

What can we say? What can you say?

Help! We need ideas and suggestions from Civil Liberties Australia members: how might we constructively oppose the most excessive aspects of the draconian new terror laws?

Opposing the current tranches through formal processes is futile. We tried, last month, appearing before the Security and Intelligence Committee, after compiling a detailed national submission.

Despite concise arguments and precise warnings over the dangers to Australia's traditional liberties, and to the rule of law and social cohesion, the parliament passed the laws unblinkingly.

Politicians on the Parliamentary Joint Committee on Intelligence and Security will not hear common sense; they won't listen to reason. Basically, they don't listen, because their core is a group of former military-security insiders who simply accept that more repressive legislation requested by the AFP and ASIO must be enacted without appropriately balancing other views.

In a normal democracy, police and spooks would have to justify why they needed extra laws, and why they couldn't do their jobs without them. But the PJCS, instead, demands that civil society organisations – like CLA, the Law Council, Privacy Foundation, Electronic Frontiers, the journalists' Media Alliance – must justify why the police and spooks should not get the laws they demand.

The Australian Parliament has reversed the burden of proving need, putting it on the people to prove they deserve liberty, rather than the secret elite proving they need more repressive laws and rules.

Such a reversal is identical to how state and territory governments, and the federal government, are undermining the rule of law by passing legislation which forces people to prove they are not guilty, like with bikie legislation, your assets, protests over forests and, now, why Muslims must continue to prove their innocence just to be Australians not hounded by the police.

What could/should we do: email your best idea(s) in dot-point format to secretary@cla.asn.au

Government – and Opposition – abandon civil liberties, rights and privacy

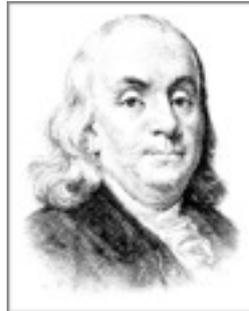
Coalition government politicians, and Opposition MPs (in "lockstep", says leader Bill Shorten), may reap a whirlwind from dangerous dog-whistle politics which equate terrorists in the Middle East with Muslims everywhere, specifically in Australia.

When MPs sprout barely-coded messages clearly aimed at Muslims, such as recent comments relating to head scarves, they fan society's racist embers. Supporting such bigoted speech, as Attorney-General George Henry Brandis does, would appear to encourage a return to the days of his fellow Queenslander, Pauline Hanson. The "Team Australia" rhetoric and incessant flag-waving by Prime Minister Anthony John Abbott evokes images of Cronulla's race riots: perhaps we will see riots north of Sydney Harbour next time, on one of the beaches of AJ Abbott's Warringah electorate.

The positive sins of MPs are matched by their omissions. Virtually no-one stands up for civil liberties and human rights.

They cave in when anyone in uniform, or anyone who operates secretly, asks for more powers, more money, more regulations, more intrusiveness and less privacy for the people.

The people, whom MPs are elected to represent, receive very one-sided, imbalanced consideration and representation. MPs mostly operate in fear, and trade with little thought of principles:



*"Those who would give up Essential Liberty, to purchase a little Temporary safety, deserve neither Liberty nor Safety," – Benjamin Franklin**

*In the Pennsylvania Assembly: Reply to the Governor, November 11, 1755; as cited in *The Papers of Benjamin Franklin*, vol. 6, p. 242, Leonard W. Labaree, ed. (1963)

If only we had more statesmen and women, instead of the sorry lot that is our lot. What are they "saving us" from? From losing our freedoms and liberties, is their promise.

But, aren't you the politicians changing our society, dispensing with individual rights, limiting personal choice and proscribing privacy with your new laws? Well yes, of course, but these are frightening times when you have to give up essential liberty for temporary safety, the government and opposition say.

Parke voices concern over mission creep

West Australian federal MP, Melissa Parke, is worried about Iraq "mission creep".

She is the only MP to stand up in parliament and speak against confected conventional "wisdom".

Parke, a former aid worker and UN lawyer, said she was "very concerned that the government has so quickly escalated Australia's involvement in Iraq from strictly humanitarian protection, to now committing Australia to what appears to be an open-ended war that will only increase the security threat to Australians – a threat that is already heightened by our involvement in the 2003 Iraq debacle".

Parke is a member of Civil Liberties Australia, we are proud to say.



ODD SPOT: Beware the maths

I did the maths the other day using the figure of 60 people fighting OS and another 100 that may be seen as being sympathetic toward the Islamic State. If you look at those numbers in relation to our overall population (23.5million), it works out at 0.000680851%. – comment by 'NotRight' on <http://tinyurl.com/kurq4n8>

ODD SPOT: Understaffed? ASIO?

ASIO's staffing strength was approved at 1860 by the Howard government in 2006: this was a mushrooming of 310% from just on 600 staff in June 2001. By June 2013 there were 517 executive officers and 1342 others, making a total of 1859. For ASIO to claim that it is understaffed, as occurred recently, is nonsense. <http://tinyurl.com/p2vrpa2>

Sanest man assigns terrorism its rightful place...by the numbers

The sanest man in Parliament House Canberra, journalist Bernard Keane, put terrorism in perspective in an article – <http://tinyurl.com/nbfoguj> – in *Crikey* last month.

“...politicians only have to say the word ‘terrorism’ for Australians, and especially the media, to abandon all reason and demand ‘whatever it takes’ to ‘keep Australia secure’,” he wrote.

“The vague and trivial threat of being killed by an evil ideological force — unWestern, non-white, non-English speaking, unChristian — pushes our buttons in a way that far greater threats to our lives — ‘normal’ homicide, domestic violence, preventable diseases and accidents — that kill many, many more Australians and cause persistent economic losses, do not.”

He produced a chart (below) of death by the numbers so our federal leaders could better choose what they would allow to spook them. Given the preponderance of tractor deaths over those from terrorism, it is strange that the National Party is not calling for a ‘War on Tractors’.

Suicide	22824
Car accidents	8525
Homicide	2617
Diabetes - indigenous Australians	1690
HIV	879
Domestic violence (estimated)	850
Falls out of bed	417
Falls off ladders	230
Shingles	228
Electrocution	206
Falls off chairs	198
Gastro	168
Tractor accidents	137
Terrorism (1978-2014)	113
Deaths in custody – indigenous Australians (estimated)	66
Chicken pox	63
Lightning	10

Sources: Australian Bureau of Statistics 3303.0, Australian Institute of Criminology

Remember the 600-police Sydney raid?

Media Release: Clarification of Operation Appleby numbers.
Release Date: Saturday, September 20 2014, 02:42 PM – AFP media website

The Joint Counter Terrorism Team wishes to clarify numbers with regard to the status of Operation Appleby. In total, 16 people were detained on Thursday September 18th.

When the JCTT held a Media Conference at 9.30am, the figure was 15, but there was one further man detained later during the operation that day to bring the total to 16. This figure includes a 21 year old woman issued with a Future Court Attendance Notice and a 17 year old girl who was dealt with under the Young Offenders Act. Both women were at a Guildford address. The 21 year old will appear at Parramatta Local Court on October 17.

Ten men were subsequently released on Thursday September 18th. On Friday September 19th, three men who were subject to Preventative Detention Orders (PDO) were also released when those orders expired.

One man remains bailed refused (sic) after appearing in court on Thursday September 18th.

<http://tinyurl.com/pw7ztet>

No performance accountability, but bucketloads of money

The Parliamentary Joint Committee on Intelligence and Security has reported on its review of the administration and expenditure of the Australian Intelligence Agencies (AIAs) for 2011-12 and 2012-13, finding that agencies are currently overseeing their administration and expenditure effectively.

Committee chair, Mr Dan Tehan, pointed out however that ‘for a number of years now, the Committee has monitored the impact of the efficiency dividend and other savings measures on agencies. The committee sought assurances in this review that each agency continued to have the necessary resources to address and target Australia’s national security priorities to the degree necessary to protect Australians against threats to national security.’

“The Committee received the clear message that any further cuts will lead to capability reductions. The Committee has therefore recommended that the continued application of the efficiency dividend and other savings measures to the agencies comprising the Australian Intelligence Community be reviewed.” Mr Tehan said. – media release by PJCIS, 22 Sept 2014

Note: The PJCIS only reviews “administration” and “expenditure”. No-one reviews the AIA’s efficiency, or competence, or governance.

PJCIS and AGD: One-sided views

The PJCIS has reported on the National Security Legislation Amendment Bill (No. 1) 2014, making 16 recommendations.

“During its inquiry, the committee received more than 30 written submissions and conducted public and private hearings,” its media release last month said.

But the hearings are “show” events, staged to make it appear as if the committee is actually consulting: it’s not possible for civil society advocates to change minds already made up.

The Attorney-General’s Department, which provides much of the advice on such bills, is a police and spook agency booster, ignoring its equal responsibility to safeguard human rights and civil liberties.

The report is at <http://www.aph.gov.au/pjcis>.

ODD SPOT: AFP plants a bomb...and forgets it

The Australian Federal Police has apologised for leaving a training device in a suitcase at Sydney Airport after a canine training exercise on 14 August 2014. The training device contained approximately 230g of a plastic explosive which had been hidden in an unclaimed suitcase during a routine canine exercise. It was discovered on Tuesday (9 September) afternoon when a woman travelling through Sydney Airport was offered a replacement suitcase after her own bag was damaged during her flight.

Apple phone protected to the core

Apple says not even the police can access its mobile phones under the new iOS8 system...provided you use a secure password.

The company said its latest software system included protection of the information stored on Apple mobile devices so deep that Apple says it has become technically impossible

for it to comply with government warrants asking for customer information like photos, email, messages, contacts, call history and notes, and extract the data from devices.

The company said all this information was under the protection of a customer's passcode, the four-digit number used to log in.

Previously, Apple could extract some information from devices, even when they were locked with a passcode, in response to a valid search warrant. The new security in iOS 8 protects information stored on the device itself, but not data stored on Apple's cloud service. <http://tinyurl.com/prys7zg>

Your face will be no longer your own

The Abbott government wants wider powers to collect and share biometric information at airports.

The Australian Customs and Border Protection Service said new legislation was required for its eGate facial recognition system, which it claims will stop suspected terrorists entering or leaving the country.

Minister for Immigration and Border Protection Scott Morrison announced last month that the electronic departure gates would lock down major airports from mid-next year at a cost of \$158 million.

"Legislation is proposed that will enhance the ability for agencies to capture, store and share biometrics in order to improve the identification of terrorists and other persons of interest," a spokeswoman for Customs said. <http://tinyurl.com/mrnztro>

Asylum seekers deserve informed choice

Asylum seekers languishing on Manus Island and Nauru are to be offered the "choice" of Cambodia as an alternative place to live in "splendid isolation".

Civil Liberties Australia expects that the government will provide the asylum seekers with a "yes" case for why they might move AND a "no" case for why they shouldn't.

To do anything less is trickery.

Google consulting not true 'search' for answers

Google ran a pseudo-consultation with some Australian privacy and rights groups last month, but didn't attract official support from the Australian Privacy Foundation.

Google's supposed consultation was more a one-way briefing session by Google, the APF said, listing its requirement for proper topics for a consultation process as:

- 'The Right to be Forgotten', noting that in Australia there has been such a right for decades, in the form of spent convictions legislation
- Data retention: Both the ongoing proposals by the Australian government and Google's own role as a mass data retention operator
- The TPP/TTIP's proposed ban on national choice of where, and by whom, data is stored
- Relationships with national security organisations
- Un-blockable tracking through 'device fingerprinting', as well as cookies, trackers, bugs, etc.
Transparency in relation to Terms of Use and Privacy Policy Statements
- Big Data Analytics and Google's holdings of personal data
- Google's commitment to anonymity and pseudonymity across all services following the removal of the real names policy on Google+

ODD SPOT: Google still popular with 'agencies'

Australian government agencies asked Google for user information 752 times, covering 844 users, in the first six months of 2014, a slight drop on the previous six months. Google complied with 66% of requests. <http://tinyurl.com/m7lyhe8>

Keogh judges told death probably accidental

The first, seminal case under the new Right to Appeal (R2A) law in South Australia has been running in the Supreme Court since 22 September... and the court has been told the convicted man is likely not guilty.

Henry Keogh, in jail for murder for 19 years during which he has constantly protested his innocence, is finally getting his days in court.

On the third day, the court heard Keogh's fiancée, Anna-Jane Cheney, likely died accidentally after fainting and hitting her head on the bath she drowned in. This is what an interstate forensic pathology expert told the court in the landmark case.

Dr Matthew Lynch, a senior forensic pathologist at the Victorian Institute of Forensic Medicine, told the Full Court of the Court of Criminal Appeal of SA that his review of the evidence suggested Ms Cheney had died accidentally. He said a drop in blood pressure caused by standing up out of hot water could have caused a fainting episode, while an abnormal heart condition had also not been excluded as a cause.

When questioned he said it was "more likely" Ms Cheney had slipped and fallen causing her to accidentally drown. <http://tinyurl.com/lzfmmf9>



A Canadian organisation, AIDWYC has launched the first international day to highlight the justice system's errors.

They have designated 2 October as the international day to highlight miscarriages of justice.

Wrongful convictions are serious errors which call into question the legitimacy and integrity of the criminal justice system. They are commonly caused by a lack of communication between parties, failure to disclose key evidence and improper investigative techniques.

Civil Liberties Australia has become one of the sponsoring organisations. CLA is involved in trying to right the wrongs in the Sue Neill-Fraser case in Tasmania, and is a supporter of the Right to Appeal process which has allowed the Henry Keogh case in South Australia to return to court in September (see below). More information: <http://www.aidwyc.org/>

Miscarriages of justice put under spotlight

A Symposium on Miscarriages of Justice – wrongful convictions – will take place in Adelaide on 7 and 8 November 2014.

Run by the the Centre for Crime Policy and Research at Flinders University Law School, keynote speaker will be Prof Kent Roach of Toronto U in Canada.

He is an expert in criminal law, the Canadian Charter of Rights and Freedoms, and anti-terrorism law. His current research involves the comparative study of miscarriages of justice, comparative judicial review and comparative anti-terrorism law and policy.

Speakers include Civil Liberties Australia (CLA) President Dr Kristine Klugman, CEO Bill Rowlings, and member Eve Ash, who will close the symposium with a session to devise a national strategy to combat miscarriages of justice.

Associate Prof Barbara Etter, also of CLA, will discuss 'What have we learned 30 years on from Chamberlain' in relation to the Sue Neill-Fraser case in Tasmania.

Other speakers include Prof Stephen Cordner of the Victorian Institute of Forensic Medicine, WA barrister Tom Percy, Bibi Sangha of Flinders U, Bob Moles of Networked Knowledge, Lynne Weathered of the Griffith U Innocence Project, Rachel Dioso-Villa of Griffith U, Ass. Prof David Hamer of Sydney U, Joe Crowley of Bond U and Prof Gary Edmond of UNSW on forensic science evidence.

State's costs mount as DPP appeals

The Tasmanian government has appointed an acting judge to the Supreme Court to preside over the Director of Public Prosecutions, Tim Ellis', appeal next month against his conviction for negligent driving causing death.

Former Supreme Court of Victoria judge David Lindsey Harper will hear the appeal. Justice Harper has been appointed from 10 November, until the appeal is finalised, paid by Tasmania.

The suspended DPP Ellis killed Natalia Pearn, 27, in a head-on collision on the Midland Highway between Launceston and Hobart in March 2013. Fourteen months later, in June 2014, Ellis was found guilty of negligent driving causing death.

Because of the choices made by the Crown, the maximum sentence he faces is a year in jail and a \$1300 fine: the potential penalties could have been much higher if he was tried in front of a jury of peers, rather than before a magistrate.

His sentencing, due in July, was put on hold when Ellis appealed his guilty verdict.

David Killick in the Hobart *Mercury* in June quoted a spokesman for Attorney-General Vanessa Goodwin as saying there would be no comment from the government on the implications of the verdict on Mr Ellis's job – which carries salary, travel and other allowances totalling \$563,000 a year – while the matter was before the courts.

After being on extended sick leave following the accident, Mr Ellis was suspended on full pay in Nov 2013. Presumably, noting the comments of the spokesperson for the AG, he is still on full pay.

If that is so, his treatment by the Crown contrasts remarkably with that afforded the then-presumed-innocent Sue Neill-Fraser who was jailed for 14 months, refused bail and obviously not paid a salary by the state, before her trial began.

Mr Ellis, as DPP, prosecuted Ms Neill-Fraser, who was sentenced to 26 years originally for murdering her partner in a case where there is still no body, and the circumstantial evidence continues to get weaker, rather than stronger, as people delve into the details.

For more fascinating facts in relation to the Sue Neill-Fraser case, see:

<http://www.betterconsult.com.au/blog/the-red-jacket-in-the-sue-neill-fraser-case/>

The formal **petition for mercy** is expected to be lodged next month, November.

LETTERS TO THE EDITOR: For the last two Saturdays of September, the Letters page of the *Mercury*, Hobart, has been totally taken up with letters about the Sue Neill-Fraser case. The first Saturday, the pro and con letters were split evenly; the second Saturday, the letters were all supportive of giving Ms Neill-Fraser a new trial. One letter praised the Attorney-General for her willingness to adopt the new SA 'Right to Appeal' law in Tasmania, an initiative proposed and promoted by Civil Liberties Australia.

Tassie might become green grass capital

Health minister Michael Ferguson says the Tasmanian government supports trials of medicinal cannabis in the state. He told an upper house parliamentary inquiry last month that: "We support appropriately conducted clinical trials, feeding into the existing national medicines regulatory framework. We will objectively consider any proposal." In July he had rejected a bid for a trial in the state, claiming health and security concerns. The inquiry is examining the idea of legalising medicinal cannabis. <http://tinyurl.com/qh2yxp3>

Medical marijuana makes a surprising surge

PM AJ Abbott now supports legalising cannabis for medical purposes: he made his announcement to good mate, screech-back radio's Alan Jones.

Mr Abbott said that no further testing should be needed on the drug if it is legal in similar jurisdictions. "I have no problem with the medical use of cannabis, just as I have no problem with the medical use of opiates," Mr Abbott wrote in the Jones letter, dated 23 August.

"I agree that the regulation of medicines is a thicket of complexity, bureaucracy and corporate and institutional self interest. My basic contention is that something that has been found to be safe in a reliable jurisdiction shouldn't need to be tested again here." <http://tinyurl.com/pycgh5e>

Far North Queensland federal MP Warren Entsch is reported to be working on a private member's bill.

NSW has announced a clinical trial of medical use of marijuana, making its legal use one step closer.

A working group will set up the trial, which will look at ways to address issues of supply and distribution, and report back by the end of the year. The government will formalise police guidelines so that people who possess small amounts of cannabis won't be charged if their name is on a register of terminally ill patients. <http://tinyurl.com/k9aom5x>

The NSW government was forced to act when Nationals MP Kevin Anderson revealed plans to introduce a private member's bill to legalise cannabis for the terminally ill, and the Labor Opposition indicated they would support it. <http://tinyurl.com/koptrbz>

In WA, Health Minister Kim Hames has switched to supporting a move to legalise medicinal marijuana.

Dr Hames told *Fairfax Media* he had written to Federal Health Minister Peter Dutton in support of a trial initiated or supported by the Therapeutic Goods Administration.

The switch in position by Dr Hames is not a surprise to CLA: he is a close friend of Dr Mal Washer, former MHR for Moore and convenor of the federal parliament's group campaigning for a change to drug laws. <http://tinyurl.com/m8l4s9u> As well, State Liberal MP Ian Blayney of Geraldton has broken ranks to support the move, and WA Opposition Leader Mark McGowan is in favour of the change.

The Uniting Church of WA has voted to advocate the legalisation of medicinal marijuana, and will lobby the government for a change in the law. The church's synod agreed last month to support use of medical cannabis, prescribed by a doctor and used under supervision. <http://tinyurl.com/n83sq7r>

NT Health Minister Robyn Lambley has disclosed she supports legalising marijuana used for medical reasons. She told 105.7 ABC Darwin that evidence shows marijuana can assist in pain management and prevent seizures. She said she was personally in favour of legalising medical marijuana but cabinet was yet to make a decision.



Palmerston City Council alderman Seranna Shutt (left) said she would back the government's legalising marijuana for medical use. Her twin sister Tara died of a seizure and she said medical use of the drug could have saved her sister's life. <http://tinyurl.com/ky37blb>

In the ACT, a Legislative Assembly committee will shortly consider proposed laws to legalise marijuana for medical purposes in the territory. In July, ACT Greens Minister Shane Rattenbury introduced a bill to allow terminally and chronically ill people in Canberra to grow marijuana and use the drug to alleviate pain and symptoms, if they had approval from the ACT Chief Health Officer. The bill will be considered by an Assembly committee, due to report by June 2015. <http://tinyurl.com/pjmo52p>

Victoria last month introduce a bill removing barriers to conducting medical marijuana trials in the state. The move appears to be a halfway house to freeing up use of marijuana for health reasons.

Queensland and **South Australia** appear to be unwilling to consider trials, or changing the current law. They may be reacting to their local AMA groups, because some doctors remain implacably opposed to anyone else other than them being licensed to relieve pain.

Community supports medical marijuana

The president of the Australian Drug Law Reform Foundation, Dr Alex Wodak, said last month that the community was generally in favour of medicinal cannabis.

Research indicates 69% public support for legalising cannabis for medical purposes with 74% supporting a clinical trial.

"The questions now are how and when, rather than whether," Dr Wodak said. "The three big questions are how is it going to be supplied, what sorts of regulatory approval will there be and how should people take medicinal cannabis." <http://tinyurl.com/pjmo52p>

Police take spying home...yours

NSW police use Gamma International, a European supplier of spyware, to remotely track computer use, according to documents released by WikiLeaks.

The documents show police spent \$2.5m on software to break into computers and phones, log keystrokes and take screenshots. The software can also remotely capture Skype and instant-messenger conversations.

NSW police have held nine licences for various forms of the software, including FinSpy and FinFly, during the past three years, *The Australian* reported. Five licenses remain valid.

A police spokesperson would not comment because the technology "relates to operational capability". <http://tinyurl.com/methevr>

Black women's jailing rate up 59%

Sisters Inside CEO Debbie Kilroy told a NSW Parliament forum recently that Australian First Nations women "are currently the most over-represented population in both Queensland and Australian prisons."

The NT, WA and Qld have seen spikes in female incarceration rates that now have First Nations women accounting for more than 33% of all incarcerated women in Australia, while First Nations men account for 28% of all incarcerated men. They comprise less than 3% of the population.

Nationally, the increase in incarceration rates between 2000 to 2010 is greater for Indigenous women than any other group. There was a 58.6% increase in incarceration for Indigenous women, 35.2% for Indigenous men, 22.4% increase for non-Indigenous women and only a 3.6% increase for non-Indigenous men. "Not only are Indigenous women the most over-represented population in prison, but they also have the fastest increasing rate of incarceration," said Ms Kilroy. <http://tinyurl.com/ms859jf>

Jailed at 14, still locked up due to mental laws

Developmental Disability WA chief executive Tarryn Harvey is calling for an urgent review of the case of an Aboriginal man indefinitely jailed without trial since 2003 under laws for the mentally impaired.

The situation was similar to that of mentally impaired Indigenous man, Marlon Noble, jailed for more than 10 years without a conviction over sexual assault charges.

The latest young man, known as Jason, was 14 when he was imprisoned after he and four others, including two 10-year-old boys and an 11-year-old girl, stole a car on August 18, 2003.

During a police chase, Jason drove the car through a red light and rolled it. His 12-year-old cousin was killed in the crash: he was charged with unlawful killing. He was found unfit to plead and stand trial due to an intellectual disability and being left brain damaged from substance abuse.

Instead, he was jailed indefinitely under a court order imposed by the Mental Impaired Accused Board. That was 11 years ago. Now 25, he remains detained in the medium-security Acacia prison, a prisoner of the mental health laws. <http://tinyurl.com/n9zp2ve>

Nembutal import costs \$1400

A magistrate fined Albany's Rupert John Ward, 68, \$1400 for importing a banned euthanasia drug but ensured the conviction was recorded as 'spent'.

Ward pleaded guilty to importing six grams of pentobarbital, commonly known as Nembutal. He was charged after police raided the homes of 12 members of euthanasia group Exit International earlier in 2014.

In sentencing, Magistrate Tanya Watt said she had discounted the fines which totalled \$2,600 for related drug offences and recorded a spent conviction, so Ward could travel without a drug record. <http://tinyurl.com/kb7ymb2>

Vic Police pay compensation...18 years late

Victoria Police's Chief Commissioner Ken Lay has apologised and paid undisclosed compensation to a woman almost 20 years after her nose was broken in an unlawful police raid.

He wrote to Corinna Horvath last month, after the UN Human Rights Committee ruled in May that she should be compensated. It also ruled that Victoria Police should re-open an investigation into the police officers involved in the incident in 1996.

Mr Lay said he had read and reflected on the committee's views. "I deeply regret what occurred and sincerely apologise for the injuries you suffered as a result," he said. "I have approved an ex-gratia payment ... as full and final payment to you by way of compensation and hope / trust the payment, coupled with this apology, helps provide closure for you in relation to the events of 9 March 1996. I wish you all the best for the future."

However, no police have ever been – or will ever be – criminally charged over the incident.

Fairfax Media reported that eight police officers arrived at Ms Horvath's Somerville home after a dispute about an unroadworthy car. Some kicked in her front door, despite not having a warrant to enter the property. One of the officers, David Jenkin, held her down on the ground and punched her in the face.

Read the full story: <http://tinyurl.com/klkx8w1>

Ungagged Wotten free to speak and write about Palm Island

Macquarie University has heard a presentation from the now un-gagged Lex Wotten on events surrounding the death of Mulrunji Doomadgee, who was under the care of then-Sergeant Chris Hurley in November, 2004 on Palm Island, Queensland, when he died with horrific internal injuries.

Wotten was jailed for allegedly being involved in riots associated with the mysterious death: he was also gagged from public comment for some time on being released from jail.

Joining him at Macquarie was French anthropologist Prof Barbara Glowczewski who helped prepare a book telling Lex's story. 'Warriors for Peace' can be downloaded free at <http://eprints.jcu.edu.au/7286/>

"It came as no great surprise to the audience when Lex explained that the police evidence used in court to convict him and send him to jail was a complete fabrication," said Ray Jackson of the Indigenous Social Justice Association in Sydney.

Stick it to 'em, Myra

Cairns grandmother Myra Gold, 60, appears in court today (1 Oct) charged with distributing anti-G20 stickers in the Cairns CBD last month.



She was charged with wilful damage of a pole in a public place for posting this anti-G20 sticker (right).

Two weeks before her home was searched, police arrested two people for writing anti-G20 messages in chalk on the Cairns Esplanade.

Assistant Police Commissioner Paul Taylor said such actions were unlawful. "This is the CBD of a city, so if we all went around writing what we wanted to write on the footpath and

on walls and sticking stickers everywhere, the place wouldn't look real good," he said.

Assistant Commissioner Taylor also acknowledged police had been targeting "itinerants" and homeless people in the CBD. "It's about them competing in public spaces in areas where tourists visit and we've focused on that for some time," he said. "That's to make sure the CBD and the business community are able to engage with tourists in a positive way. We'll continue to do that after G20 goes."

In a state where constant cries are heard that police numbers should be boosted, 700 extra officers could be found to police Cairns for one weekend when the G20 finance ministers came to town.

Must be dangerous types, those finance ministers, if they needed so many cops to surround them. <http://tinyurl.com/mwkse8u>

Stun guns used as compliance weapon in mental illness?

Stun guns are regularly used during arrests in the ACT involving people with mental health issues, according to documents obtained by the ABC.

Eight of 11 stun gun incidents between January and early May this year involved a person with a confirmed or suspected mental illness.

Civil Liberties Australia Vice-President Tim Vines said he was concerned stun guns were becoming the preferred first option rather than negotiation. "Instead of being able to talk to someone it looks increasingly likely that police are now reaching for a stun gun," he said. Mr Vines said there had been incidents in Australia and overseas where people who were stunned by police had died.

"So they are not without risk. Police officers must be aware that just because they are marketed as a non-lethal weapon that they are not entirely safe." Tasers should not be used as tools of compliance, he said. <http://tinyurl.com/pfycpt>

Australian briefs

NT tackles domestic violence: NT government last month launched a four-year domestic violence reduction strategy to tackle high rates of domestic violence in the territory. The strategy aims to reduce and prevent domestic and family violence. NT AG John Elferink and NT Minister for Women's Policy Bess Price launched the strategy alongside federal Minister Assisting the Prime Minister for Women, Michaelia Cash, in Alice Springs. The NT is contributing \$3m for each of the next four years, while the federal government is contributing \$3m for each of the next two years. <http://www.domesticviolence.nt.gov.au>

State gets a fine new camera system: New cameras will identify unregistered or uninsured cars in Queensland from 1 October and fines will issue automatically under new laws passed recently. Registration labels will no longer be required on light vehicles. The fixed and mobile cameras will scan about 600,000 registration plates every week. <http://tinyurl.com/nrg66ws>

96% of data requests without warrant: Only 3.9% of Telstra customer records accessed by police and spy bodies in 2014 were approved by a court order or warrant, according to the company's first annual transparency report. Government agencies and policing bodies gained access to 84,949 Telstra customer records in financial year 2014. The

number of requests has also risen over the past 12 months with 44,305 requests in the second half of the year compared to 40,644 in the first half. <http://tinyurl.com/k2nt4bh>

ME students in Oz number 17,000: There are nearly 17,000 Middle Eastern students studying at Australian universities. Most enrolments are from Saudi Arabia with more than 8000, and nearly 2700 students come from Iran. A parliamentary sub-committee is discussing how to attract more. – media release, Trade sub-committee, Australian Parliament, 3 Sept 2014

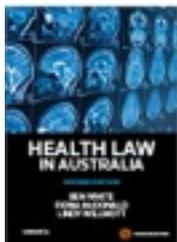
Alice to get Supreme cafe: A new Alice Springs Supreme Court, costing \$10m, will soon start building. The NT Government has signed a 20-year lease for court facilities in a new building on the old Commonwealth Bank site. The building will be mixed-use with the court occupying the ground and first floors and commercial office space on levels two and three. There will be a spectacular glass façade, two oval court rooms and associated legal office space, prisoner holding cells, interview, jury and meeting rooms, as well as a café. – media release, Chief Minister Adam Giles, 5 Sept 2014

Civil Liberties Australia - report for September 2014

Much of the month was taken up with the government's terror legislation, reported on above. The second tranche is called the *Counter-Terrorism Legislation Amendment (Foreign Fighters) Bill 2014*: there is no sense in making a submission on this bill when neither the Coalition government or the Labor opposition take any notice of civil society groups.

Submissions:

- Submission to the Australian Law Reform Commission on the Freedoms Inquiry is being worked up by Rhys Michie in Victoria.



Vice-president Tim Vines has written chapters in the new edition of *Health Law in Australia* (Thomson Reuters 9780455231549, \$135 as book, + e-book \$175.51). The book's contributors are described as "national leaders who are specialists in these areas of health law and who can share with readers the results of their research".

Vice-president Tim Vines' article in the *Australian Health and Medical Law Reporter* has been described by a NSW medical MP as "brilliant". The article is on vaccination. The MP's comment came during a committee hearing analysing how to prevent scare campaigns. <http://www.cla.asn.au/News/vines-article-brilliant-says-mp/>

Networking meetings

Bill Stefaniak: discussion of terror laws;

Rosemary Jennings and Rosemary Brissenden - current activities

Ian Rae: terrorism and chemical warfare

Vintage Reds AGM, new web site: contact with unionists

'Voice and Agency: empowering women and girls for shared prosperity' - Dr Jeni Klugman World Bank and Harvard Fellow, Ged Kearney of ACTU, at ANU: preparing for the G20 meeting in Brisbane

Refugee Policy Must Change: public address, Melissa Parke MP and Anna Burke MP, at ANU

Preparing for presentation Adelaide forum on miscarriages of justice, 708 November

Tasmania: Richard Griggs

The Tasmanian Government has announced it will move amendments to its own proposed anti-protest laws. The amendments respond to some, but not all, of the criticism from CLA, unions, lawyers, environmentalists and others. CLA's Tasmanian Director responded to the announcement by stating the proposed laws will remain fundamentally flawed so long as they retain mandatory three month jail sentences for second time peaceful protestors: <http://www.abc.net.au/news/2014-09-24/hodgman-accused-of-a-backflip-after-changing-anti-protest-laws/5766822?section=tas>

Media Report: Tim Vines, V-P, Nat. Media Spokesperson

- ACT Policing, stun-guns and mental health - Radio Interview for ABC Radio and print interview for *Canberra Times*.
- Anti-terrorism Legislation no. 2 - Radio Interview with ABC.
- Anti-terrorism laws no. 1 (free speech for journos) - comments to Curtin Uni media student.

Other: Appeared (by teleconference) before NSW Parliament HCCC Committee inquiry into misleading health practices.

Three brothers receive Timor Leste medals

The Wesley-Smith brothers were recently presented with the Order of Timor for their long and varied support for Timor Leste.



Pictured in the Presidential Palace, Dili, from left, are Martin Wesley-Smith, Timor Leste President Taur Matan Ruak, Rob Wesley Smith and Peter Wesley-Smith.

Two of the three brothers are CLA members.

TL leader Jose Ramos-Horta has described the three as "treasures of our country".

The citation for the awards said: Robert Wesley-Smith distinguished himself as one of the leading activists in Darwin since meeting with Jose Ramos Horta in 1974, and went on to list his numerous exploits on behalf of TL.

"Robert and his twin brothers, Martin and Peter, (engaged in the) tireless struggle for the liberation of the motherland", it said.

INTERNATIONAL

Kiwis conduct massive spying, says Snowden

A major undersea telecommunications cable connecting Australia and NZ to North America has been tapped so the US National Security Agency and its espionage partners can harvest masses of Australian and NZ phone data.

Documents published by *The Intercept* website by former US intelligence contractor Edward Snowden show that NZ's electronic spy agency, the Government Communications Security Bureau, worked in 2012 and 2013 to implement a mass metadata surveillance system, codenamed Speargun, based on covert access to the Southern Cross undersea cable network.

Southern Cross owns and operates a Trans-Pacific submarine cable network connecting Australia, New Zealand, Fiji and Hawaii to the internet backbone on the west coast of the USA. The network was developed to service the rapid growth of Internet traffic across the Pacific. Telecom NZ owns 50%, SingTel Optus 40% and Verizon Business 10%.

Fairfax Media's spy correspondent, Philip Dorling, reported that the Australian Signals Directorate has acquired sophisticated technology to tap high-speed fibre optic data cables including those connecting Australia with Asia and North America. The huge volume of intelligence now collected by the ASD had required building a new \$163.5m data storage facility at HMAS Harman naval communications station near Canberra. <http://tinyurl.com/q84zsj>

NZ PM John Key was unable to rule out that the US NSA undertakes mass surveillance of Kiwis' data, but rejected claims that NZ's own spies would have access to such information. "What I can say is the GCSB does not have access to any information through XKeyscore or any other database, unless they basically comply with the NZ law, and the NZ law forbids that, unless there is a warrant to do so," Mr Key said.

But asked if that was an admission GCSB spies on occasion used the controversial program XKeyscore, Mr Key refused to elaborate. <http://tinyurl.com/oxjwvc4>

Does Australia aid Israel, via USA, to target Palestinians?

The USA passes the entire contents of phone calls and emails to Israeli intelligence so that country can target Palestinians for blackmail, bribery and bomb attack, it has been alleged.

As a partner in the global Five Eyes surveillance scheme, Australia is probably able to be privy to the relevant intelligence and almost certainly part of the global collection mechanism garnering the data. Based on how Five Eyes is reported to work, Australia probably collects similar information here and passes it to Israel, either directly or via the National Security Agency in the USA.

<http://www.nytimes.com/2014/09/17/opinion/israels-nsa-scandal.html?>

Zeid criticises Australia over immigration

The new UN Human Rights chief, Zeid Ra'ad al-Husseini (right) launched his tenure with a biting statement last month which forcefully condemned Islamic extremism, urged international action to end conflicts in Syria and Iraq...and criticised Australia's immigration stance.



In his first speech to the UN Human Rights Council in Geneva, Zeid identified the conflicts in Syria and Iraq as "the immediate and urgent priority of the international community."

Pledging to be "firm, yet always fair, critical of states where necessary," he called for the protection of civilians by all parties to "the deplorable conflict" in Ukraine; praised

investigations into human rights abuses in North Korea and Sri Lanka; highlighted the "chain of human rights violations" committed by Australia in its treatment of migrants; and voiced concern about the USA's detention of unaccompanied child migrants.

Zeid, the first Muslim to assume the post, is a Jordanian prince who has dispensed with his royal title.

23 union leaders, activists murdered this year

At least 23 murders of rural union leaders and defenders of the landless have been recorded in Brazil in 2014 – all linked to conflicts over land rights, landgrabbing and illegal logging.

On 16 August, Josias Paulino Castro and his wife Ireni da Silva Castro, activists fighting for land rights and agrarian reform in the Brazilian state of Mato Grosso, were assassinated. Three days earlier, Lúcia Maria do Nascimento, former president of the Union of Rural Workers of União do Sul, was murdered.

The National Confederation of Rural Workers (CONTAG) and international union branches based in Latin America are calling on the government of Brazil to provide immediate and effective protection for rural workers and their organizations. They want the government to break the cycle of corruption and impunity by swiftly bringing the perpetrators to justice and implementing fundamental agrarian reform. <http://tinyurl.com/hnmwm6a>

Girls, children suffer perpetual violence

One in 10 girls worldwide have been forced into a sexual act, and six in 10 children aged 2-14 are regularly beaten by parents and caregivers, according to a report issued by children's agency, UNICEF.

The report, based on data from 190 countries, tells of endemic physical and emotional violence inflicted daily on children, mostly at home and in peacetime rather than on the streets or during war.

The report also shows that more than a third of children were victims of bullying by the time they turned 13. The report, called Hidden in Plain Sight, was launched as part of UNICEF's global #ENDviolence campaign. <http://tinyurl.com/kjsmc32>

Australia joins US in spying on Turkey

Turkey is demanding answers over Edward Snowden-released information that the US has spied intensively on Turkish leaders for almost a decade, and shared the intelligence with Five Eyes partners, including Australia.

Der Spiegel reported last month that the National Security Agency in the US began a major surveillance operation in 2006 aimed at hacking into the computers of Turkey's leadership to glean information about the strategic intentions under the leadership of Recep Erdogan.

It said that Five Eyes also spied on Turkey's embassy in Washington and its mission at the UN in New York. <http://tinyurl.com/oawrzvs>

Companies fight secret surveillance, threatened with huge fines

Yahoo says it was threatened with fines of \$250,000 a day in its battle to not participate in the PRISM, a National Security Agency program revealed in 2013 as part of the Snowden leaks.

A leaked top-secret slide about PRISM shows that Yahoo was one of the first participants, having begun contributing to the database in March of 2008. It did so under severe duress. Company executives believed the government's demand for data was "unconstitutional and overbroad" and fought it in court.

"Our challenge, and a later appeal in the case, did not succeed," explained Yahoo general counsel Ron Bell in a blog post published last month. "The Foreign Intelligence Surveillance Court (FISC)... ordered us to give the US Government the user data it sought in the matter."

After it lost, Yahoo was threatened with \$250,000 per day fines if it didn't comply with the program. Not only that, but the government got permission to share the ruling with other companies in order to put pressure on them as well, according to a *Washington Post* story.

Ultimately, Microsoft, Google, Facebook, YouTube, Skype, AOL, and Apple would all participate in PRISM. Before it was discontinued in 2011, the program gathered vast amounts of what the government called "metadata" about email, including who users emailed and when.

The original order to Yahoo in 2007 required the company to provide information on targets that were outside the US, even if the person was a US citizen. <http://tinyurl.com/mo8b8fz>

ODD SPOT: Schools get grenade launchers

The US Defence Department program accused of militarising local police is stirring controversy again, this time for providing equipment and weapons to school police. Law enforcement agencies affiliated with at least 120 schools, colleges and universities have received gear through the program, according to a *Washington Post* review of data from 33 states. The items received include at least five grenade launchers, hundreds of rifles and eight mine-resistant, ambush-protected (MRAP) vehicles, the hulking machines designed to withstand the kind of roadside attacks seen in Iraq and Afghanistan. <http://tinyurl.com/qbsce2t>

Lib Dems want to set cannabis free

The UK's Liberal Democrats – currently running Britain in coalition with the Conservatives – are looking at decriminalising all drugs for personal use and allowing cannabis to sell on the open market.

Launching his party's draft election manifesto, Deputy Prime Minister and party head Nick Clegg said the party would consider such options advocated in a policy paper to be discussed at the Lib Dem conference next month.

The paper said the Lib Dems "will adopt the model used in Portugal, where those who possess drugs for personal use will be diverted into other services". The southern European country decriminalised personal possession of all drugs in 2000. The document also said the party "welcomes the establishment of a regulated cannabis market in Uruguay, Colorado and Washington state". <http://tinyurl.com/kt7815g>

NZ won't let prisoners vote

Even though banning all prisoners from voting has been ruled unconstitutional in Australia, Canada, the EU and South Africa, NZ's Judge Ellis has ruled that it is not against the laws of NZ.

A group of prisoners, led by the 'jailhouse lawyer' Arthur Taylor, wanted the law banning all people in prison on election day from voting declared invalid. But in ruling against them on the strict black letter law, Ellis J indicated she had more than a little sympathy with their argument: "However

constitutionally objectionable – the prisoner no-voting law – might be, Parliament has (for now) spoken," she said, in a clear call for the NZ Parliament to get its act into gear and pass a better law.

"Mr Taylor is not some vexatious voice in the wilderness on this issue...there is considerable and considered support for the position he is advancing," Ellis J said.

The upshot of the ruling is that anyone in jail in NZ on election day last month, 20 September, was not permitted to vote...whether they were a lifer or in for a few days as a fine defaulter.

SC judge worries over loss of personal privacy

US Supreme Court Justice Sonia Sotomayor says that without proper privacy safeguards, the advancement of technology could lead to a world like the one portrayed in "1984" by George Orwell.

Speaking to Oklahoma City University last month, Justice Sotomayor said that technology had allowed devices to "listen to your conversations from miles away and through your walls. We are in that brave new world, and we are capable of being in that Orwellian world, too."

She also discussed the lack of privacy standards concerning drones. "There are drones flying over the air randomly that are recording everything that's happening on what we consider our private property. That type of technology has to stimulate us to think about what is it that we cherish in privacy and how far we want to protect it and from whom." <http://tinyurl.com/n964bdo>

Nigerians can now take scam e-payments

Nigeria's president Goodluck Jonathan has formally launched a national electronic ID card, which all adults among the 167m Nigerians will have to have by 2019 if they want to vote.

The Nigerian biometric card can also be used to make electronic payments. MasterCard provides the prepaid payment element. "The card is not only a means of certifying your identity, but also a personal database repository and payment card, all in your pocket," President Jonathan said at the launch in the capital, Abuja. <http://tinyurl.com/pxau5me>



Belgian lifer chooses death

A Belgian murderer and rapist serving a life sentence is to be allowed to have doctors end his life following a ground-breaking ruling under laws in Belgium permitting people to request euthanasia.

The judicial ruling was the first involving a prisoner since the euthanasia law was introduced 12 years ago.

Frank Van Den Bleeken (left: GVA photo) argues that he had no prospect of release since he could not overcome his violent sexual impulses: therefore, he wants to exercise his right to medically assisted suicide to end years of mental anguish. "Over recent years, he has been seen by several doctors and psychologists, and their conclusion is that he is suffering, and suffering unbearably," said his lawyer, Jos Vander Velpen.

Van Den Bleeken, aged about 50, who has been in prison for nearly 30 years, had complained of a lack of therapy provided for his condition in Belgium. And so he preferred to die. <http://tinyurl.com/k95jexn>

INTERNATIONAL BRIEFS

Italy really does have a refugee problem: The Mediterranean Sea has seen roughly 120,000 migrants rescued by Italian ships this year, almost triple last year's figure, while nearly 2,800 have died in shipwrecks or in transit, a fourfold increase. <http://tinyurl.com/kly477u>

Unions implacably oppose skewed trade deals: The UK's Trade Union Congress last month resolved at its annual congress to call on all trade unions in Britain to demand that the negotiations on the EU-US trade agreement TTIP be halted and that unions "adopt a clear position of outright opposition to TTIP, and the other trade agreements currently being negotiated." TTIP is the Transatlantic Trade and Investment Partnership: it is the equivalent of the TPP, the secret Trans-Pacific Partnership agreement for the Pacific region, which CLA and many others oppose because they are skewed agreements negotiated by and for the corporate greedy. <http://tinyurl.com/owwo37x>

Shooting sprees rise in US: Mass shootings in the USA have risen drastically in the past half-dozen years. There were, on average, 16.4 such shootings a year from 2007 to 2013, compared with an average of 6.4 shootings annually from 2000 to 2006. In the past 13 years, 486 people have been killed in such shootings, with 366 of the deaths in the past seven years. In all, the study looked at 160 shootings since 2000. (Shootings tied to domestic violence and gangs were not included). <http://tinyurl.com/mhnl2pc>

DATES

2 Oct, worldwide: Wrongful Conviction Day (or, Miscarriage of Justice day), organised by the Association In Defence of the Wrongly Convicted, AIDWYC. Details: <http://www.aidwyc.org/>

1-3 Oct, Sydney: ANZ Society of Criminology, U. Sydney Law School. Theme: Testing the Edge: Challenging Criminology. Details: <http://sydney.edu.au/news/law/457.html?eventid=10300>

14 Oct, Perth: Tainted Trial of Farah Jama, Julie Szego. UWA, 7-8pm Claremont campus. Details: <http://tinyurl.com/pn783pf>

16 Oct, Sydney: Charles Perkins Memorial Oration and Prize, 6-8.30pm, Great Hall, U. Sydney. <http://tiny.cc/0za8gx>

5 Nov, Canberra: National information policy conference, held by the Office of the Australian Information Commission. Details TBA. Info: <http://www.oaic.gov.au/news-and-events/oaic-events/information-policy-conference-2014>



7-8 Nov, Adelaide: Miscarriages of Justice Symposium, conference of Centre for Criminal Justice, Policy and Research at Flinders U. Details: willem.delint@flinders.edu.au with keynote speaker Prof Kent Roach (left) of Canada. Features miscarriage of justice cases in Australia, with CLA speakers Klugman,

Rowlings, Ash, Etter, plus other leading MoJ, wrongful conviction and Innocence project experts.

11-12 Nov, Melbourne: 10th annual Islamic studies postgraduate conference: postgraduate students from any uni welcome. Contact Tessa Shaw: law-cilis@unimelb.edu.au

14-15 Nov, Manly, Sydney: Aust. Labour Law Association biennial conference. 'Under the Microscope: the Next Phase of Aust. Labour Law. <http://tiny.cc/iua8gx>

23 Oct, Canberra: *How natural Is Justice?* Vic Ombudsman Deborah Glass (ex-investment regulation boss in HK and police complaints commissioner in UK) will speak on Thurs 23 Oct 6-7pm. Details: <http://tinyurl.com/orghlhx>

4-6 Dec, Washington USA: 'Advancing UNiversal Human Rights Culture', American U. Convenor is Prof Claudio Grossman, chair of the UN Committee Against Torture. Organiser: Dr Sev Ozdowski, U. Western Sydney. Info: s.ozdowski@uws.edu.au

10 Dec, World: International Human Rights Day

11-12 Dec, Adelaide: 6th Intntl Illicit Networks workshop: analysis of organised crime. Details <http://tinyurl.com/mckaaq6>

15-16 Dec, Singapore: 'Researching State and Personhood: Law and Society in Southeast Asia', Centre for Asian Legal Studies, U. Singapore, focusing on research located in one or more of the following: Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar (Burma), Philippines, Singapore, Thailand, Timor Leste and Vietnam. Details: lynettechua@nus.edu.sg

2015:

1-3 Feb, Melbourne: Corporate Law: local and global dimensions, the 2015 Corporate Law Teachers Association annual conference, Melbourne Law School. Keynote speaker: Prof Robert Thompson of Georgetown U. Info: <http://tinyurl.com/ma98uo3>

14-15 Feb, Canberra: National Judicial College of Australia conference, ANU. Details: <http://njca.com.au/program/anjca-conference/>

17-20 March, Brisbane: 7th Australian drug and alcohol conference, hosted by Queensland Police and Australian Federal Police. Brisbane Convention Centre. Details: <http://event.icebergevents.com.au/adasc-2015/>

25-27 Nov Adelaide: 28th A&NZ Society of Criminology, Flinders U. Details – willem.delint@flinders.edu.au

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

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)

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