo7vxx>

Miscarriage of justice may be compensated

The High Court has overturned a 91-year-old precedent that made no common sense and little, if any, legal sense.

The HC ruled that a woman did not have to prove her innocence before she could sue the state for acting maliciously against her.

Roseanne Beckett (previously Catt) served 10 years from 1991 for attempting to poison and conspiracy to murder her husband, but most of the nine charges against her were quashed by the Court of Criminal Appeal in 2001 and sent back to trial.

The DPP decided not to proceed with the prosecution. Ms Beckett, who said she had been framed and wrongfully imprisoned, launched a claim for damages in the Supreme Court, only to be told by the court that she must prove she was innocent of the charges before the claim could proceed.

The HC ruling last month overturned that 91-year precedent: Ms Beckett's guilt or otherwise was not relevant to whether the prosecution was launched maliciously, the HC found.

“(If she can) prove that her prosecution ... was instigated or continued maliciously and without reasonable and probable cause, her recovery in the civil action would not scandalise the administration of justice,” the court said. (Who said the HC was pompous, CLA asks?)

Ms Beckett's solicitor, Terry Goldberg, said it was ridiculous for a person in civil proceedings to have to prove their innocence, where there was no such requirement in criminal proceedings. Ms Beckett can now return to the Supreme Court to make her claim, 20 years after she was wrongly imprisoned. <http://tiny.cc/nkrww>

Police, DPP files should be open to defence

Australia should follow the emerging trend in the US to require the opening of prosecutors' files to defendants, Civil Liberties Australia believes.

The *NYT* reported last month that North Carolina has adopted open-files reform to make criminal cases more efficient and fair. The state statute requires prosecutors in felony cases, before trial, to make available to the defence “the complete files of all law enforcement agencies, investigatory agencies and prosecutors’ offices involved in the investigation of the crimes committed or the prosecution of the defendant.”

The statute has improved the justice system, including enhancing fairness in plea bargains.

Ohio has followed North Carolina’s lead, and other states should as well. So should Congress, said the editorial panel comment in the *NYT*. The best way to (operate) is with open-files reform, which addresses the need for full disclosure of evidence that could show a defendant’s innocence. <http://tiny.cc/vhzbwx>

AFP – and ACC – hyper-ventilate for TV

We couldn’t resist this story from *Delimitter*:

Remember the Australian Federal Police’s high-tech crime unit holding a high-profile national press conference in late April to announce charging a 24-year-old Australian with hacking offences?



Remember how the AFP said that the man was “a self-proclaimed leader” of the high-profile international Internet mischief group LulzSec? (see their logo, left) Well, the AFP has basically charged the man with ... almost nothing.

Delimitter understands the alleged super-hacker’s alleged crimes as charged so far by the AFP amount to little more than that he defaced the website of the Narrabri Shire Council with a *slightly scandalously clad picture of a naked man*, and that he accessed the council’s servers several times. It doesn’t appear that the alleged hacker caused any real damage.

Of course, the possibility still stands that the alleged hacker will be linked with international action. However, on evidence publicly available, the alleged Australian hacker currently has the last laugh: If this is all the AFP truly has on this clearly talented (if slightly misguided) young man, then we’re sure he won’t be doing much (if any) time for this one. Now that’s something worth drinking to.

The situation is remarkably similar to another high-profile AFP action back in mid-2009, when police organised a massive collaborative effort to raid a suspected Internet fraudster in Melbourne and broadcast the effort on the ABC’s *Four Corners* program. In the end, the raid netted no charges against any suspects, and the AFP was eventually forced to admit it had given up on the issue. Not precisely the best outcome — in either case — for an organisation which is supposed to house Australia’s highest-level cybercops. Image credit: LulzSec <http://tiny.cc/dky5ww>

CLA comments: the over-hyped media conference, staged for TV, is also identical to the technique used by the Australian Crime Commission’s John Lawler over alleged Drugs in Sport, with Ministers Clare and Lundy assisting the farce as second bananas.

Governments will soon have to find a way to restrain police and agency heads who see a main chance in becoming “media stars”, raising their own profile and that of their agency so they can demand more funding...or, at least, suffer minimum cuts. Many heads are now realising they can potentially ensure well-paid board positions in retirement if they are seen as media performers.

Do military spooks pressure troops?

Military police at Australia’s detention centre in Afghanistan were pressured to make prisoners more “pliable” by gagging them, depriving them of sleep and denying them exercise, the *SMH* reported last month.

The report, by David Wroe and Deborah Snow, appears to contradict claims by Defence Minister Stephen Smith that Australia treats detainees with “dignity and respect”.

According to the *SMH* report, sources with first-hand knowledge of the detention centre at Tarin Kowt have said that senior officers from Australia’s special forces, as well as the “force exploitation team” – defence intelligence – and the mentoring taskforce, pressed the detention management team to “condition” suspected insurgents before interrogation. A source said the pressure was “strongly resisted” by the detention management team and the gagging and other techniques were not carried out.

The account by multiple sources is among a number of claims that contrast with assurances from Defence Minister Smith. <http://tiny.cc/4m98ww>

CLA policy on vaccination published

Civil Liberties Australia has developed a policy on the vaccination/immunisation issue, which can be accessed from the CLA Home page under ‘Vaccination: the choice made for others; or directly at: <http://tiny.cc/gvpsxw>

We are pleased to say our policy has produced abusive email from people apparently associated with anti-vaccination movements. The abusive email came our way after a person apparently associated with one group used what appears to be a false name to garner a response from us.

The false name was a take-off of a prominent Australian person in the fashion business. When you have to resort to a false name, you can’t be too confident of your position, one would think.

In short, CLA supports vaccination. We give preference to the rights of the child to the best possible health treatment under the international convention. For the same reason of putting the child’s interests first, we also don’t believe children should be excluded from pre-school or school unless medical authorities advise the government such a step is necessary to reduce a medical risk to children, at a particular school or in general.

If such advice is given, we support the government’s decision to ban children from attendance.

Prisons boss complaint tabled in parliament

A complaint and email allegedly sent by recently-resigned Tasmanian Prisons boss Barry Greenberry to Corrections Minister Nick McKim and the state Integrity Commission was placed on the public record by tabling in parliament last month.

Mr Greenberry says he is unwell as a result of trying to manage toxic relationships at work, and claims he was asked to produce a savings plan which he knew would be unacceptable to the government and therefore not implemented.

He says he found out in November that he was to be formally disciplined, which was well known throughout the prisons system.

Mr Greenberry says he felt bullied, and if this was the way the public service operates in Tasmania, he wanted nothing to do with it. He left in April.

The Liberal Tasmanian Opposition accused the Justice Department of offering Mr Greenberry an incentive to quit early. Mr Greenberry left nine months into a five-year contract, taking with him a \$260,000 settlement. Mr McKim said he left due to personal reasons. <http://tiny.cc/f6bixw>

NSW Govt over-rides law for convenience

The NSW Government's answer to a ruling that local government councils have been using CCTV cameras illegally is to give councils carte blanche over citizens' rights and the law of the state.

Councils will be exempt from section 11 of the Privacy Act from all of the critical collection criteria of relevance to purpose, not excessiveness, accuracy, up-to-dateness, completeness, and non-intrusiveness. http://www.austlii.edu.au/au/legis/nsw/consol_act/papipa1998464/s11.html

Councils will be exempt from s18 of the Privacy Act from the limits on disclosure to NSW Police of "live transmission from" a CCTV camera: http://www.austlii.edu.au/au/legis/nsw/consol_act/papipa1998464/s18.html

Stand by: soon council drones could be hovering over parks and gardens, fining you if you litter, and also over local public roads. Councils may now beam such footage direct to the local police station, where police officers won't even have to leave the station to rake in the fines.

Under the NSW Government approach to this council/CCTV issue, citizens can expect a new law that formally permits behaviour by MPs such as that alleged to have occurred during the Macdonald/Obeid ICAC inquiry. After all, if a law is found by a tribunal to hinder illegal activity in NSW (as the CCTV law was), the government simply overwrites it.

Judge approves holding youths in adult prison

The WA Supreme Court has dismissed a challenge to holding 100 juveniles in an adult prison.



The legal challenge claimed juveniles were experiencing limited yard time and assaults. They moved to Hakea Prison from WA's only juvenile remand centre, Banksia Hill, in January after a riot left 108 cells damaged and uninhabitable.

Chief Justice Wayne Martin (left) found the decision to declare two units at Hakea a juvenile detention facility in the wake of a crisis did not contravene state laws. "In the circumstances following the riot at Banksia Hill, it was open to the minister [for Corrective Services] to form the view that the units at Hakea in which the detainees were kept were suitable for young persons," Justice Martin wrote in his judgement. Banksia Hill is due to be ready again for juveniles by July 2013. <http://tiny.cc/8ryhww>

10 aged miscreants test their percentages

Ten West Australians averaging 80 years old had their "illegal" packages of white powder, Nembutal, which they had bought online, tested for purity last month by euthanasia campaigner Philip Nitschke.

Dr Nitschke met with people who had bought the illegal Nembutal from websites in South America and China where the drug is freely available. He supplied the equipment to test the purity of the drugs in private meetings after a workshop in Perth

The drugs proved to be Nembutal, with purities of between 85 and 99%, "People were happy to know they had not wasted their money," Dr Nitschke said. He said nine of the 10 people who tested their drugs were not seriously ill and had bought the drugs in case their health deteriorated and they wanted to end their lives.

Australian Medical Association (WA) president Richard Choong said purchasing medication online was a dangerous practice and that people had other options rather than taking their lives when they became seriously ill. "When they choose to take their life, it is not one that the AMA would support," he said. "There are other avenues, you aren't going to be abandoned, there are ways of making sure death is without pain."

Sergeant Gerry Cassidy said supplying equipment for people to test drugs was not illegal and Dr Nitschke could only be charged if he was in possession of illegal drugs. <http://tiny.cc/t8inww>

Study analyses police staff misuse of data

A long-term study of misuse of particularly sensitive police information stored about members of the public will be published in November.

The Edith Cowan University School of Law and Justice study into the WA Police stems from a growing number of public servants employed within the agency being identified as accessing the agency's information systems for unauthorised purposes.

"Drawing on concepts from the theories of planned behaviour and general deterrence, this research aims to identify the factors that facilitate and prevent employee misuse of the Information Management System by unsworn WAPOL personnel," the study's website says.

The research consists of three stages:

- Survey of WA Police unsworn police personnel
- Interviews with those who have misused the IMS
- Interviews with management regarding IMS misuse within the agency

Nikki Rajakaruna and Pamela Henry are carrying out the three-year study, which is due to report in November this year. <http://tiny.cc/q9lsxw>

Ex-judge calls for fewer prisons

The prison capacity crisis in WA can only be solved with a parliamentary taskforce aimed at redirecting funds to intervention programs, the state's former chief judge says.

Former judge Antoinette Kennedy said last month that prison overcrowding was a political problem and a taskforce should plan a major reform program for the state's criminal justice system.

Ms Kennedy said the committee's goal should be to introduce a "justice reinvestment program" where large sums of money were diverted away from building new prisons and invested into crime prevention programs. <http://tiny.cc/x9c6ww>

CCC probes Broome police re alleged bashing

Three WA police officers have been stood down as other police investigate the alleged bashing of a man by a policeman in the Broome watch house.

The WA Corruption and Crime Commission is probing an alleged assault in April on a 30-year-old man which a senior

officer reported shortly after the alleged happening. The CCC will hold public hearings in Perth on 10 June.

WA Police Commissioner Karl O'Callaghan served a loss of confidence notice on the 31-year-old constable, who it is claimed was responsible for the bashing. The policeman has 21 days to explain why he should not lose his job.

Mr O'Callaghan has now revealed that two more officers, a sergeant and a constable from Broome, have been stood down. <http://tiny.cc/jc9sww>

Sunshine state ices chemo concoctions

The Queensland government is icing drugs like kronik and black widow by making it illegal to sell or possess drugs "intended to have the same pharmacological effect" as one that is banned.

The law targets the chemists who have traditionally kept one step ahead by changing the chemical structure of their cannabis-like effect drugs.

Happy Herb Company boss Ray Thorpe said the move would push synthetic drugs into the black market. "These hastily composed, new laws are so vaguely worded as to be unworkable: nobody knows how they're going to be interpreted," he said. "It is obvious that prohibition benefits criminals more than anybody else." <http://tiny.cc/mc1kww>

Promise to target Mr Bigs: Mr Littles beware!

The *Criminal Proceeds Confiscation (Unexplained Wealth and Serious Drug Offender Confiscation Order) Amendment Bill 2012* passed last month will give Queensland the toughest laws in the nation for dealing with organised crime, according to a media release.

Attorney-General Jarrod Bleijie said the new laws were aimed at hitting the 'Mr Bigs' who may not be directly involved but still benefit financially from criminal activity.

Civil Liberties Australia says that the new laws, like similar laws throughout Australia, will almost certainly have much greater impact on the 'Mr Littles' of crime and leave the Mr Bigs untouched.

Mr Bleijie said. "Our new unexplained wealth laws cast the net wider to capture crime bosses who are pulling the strings but have escaped charges as there isn't enough evidence to link them to the crime." In other words, CLA says, they will be convicted without appropriate evidence to link them to a crime, according to the state's AG.

Under the legislation, drug traffickers will also be forced to forfeit all their property, including gifts they have given to others in the six years before the offence.

CLA says that, if they have given a gift to another person, it belongs to the other person, surely...and is therefore not "their" property. We wonder how the Qld Govt will go taking back the presents that a dutiful son, charged with a medium level drug offence, gave to his mother for her birthday over the past six years. <http://tiny.cc/nzdnww>

Ink stink: Qld Govt could try wrist tattoos?

Tattooists have rejected a proposal for a Queensland tattoo registry to discourage bikie-related money laundering, saying it would infringe civil liberties and privacy.

The registry would force people wanting tattoos to register their intentions with the government, in an attempt to stop bikie-related tattoo parlours taking receipts for fake customers.

Gold Coast MP for Mermaid Beach, Ray Stevens (right), who put the proposal to State Parliament last month, said bikie-related crime is a huge concern for his electorate.



But Australian Tattooists Guild spokesman Josh Roelink says the registry is a "huge infringement on civil liberties and privacy". Mr Roelink, a tattooist in the northern NSW town of Lennox Head, says

most people would not want to register a tattoo. "The majority of our clients would probably be reluctant to do it, and it's just a huge infringement on civil liberties and privacy."

Civil Liberties Australia thinks the Queensland parliament might next consider short-circuiting the issue by tattooing numbers on to the wrists of people seeking tattoos. We believe something similar has been tried before, in Germany, last century. <http://tiny.cc/jfhsww>

SA to try 'faster justice' for victims of crime

Victims of crime will receive justice more quickly and with fewer court hearings under new laws in South Australia.

Director of Public Prosecutions Adam Kimber will now have the power to allow serious offenders who admit their guilt to be sentenced in the Magistrates Court instead of waiting to go before the District Court.

Mr Kimber said there would be fewer hearings and faster resolutions for victims - lessening the traumatic experience of going to court.

Under the Statutes Amendment (Courts Efficiency Reforms) Act, offenders who plead guilty would in future be eligible for sentencing in the Magistrates Court, where magistrates can impose sentences equal to those of the District Court.

Mr Kimber also foreshadowed prosecutors appearing in regional courts via CCTV and video link, as happens now in the Holden Hill and Christies Beach Magistrates Courts.

"Unfortunately, not all judges support the use of video link," he said. "I would like to see those few judges who resist come around. CCTV is used in the High Court and, if it's good enough there, it's good enough for our courts." <http://tiny.cc/yahiww>

\$1.8bn prison due to open in 12 months

The NT's new prison – officially Darwin Correctional Precinct – is due to open in 12 months.

The prison, about 28km outside the Darwin metropolis at outer suburban Howard Springs, will house 1000 prisoners, including a 30-bed, secure mental health centre.

There will also be a 48-bed centre for community-based offenders.

The 1000 beds are designed in low, low open, medium and maximum security units, housing male and female prisoners. Attorney-General John Elferink claims the prison, an initiative of the previous Labor government, will cost \$1.8 billion over 30 years.

Govts play funding games with Aboriginal lives

The NSW Aboriginal Legal Service has pointed out the dangers of neither federal or state governments funding the Custody Notification Service.

The Australian Government stopped funding the CNS in 2012, saying it was a state responsibility. ALS chief executive Phil

Naden says the NSW Government is not funding the service either.

Police call the ALS when an Indigenous person is arrested, advising them of their name and details so they can make contact with a lawyer.

The ALS says there has not been a single death in custody since the 24-hours-a-day service commenced in 2000. The phone line was recommended by the 1987 Royal Commission into Aboriginal Deaths in Custody. Mr Naden says it receives 300 calls a week, is helping to save lives and costs \$0.5m a year. <http://tiny.cc/gz7uwv>

Premier does backflip for the cameras

Premier Barry O'Farrell has rushed to criticise a tribunal ruling that the mushrooming council CCTV networks were illegal.

The NSW government is exempting councils from state privacy laws because the cameras are "driving down crime" and "preventing crime" across NSW, O'Farrell said, and claimed that they had to be turned back on in the interests of safety.

Rubbish, says CLA.

Only recently the state government itself told councils that CCTV was largely ineffective in stopping crime, and too expensive.

"I regret to advise that the Crime Prevention Division does not currently fund CCTV projects, as there is limited evidence to support CCTV as an effective crime prevention tool," wrote parliamentary secretary David Clarke on behalf of the Attorney-General's office in response to a request from Wagga Wagga council.

CCTVs – unless actively monitored as part of a police quick response operation – are good for catching criminals after the event in a limited number of cases (about 3%, according to the London Metropolitan Police).

They do not deter crime, studies show. <http://tiny.cc/fekyww>

Australian briefs

Hey, Big Spender: The ASIO building in Canberra will have cost more than \$700m – 52% over budget – when completed, possibly late this year (or maybe next), after more than four years of construction. When announced in 2007, the Howard government said it would cost \$460m. The ASIO website says: "ASIO operates within a particularly stringent oversight and accountability framework..." Not so you'd notice! A major part of the cost over-run has been attributed to the "security requirements" of the building, which are solely the province of ASIO, not of the construction manager, the Finance Department. However Finance should also be scrutinised and someone made accountable for their obvious fiscal incompetence in project design, specification and management. (Psst: ASIO photo).



Police likely to be charged over stun gun death of Brazilian: The NSW Police Integrity Commission has recommended charges be laid against a number of police

involved in the fatal arrest of Brazilian student, Roberto Laudisio Curti, 21, in Sydney's CBD last year. Curti died after police discharged stun guns at him 14 times, seven of them within 51 seconds. He had allegedly stolen a packet of biscuits from a convenience store. The NSW coroner, Mary Jerram, found police acted "like schoolboys in Lord of the Flies" as they stunned Mr Curti. She said the actions of police were reckless and excessive, and constituted an abuse of police power. <http://tiny.cc/b74txw>

NT AG pulls more mandatory strings: Serious violent offenders face a minimum of three months jail for a first offence or 12 for repeat offenders under the new NT Sentencing Act, which became law last month. A new offence of assaulting a worker carries a maximum penalty of seven years if the victim suffers harm. It also is subject to new mandatory minimums. "Employees deserve to be protected from thuggish acts, whether they are a taxi driver, sales assistant or nurse," AG John Elferink says.

Tenants get a cheaper option: New WA tenancy laws, which come into effect from July, cap the option fee prospective tenants often pay when applying for a property. Essentially a deposit, the fee is put towards rent if the tenant secures the property, and refunded if they do not. It will be capped at \$50 dollars for properties with a weekly rent of below \$500, or \$100 for properties valued at more than \$500 per week. The new laws also make it compulsory for a property condition report to be completed at the start and end of a tenancy. <http://tiny.cc/zwdwww>

Woman charged with murderous intent sues police: A Sydney woman is suing the NSW police for malicious prosecution and false imprisonment after she was charged with intent to murder and jailed for six months pending a trial, only for the matter to be dropped due to lack of evidence. Palestinian-Australian Hayam Abed, 51, says she was the victim of false allegations, concocted by her ex-husband Khalil Younis and his new wife, Wafaa, which police had accepted without properly examining the evidence. <http://tiny.cc/zka6ww>

State urged to approve medical marijuana: A NSW Parliament committee has unanimously recommended that terminally ill patients and people with AIDS be allowed to legally possess and use up to 15gm of marijuana for medical purposes. Their names would be kept on a register after a treating specialist certified they had a relevant illness. The committee has also recommended the Health Minister write to her federal counterpart supporting the development of more approved and affordable cannabis-based pharmaceuticals. <http://tiny.cc/1u96ww>

X-ray produces Z grade results: Using wrist X-rays to calculate the age of Indonesian youths looks likely to have the plug pulled as a waste of effort on the recommendation of a federal committee. Only 55% of Indonesian births were recorded between 2000 and 2008: there are at least three different calendars used in the country. Between 2008 and November 2012, 1115 crew have arrived in Australia, with 197 being returned on the basis that they may have been minors. Fifteen Indonesians convicted as adults for people-smuggling offences were released when doubt was raised about whether they were adults at the time of arriving in Australia. <http://tiny.cc/qs7ww>

Legal Aid won't: Legal Aid NSW says it is expecting a large number of compensation applications as a result of the Federal Royal Commission into Institutional Responses to Child Sexual Abuse. But it won't fund the applications, saying they will impact disproportionately on its budget. The decision follows the State Government's recent changes to the Victim's Compensation Scheme which means most victims of institutional abuse would not be eligible for compensation. <http://tiny.cc/hunbxw>



Committee wants softer sentences:

The Victorian Parliament's law reform committee has called for softer laws on sexting. It found sending images, videos or text messages involving nudity or potentially exploitative material was common among teenagers, but they were unaware they were committing serious child pornography offences. The committee is recommending new offences for adults and children be established for sexting and that Victoria Police consider education and diversion measures instead of harsher penalties. CLA's submission to the inquiry was written by Rhys Michie (left). <http://tiny.cc/ys6vxw>

What's up, dock? The ACT will do away with three decades of tradition by installing a dock in the Magistrates Court this month at an unknown cost. When completed, the new "secure" courtroom will hear high-security, bail and custodial matters. The ACT currently does not have docks in any of its courtrooms after they were removed in the 1980s. Defendants sit at the bar table with their lawyers and are separated from the public by a railing. <http://tiny.cc/sttewx>

Defence demonstrates its rapid response: The Defence Department says the age of military pamphlets seized from Canberra bookshop Beyond Q in 2011 is the reason it took two years – until they were returned last month – to "declassify" them. A Defence spokesman said: "In line with government and Defence policy, prior to declassification, material is assessed to ensure that its release cannot reasonably be expected to cause damage to Australia's defence, security or international relations". Pamphlets included a 1937 edition of Small Arms Training, a 1966 Adjutant's Pocketbook, a 1969 Aide-Memoire for Regimental Officers and Non-Commissioned Officers, and the 1942 version of The Detecting and Reporting of Unexploded Bombs, Shells and Parachute Mines. <http://tiny.cc/3sxewx>

A health statistic where Indigenous people lead on the numbers: According to the Australian Bureau of Statistics, suicides accounted for 4.2% of all registered deaths of people identified as Aboriginal and Torres Strait Islander in 2010, compared with 1.6% for the general population of Australia. <http://tiny.cc/4hfxw>

Parliament votes down euthanasia bill: The NSW Parliament has voted 23-13 against a bill giving – for people with a terminal illness, over 18 and mentally capable – the right to end their own suffering by choosing the manner and timing of their death. "They will be screaming out in frustration," said Greens MP Cate Faehrmann, who introduced the bill to the NSW upper house last week. A man in a wheelchair yelled out from the public gallery: "You people have no right, you're all gutless." The house also voted against sending the matter to a parliamentary committee for further investigation. <http://tiny.cc/w0gjxw>

Federal MPs support push for Right to Appeal: Six federal Tasmanian MPs have signed a letter to Premier Lara Giddings and AG Brian Wightman supporting the introduction of a 'Right to Appeal' law. The proposed law, similar to one just passed in SA, would enable a person convicted of a major crime to get back into the Supreme Court if 'fresh and compelling' new evidence was discovered. The signatories were: Senators Lin Thorp, Anne Urquhart, Carol Brown, Catryna Bilyk and Helen Polley and the MHR for Franklin, Julie Collins.

Customs mangles comic decision: The Australian Customs Service has been forced to return a private collection of Japanese manga comics recently seized from a Melbourne collector. The case has set a new benchmark for the importation of manga and also raised questions about the ability of Customs officers to properly evaluate adult material. Manga is a very widely used media and entertainment format for many young Australians and a rapidly expanding form of media. Eros Association and Sex Party President, Fiona Patten, coordinated the classification issues around the decision and civil liberties barrister (and CLA member), Greg Barns, ran the legal case.

CLA report – for May 2013

Board meeting 19 May:

- report of Returning Officer for electronic Annual General Meeting tabled. See: <http://www.cla.asn.au/index.php/2013/report-of-the-cla-eagm>
- key campaign issues for election decided (see story above).
- policy on same-sex marriage decided: "everyone should have the same rights" (policy statement confirmed in response to two members who disagreed with CLA's supporting same-sex marriage).
- Treasurer Phil Schubert reported CLA is in sound financial position.
- decided that key office bearers to be eligible, if they claim, to be reimbursed \$200 (Secretary and Webmaster) and \$100 (National Media Manager and WA and Tasmanian Media Spokesperson and local CLA Director) a year as ex gratia payments for incidental costs of phone, internet access/software, and the like.
- suggestions are being sought from members for possible new CLA Patron: email Secretary.

Annual return for CLA lodged and accepted by the Registrar, including amendments to constitution as approved by members during electronic AGM process.

Paper submitted to Lexis Nexis on Rule of Law, due to be published in June.

To help WA Director, Rex Widerstrom, President Dr Kristine Klugman contacted all WA CLA members to provide details of Mr Widerstrom's contacts, and advise people of possible meeting later in the year involving him and Vice-President Noor Blumer.

Media

National Media Director Tim Vines:

- Media Freedom in Australia: comment for 2SER radio
- Is new Xbox a surveillance device? Comment for articles in *The Age*, *GamesFix* and also run in

Gizmodo. <http://m.games.ninemsn.com.au/news/privacy-breach-xbox-one-a-twisted-nightmare>)

- ANU censors Woroni (student paper) for ABC radio
- Journalism student: Drones in Australia.

Other:

Assistance to ANU students as part of an 'Unravelling complexity' project on online privacy.

Tasmania - Richard Griggs:

Draft of article for *The Mercury* (and national use) prepared: what is civil liberties, what does CLA stand for?

Interview: ABC local radio expressing concern with proposed unexplained wealth laws introduced to Tasmanian Parliament: <http://tiny.cc/zvzvxxw>

Meetings:

CLA members: Dr Helen Wiles, Phylli Ives, Keith McEwan
Communications strategy and Facebook/Twitter meeting with Ali Khan.

Web master and Director Lance Williamson re web design.

Board members Noor Blumer, Phil Schubert and Tim Vines, re current range of activities

Bill Stefaniak re Administrative Tribunal issues

Tasmanian MPs Dick Adams, Andrew Wilkie, Sen Lin Thorpe and Sen Anne Urquhart re Right to Appeal legislation for Tasmania and the Yacht No Body case.

Jane Prentice (MHR Ryan, Qld) – *pictured on the left with CLA President Kristine Klugman* – re election issues, East Timor, Treaties, local government
ANU law student Chevaun Walsh re CLA internship



Gatherings attended

- Former Members of Federal Parliament lecture on constitutional recognition for Aborigines.
- Friends and Family of Drug Law Reform, lecture by Brent Beyer on the topic: *'Quest for answers: Australia and US drug policies, observations, views and experiences.'*
- U3A, President and Secretary gave talk on Civil Liberties in Australia over past 50 years.

Submissions:

To the Tasmanian Sentencing Advisory Council consultation on community attitudes on sentencing for sex offences (Richard Griggs). The submission points out the importance of seeking out the opinions of jurors who have sat on sex offence trials and heard all the evidence presented in court, rather than those facts reported by the media.

INTERNATIONAL

Lord Judge gives secret jailing the boot

No one should be jailed in secret, the Britain's lord chief justice, Lord Judge, has said in urgent guidance sent to judges following the Court of Protection's imprisonment of a woman for contempt.

The two-page circular was a swift response by the senior judiciary to concerns raised about the case of Wanda Maddocks. She was jailed last year for disobeying court orders relating to the care of her 80-year-old father, but was not identified at the time. Maddocks is believed to be the first person sent to prison by the Court of Protection, which looks after the interests of those deemed unfit to control their own affairs.

The guidance reminds judges that "it is a fundamental principle of the administration of justice in England and Wales that applications for committal for contempt should be heard and decided in public, that is, in open court". <http://tiny.cc/hoeiww>

82% support legalising assisted dying

A major survey of religious opinion – by Professor Linda Woodhead of the UK's Lancaster University – shows that large majorities of believers are in favour of legalising assisted dying.

The poll, carried out by YouGov for the Westminster Faith Debates and involving nearly 4,500 people, reveals that only among Muslims and Baptists are there majorities against a change in the law that prohibits assisted suicide.

Majorities of Anglicans, Catholics, Jews, Hindus, Sikhs, Methodists and Pentecostals in the UK are in favour of changing the law.

Prof Woodhead said there was a growing conviction that individuals have the right to choose when and how to end their lives – 82% in her poll, among them 75% of the Catholics who support change. <http://tiny.cc/la0nww>

Obama justice becomes media snoop

The Obama administration has ripped asunder media freedom by seizing phone records from the offices of the *Associated Press* news agency in trying to track down the source of an alleged Yemen terrorist plot story.

The US attorney's office for the District of Columbia confirmed last month that subpoenas had been issued for phone records. It claimed it valued press freedom but it had to balance this against the public interest.

AP revealed that the justice department, without informing the organisation in advance, had obtained two months' worth of phone records of calls made by reporters and editors.

Lawyers for AP said the records, which the justice department appears to have obtained from the phone companies earlier this year, listed every call made by about 100 reporters from AP's main offices in New York, Washington and Hartford, and from its office in the House of Representatives press gallery between April and May in 2012. AP described it as a "massive and unprecedented intrusion" into newsgathering operations. <http://tiny.cc/hzp2ww>

President – again – promises to close Gbay

President Barack Obama vowed last month to close the controversial prison camp at Guantánamo Bay, saying that he did not want any of its hunger-striking inmates to die of starvation.

President Obama said it was not sustainable to keep Guantánamo open, warning its continued existence was a "recruitment tool" for extremists. The president promised to take the issue back to Congress, which blocked his earlier attempts to fulfill a 2008 campaign promise to close the camp.

A widening hunger strike officially involved at least 100 of the prisoners, 21 of whom are being force fed. In response to the crisis a 40-strong military medical team has arrived at the isolated base on the island of Cuba to administer treatment to keep the protesters alive.

The hunger strike is said to have begun over allegations that guards mistreated Korans belonging to the inmates. That has been denied by US military officials.

There are about 166 inmates at Guantánamo, of whom about half have been cleared for transfer or release. Nearly all inmates have been held without charge – some for as long as 11 years. <http://tiny.cc/xfqeww>



Jailing is politically motivated, says court

Ukraine's imprisonment of the former Prime Minister Yulia Tymoshenko (left) was a politically motivated violation of her rights, the European Court of Human Rights has ruled.

A Ukrainian ambassador stormed out of the court in response to the ruling in a case that has strained the former Soviet state's ties with Europe and the US.

An architect of the 2004 pro-democracy Orange Revolution, instantly recognisable by her crown of braids, Tymoshenko was sentenced to seven years in prison in October 2011 after being convicted of exceeding her powers as premier while negotiating a gas contract with Russia.

Tymoshenko has said her detention was intended to keep her out of politics and that her rights were violated when she was first imprisoned in August 2011. The ECHR agreed unanimously that she had been jailed "for other reasons" than those permissible by law. <http://tiny.cc/ciwcvw>

ODD SPOTS:

Guns for re-sale: a 2yo baby dies, by jiminy!

No 1: Arizona Republican Governor Jan Brewer, who is pro-guns, has signed legislation forcing municipalities to re-sell firearms from gun buy-back programs rather than destroy them. The new law prevents local governments melting down the weapons because doing so "wastes taxpayers' money by not realizing the revenue from reselling turned-in weapons". <http://tiny.cc/4iqhww>

No 2: A 5-year-old boy in Kentucky shot and killed his 2-year-old sister recently while playing with a .22 calibre rifle that he was given as a gift. The girl was identified as Caroline Starks by Cumberland County Coroner Gary White. White said the boy had been given the rifle as a gift last year and that the mother had been at home when the shooting occurred. The rifle was normally kept in a corner of the home, but family members did not realize the gun had been loaded. "It's a Crickett," the coroner explained. "A little rifle for a kid... The little boy's used to shooting the little gun." <http://tiny.cc/cyqhww>

Drugs reach 280 as synthetics proliferate

More than 280 potentially harmful "legal highs" and other new psychoactive synthetic drugs are being monitored by European experts, representing a fundamental shift in the illicit drugs market.

The EU's drug agency, in a joint report with Europol on new drugs, says 73 have become available across Europe, and adds that there is now a firmly established and thriving legal highs business with low risks and high profits operating through more than 690 online sites and specialised bricks-and-mortar shops.

The report by the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) in Lisbon, Portugal, says the internet has created new routes for supply and use, and that the market is now less "structured around plant-based substances shipped over long distances to consumer markets in Europe".

The report is published alongside the centre's 2013 annual survey in drug trends. <http://tiny.cc/0essxw>

They've got your number!

Law enforcement agencies are increasingly using sophisticated cameras, called automated licence plate readers, or ALPR, to scan and record the licence plates of millions of cars across the USA (and in parts of Australia).

These cameras, mounted on patrol cars and on city streets, can scan up to 1800 licence plates per minute, day or night, allowing one car to record more than 14,000 plates during a single shift.

Photographing a single licence plate one time on a public city street may not seem problematic, but when that data is put into a database, combined with other scans of that same plate on other city streets, and stored forever, it can become very revealing.

Information about your location over time can show not only where you live and work, but your political and religious beliefs, your social and sexual habits, your visits to the doctor and your associations with others.

And, according to recent research reported in *Nature*, it's possible to identify 95 per cent of individuals with as few as four randomly selected geospatial datapoints (location + time), making location data the ultimate biometric identifier. <http://tiny.cc/iolrww>

Random acts of sleeplessness!



The owners of a New Zealand guesthouse have refused to let a lesbian couple share a bed .

Karen and Michael Ruskin, of Pilgrim Planet Lodge, in central Whangarei, say they have received death threats and verbal abuse over their stance on homosexuality. But they say they will not have their beliefs silenced, even if it puts their business at risk.

Lesbian couple Jane Collison, 30, and Paula Knight (*at left*) 45, decided not to stay at the lodge on 7 May 7 after being told they could only have a room with single beds. They had booked online a room with a king-sized bed but Mrs Ruskin said that when the couple arrived they were told the lodge's policy was for same-sex couples to be put into a room with two king-single beds.

Ms Collison filed a complaint with the Human Rights Commission, because it is illegal to discriminate against someone in the provision of goods and services because of their sexual orientation. But Mrs Ruskin said there was an exception in the Human Rights Act relating to shared residential accommodation.

Ms Collison said what went on behind closed doors was none of the Ruskins' business. "It is a closed bedroom. I'm not allowed to cuddle my partner in a shared bed, but if I walked in there with a random guy I picked up off the street she would let me in. She is my fiancée." <http://tiny.cc/mtrexw>

International briefs

Whistle while you profit: US whistleblower provisions under the Dodd-Frank Wall Street Reform and Consumer Protection Act offer financial incentives to report suspected securities or commodities trading violations to the Securities and Exchange Commission and Commodity Futures Trading Commission. In 2012, a private banker in the US received a \$102 million reward for providing information that led to \$760 million in fines, penalties, interest and restitution to settle charges against Swiss bank UBS, which had been accused of helping thousands of American customers use Swiss accounts to evade US taxes. <http://tiny.cc/sdxnww>

PNG re-enforces death penalty: Asylum seekers on Manus Island will be subject to the death penalty (DP), the Department of Immigration spokesperson Sandi Logan has reportedly confirmed by Twitter post. The PNG parliament last month legislated to allow execution by hanging, electrocution, lethal injection, firing squad and "deprivation of oxygen" for major offences. While the DP has been in the criminal code, no-one has been put to death since 1954. <http://tiny.cc/ykgvwx> and <http://tiny.cc/2ugvwx>



Cells expert chooses euthanasia: Biochemist Christian de Duve, who won the Nobel Prize in physiology/medicine in 1974, died by euthanasia last month, aged 95. De Duve was the second well-known Belgian to choose mercy killing after the death in 2008 of writer Hugo Claus. Belgium in 2002 was the second country in the world, after The Netherlands, to legalise euthanasia. <http://tiny.cc/thshoww>

Judge not switched on to privacy: A federal magistrate in New York recently ruled that mobile phone location data deserves no protection under the US Fourth Amendment and that the government can engage in real-time location surveillance without a search warrant. In an opinion straight from the Twilight Zone, magistrate judge Gary Brown ruled last month, according to the ACLU's Chris Soghoian, that "cell phone users who fail to turn off their cell phones do not exhibit an expectation of privacy." <http://tiny.cc/ilitexw>

France votes for gay marriage: French President Francois Hollande signed a gay marriage and adoption bill into law last month. The constitutional council had turned down a challenge by the right-wing opposition to Mr Hollande's "marriage for all" key election pledge. France became the 14th country to legalise same-sex marriage. <http://tiny.cc/mcyaxw>

UN inspects NZ jails: A UN torture-prevention delegation is inspecting prisons, police cells, mental health facilities and immigration centres in NZ. It is the first time the UN sub-committee has visited the country since it signed the Optional Protocol to the Convention Against Torture in 2007. The inspections and report aim to ensure the country meets obligations under international law to prevent torture or ill treatment of people detained by the state. The 10-person

team led by sub-committee chairman Malcolm Evans, a British professor of international law, has already visited Cambodia and the Maldives during its Asia-Pacific trip. <http://tiny.cc/ba5www>



Stephens is top Commonwealth lawyer:

The new chair of the Commonwealth Lawyers' Association is the UK media and human rights lawyer, Mark Stephens (left). "In my new role I will begin by predominantly focussing on the decriminalisation of homosexuality across the Commonwealth; the abolition of the death penalty and the independence of lawyers; the independence of the Judiciary; and corporate governance and transparency through the Commonwealth. I am an advocate for human rights and look forward to making a difference," he said. (UEL photo)

DATES

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.

18 June, Canberra: Optional Preferential Voting: Wanted Dead or Alive? seminar, 12.30pm, Crawford School ANU Bldg 132. <http://tiny.cc/qb3fww>

22-29 June, Bali, Indonesia: 14th Bali Criminal Lawyers of the NT conference. Details: <http://clant.org.au>

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.

27-30 June, Fremantle: 20th annual A. Assn. for Professional and Applied Ethics conference, Achieving Ethical Excellence, U. Notre Dame. Details: <http://www.aapae2013conference.com.au>

4 July, Canberra: 2013 Kirby lecture on international law: Prof. Gillian Triggs, president of the A. Human Rights Commission, 6.30, Finkel Theatre, John Curtin SMR building. RSVP by COB 26 June to rspv@law.anu.edu.au Info: http://law.anu.edu.au/sites/all/files/events/kirby_lecture_2013.pdf

4-6 July, Canberra: 21st Annual Conference of the the ANZ Society of International Law: details <http://tiny.cc/xk5txw>

25 July, Melbourne: 2013 Rare Books Public Lecture: 'The Book Theft Century: A Lament' by Associate Professor Travis McDade, 6.30-7.30pm, Melbourne Law School, 185 Pelham St Carlton. Email: law-events@unimelb.edu.au or phone 03 9035 1111. Flyer: <http://tiny.cc/8e4fww>

CLArion is the monthly e-newsletter of Civil Liberties Australia A04043, Box 7438 FISHER ACT 2611 Australia.

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

ENDS