

## **CITIZENSHIP: What happens when the proverbial hits the fan?**

Members sometimes wonder how CLA responds when a major issue hits the fan, like the Citizenship Bill.

Here's a rundown of the activity so far of the first four days (to 27 June):

The text of the Bill was released on 24 June 2015, in the late morning. We had this article, by Civil Liberties Australia V-P Tim Vines to *The Guardian* by 3.30pm, published about 8.30pm that same day: <http://www.theguardian.com/commentisfree/2015/jun/24/the-allegiance-to-australia-bill-arguably-unconstitutional-definitely-questionable> (Not sure why *The Guardian* chose not to mention Tim's position as V-P of CLA...they normally give CLA a mention when we write articles for them).

A key media commentator, Prof Kim Rubinstein of ANU College of Law (probably Australia's prime expert on citizenship law – she has authored the Australian legal textbook on it), was a commentator on national ABC TV news coverage that night: you may have seen it. She is a CLA member.

We contributed to the speech by Greens Justice spokesperson, Senator Penny Wright (a CLA member) in Parliament the next day, on the process for reviewing the Bill. She sent an email: "Thanks – always great to hear from you on this...disappointed that it will only go to the PJCIS but we intend to keep up the pressure for a broader inquiry where the Greens and other Independents can be involved".

See Senator Wright's speech on 25 June: <http://penny-wright.greensmps.org.au/content/speeches-parliament/full-scrutiny-missing-review-citizenship-bill>

We have started to analyse the Bill closely. It is likely to be unconstitutional, and two of our lawyer members believe it is probably impractical also in some clauses (a matter we are keeping our powder dry on for the moment, as no-one else has yet raised the possibility).

We will make a submission to the parliamentary inquiry. The submission has to be factually and tightly legally correct, so takes some time to prepare. Based on the submission, we will be issuing a media release, and doing further lobbying of MHRs and Senators.

We expect several CLA members – including academics like Rubinstein and Prof George Williams and other federal MPs – will be making joint or individual submissions, as will some not so well known CLA members, in their own names.

Are you making a submission (details below)? Would you like to write an article for your local paper and/or your metropolitan paper, or write letters to the editors of various papers? Please copy us in if you do.

Are there local groups you belong to where you can get active on the issue? Contact your local MP and/or Senator to tell them your views? Please let us know if you undertake any activities along those lines.

### **How/where/when to make a submission... closing date is Friday 17 July 2015**

The Parliamentary Joint Committee on Intelligence and Security is inquiring into the Australian Citizenship Amendment (Allegiance to Australia) Bill 2015. A report is due

by 21 August 2015. Further info: <http://www.aph.gov.au/pjcis>. The Bill and Explanatory Memorandum: [http://www.aph.gov.au/Parliamentary\\_Business/Bills\\_Legislation](http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation).

**Nominate an Australian of the Year?** If you would like to nominate Prof Gillian Triggs\* for Australian of the Year, go to <http://australianoftheyear.org.au/> (\* or anyone else).

## **Barrister Walker slams Abbott-led 'absurdity'**

Former national security watchdog, top barrister Bret Walker (photo), has attacked the Abbott government's "absurd" handling of the citizenship debate and demanded Prime Minister Tony Abbott apologise.

Walker recommended 15 months ago that dual nationals be stripped of citizenship once convicted by a legal process. However, PM Abbott twisted his words, Walker says, as well as now claiming "urgency" for an issue he (Walker) had raised in March 2014...and had not heard a word ever since.

The Abbott government seized on the Walker recommendation recently to try to legitimise its plan to give Immigration Minister Peter Dutton carte-blanche power – without a court conviction – to strip citizenship in terrorism cases. But Mr Walker said he couched his recommendation as an extension of existing powers that require a person be convicted in a criminal trial first. <http://tinyurl.com/nnoleab>

Intelligence from Cabinet suggests that the Gung Ho Group – Abbott, Morrison, Dutton, etc – proposed stripping citizenship from even those who held Australian citizenship only, not just from people who held citizenship of another country as well. But the Gung Ho Group's floated, unwritten proposal was a bridge too far for the few left in the Cabinet who remember the rule of law used to operate in Australia.

## **Tehan's knows the tab before the bill's in**

A new law to strip dual-national terror suspects of their Australian citizenship looks set to get a saloon passage through the parliamentary committee process if the attitude of the committee chair is a guide.

Dan Tehan, who chairs the joint parliamentary committee on intelligence and security, was reported before the draft bill was tabled as saying the government wanted to act against those taking up arms and seeking to do Australia harm. "It might only be that we can act against 12, it might only be we can act against 20 people but the fact that we can act against them is extremely important," he told *Sky News*.

The prescient Mr Tehan said: "We will look at all these issues in a very robust way and make sure that what we have before us is ... consistent with Australian law and consistent with Australia's international obligations," he said. <http://tinyurl.com/p6y8gnf>

It's unusual to know that the law will be used against 12 or maybe 20 people...before you've seen the draft bill and before it has even reached the committee you chair.

## **Who else will vote for rule of law?**

Communications Minister Malcolm Turnbull says any new national security legislation must not erode the rule of law or contravene the separation of powers in the constitution.



"We've obviously got to make sure that we protect the national security of Australia, we make a strong stand against this global threat of terrorism, and we also have to do so within the rules ... which above all of course is the constitution [with] which we all have to comply," he told a *Sky News* interviewer. <http://tinyurl.com/pkonz3d>

### **ODD SPOT: Neither Lib nor Lab worried about Australia's unlawful activities**

A motion introduced by Greens WA Senator Scott Ludlam was voted down by joint Liberal-Labor action in the Senate last month.

Ludlam moved that the Senate noted the US Court of Appeals had ruled in May 2015 that the bulk collection of telecommunications metadata by US Government agencies was unlawful, and that Australians and the global community have legitimate and ongoing concerns about the erosion of privacy caused by the unchecked growth of government electronic surveillance programs.

His motion included that the Senate recognised "the critical work that Mr Snowden has carried out in exposing unlawful surveillance programs in the US and its 'Five Eyes' allies".

However, neither major party was interested in the unlawful activities being carried out by Australia, the US, the UK, NZ and Canada. <http://tinyurl.com/nggamz1>

### **Leaks try to damage reputation of Witness K**

Witness K, the Australian Secret Intelligence Service (ASIS) officer whose home was raided by his old spook brotherhood and whose passport is confiscated, faces criminal prosecution, media reports say.

"*Fairfax Media* has learned the Australian Federal Police sent a brief of evidence to prosecutors in February following an investigation that lasted 14 months," the news group's Tom Allard wrote.

"That's code for the 'AFP is leaking its head off, hoping to put pressure on the prosecution service and publicly bias any case against Witness K'," former newspaper editor Bill Rowlings, CEO of Civil Liberties Australia said. "The real question is whether politicians are putting pressure on the AFP to leak, which is a distinct possibility in this high-stakes game of international intrigue worth billions of dollars, not to mention reputations."

In a move formally approved by Attorney-General George Brandis, the domestic spooks – the Australian Security Intelligence Organisation (ASIO) – raided Witness K's Canberra home and the Canberra office of the lawyer who acts for both Witness K and East Timor, Bernard Collaery, in December 2013.

Revelations about ASIS secret audiotaping of East Timor Cabinet ministers during negotiations with Australia's DFAT in 2004 over how to apportion business and profits from a \$40 billion oil and gas field spurred the Australian government to use its spook agencies and federal cops to clamp down on Witness K's ability to travel.

Without a passport, the ex-spy can't fly to The Hague to appear for East Timor before an international arbitration tribunal which will rule on whether a treaty governing the share of oil and gas reserves in the Timor Sea should be annulled....because of Australia's surveillance behaviour.

"Amid outrage from East Timor, the International Court of Justice ordered Australia to cease spying on East Timor and seal the documents and data it seized. (In May), Senator Brandis agreed to return the material to Mr Collaery and East

Timor's government," Allard reported, with help from his sources. <http://tinyurl.com/ozjrf5z>

The high-stakes plays involved should be subject of a public inquiry, Civil Liberties Australia says. Included in the inquiry should be the role of Woodside Petroleum, and any nexus between the private sector company and surveillance gathered by Australian spooks. The roles played and decisions taken by DFAT minister Alexander Downer and former DFAT boss Ashton Calvert at the time should also be examined. ASIS is a DFAT agency.

### **Collaery reveals Witness K had formal permission to consult lawyer**

In a special public presentation conceived by Civil Liberties Australia, lawyer Bernard Collaery last month spoke (photo) in detail about Witness K, the East Timor case before the International Court of Justice, and ASIO raids on his own office.

Speaking to about 90 people at ANU College of Law, he revealed publicly for the first time that Witness K had formal approval of the Inspector-General of Intelligence and Security (IGIS) to seek legal help over an in-house (within ASIS) employment dispute.

It is difficult to understand how Witness K can be charged by the Australian government when he had sought, and been granted, permission to discuss his dispute with his lawyer.

"Lawyer Bernard Collaery says Australia's foreign intelligence service, ASIS, blatantly breached Australian law in bugging the East Timorese cabinet in 2004 and that the Abbott government, perpetuating a cover-up that began under Julia Gillard, is deliberately smearing his client, the former ASIS officer at the centre of the scandal (known as Witness K), and himself to suppress information about the crime," according to Bernard Keane, *Crikey's* Canberra political reporter.

Read the full Keane article: <http://www.cla.asn.au/News/asis-asio-are-govts-bother-boys/>

The Collaery talk was jointly sponsored by Civil Liberties Australia, the ACT Law Society, the ACT Bar Association and the ANU College of Law.

### **'Australians reject Chinese FTA' union claims**

The CFMEU claims research in seven marginal electorates in NSW, QLD, Victoria and SA has found that the overwhelming majority of voters do not support the China Australia Free Trade Agreement (ChAFTA) when they become aware of three elements of the deal.

The Construction, Forestry, Mining and Energy Union commissioned the research in May 2015, but has just released the findings.

"The Abbott Government kept the details of ChAFTA from voters for most of the past year, and now we know why – voters absolutely hate it," CFMEU National Secretary, Michael O'Connor said. The CFMEU says the research showed that, in the absence of any detailed knowledge of ChAFTA:



- 32% support it
- 26% oppose it; and
- 42% are undecided.

Once they are aware of the detail:

- 92% of voters oppose allowing Chinese companies who are investing more than \$150 million in projects in Australia to bring in their own workers without having to advertise for Australian staff.
- 87% of voters are against allowing Chinese companies to export goods to Australia without having to meet the same standards for protecting workers and the environment as Australian companies.
- 85% of voters oppose allowing Chinese companies to sue future Australian governments if they pass laws that the company believes will have a negative effect on them.

The polling was conducted in May 2015 by UMR Strategic Research in the electorates of Macquarie, Gilmore, Flynn, Capricornia, Hindmarsh, Corangamite and Dunkley. <http://tinyurl.com/pknb8pe>

## Productivity Commission agrees with CLA

The Productivity Commission has launched a scathing attack on Australia's latest series of free trade agreements, according to leading economics columnist, Peter Martin, writing in *Fairfax* last month.

The FTAs grant legal rights to foreign investors not available to Australians, expose the government to potentially large unfunded liabilities and add extra costs on businesses attempting to comply with them.

The assessment comes after trade minister Andrew Robb successfully concluded agreements with Japan, Korea and China, and is on the cusp of final negotiations to seal a Trans Pacific Partnership with 11 nations including the US, Japan, NZ and Singapore. Leaks about the text of the TPP suggested it will "include obligations on pharmaceutical price determination arrangements in Australia and other TPP members of an uncertain character and intent", the PC says in a special report. "The history of intellectual property arrangements being addressed in preferential trade deals is not good."

Also, investor-state dispute settlement clauses included in the Korean and Chinese agreements and planned for the TPP "depart from national treatment principles by affording substantive appeal rights to foreigners not available to domestic firms," the Commission warned. <http://tinyurl.com/opmnsdn>

Civil Liberties Australia has contributed to a report which recommends a total overhaul of the treaty-making process: The report is here: <http://tinyurl.com/qxv3b2l>

## Are you one of 917 Australians whose phone use was 'tapped' today?

Australians' phone calls and internet usage was accessed 334,658 times in 2013-14, according to the the Telecommunications (Interceptions and Access) Act annual report.

On average, that's about 917 Australians each day, seven days a week, who have their private communications accessed, unbeknown to them.

The act allows authorised organisations to apply for access to "existing information or documents" which can include details of phone calls (but not the contents of the call) and internet access details such as subscribers' personal information, and

dates and times of internet usage. Authorisations are granted for agencies either pursuing criminal enforcement matters or enforcing fines: last year that included the ATO, RSPCA, local government councils and prisons. <http://tinyurl.com/qdhp5cs>

## 'Pirates' – and others – scuppered by new law

The Copyright Amendment (Online Infringement) Bill 2015, aimed at curbing online piracy of film and TV shows, passed the Senate 37-13 last month with Coalition and Labor support.

The legislation allows rights holders to go to a Federal Court judge to get overseas websites, or "online locations", blocked that have the "primary purpose" of facilitating copyright infringement. If a rights holder is successful in their blocking request, Australian internet providers, such as Telstra and Optus, will need to comply with a judge's order by disabling access to the infringing location.

Associate Prof at the ANU College of Law, Dr Matthew Rimmer, warned the new law is likely to be misused, saying governments (federal or overseas) could use it to censor information provided to sites like WikiLeaks by whistleblowers, as government information is often protected by copyright.

Australian Greens Senator Scott Ludlam labelled the bill "lazy and dangerous". <http://tinyurl.com/pdm54l4>

## Aussie spooks' international spying roles to be revealed

"Australia is one of the most aggressive countries in mass surveillance as a member of the Five Eyes partnership," Gregg Greenwald told Australian audiences last month.



The government-lies-busting journalist, an American who lives in Brazil and is connected to Edward Snowden and WikiLeaks, predicted new revelations about Australia's international spying would come to light soon. He was speaking on a 'Lateline' interview on ABC, with compere Tony Jones (photo shows Greenwald on the program).

'Five Eyes' is the self-selected moniker for the shared national and international spying operation of Australia, NZ, Canada, the UK and the USA. Some people think HydraSpy is a better name, because it has strong links to some other national surveillance networks, notably Israel.

Greenwald, who writes for *The Intercept*, says that Australia was "probably the country that has gotten away with things the most in terms of the Snowden revelations".

"There has been less reporting on Australia than the other four countries," he said. "We intend to change that. There are interesting documents about what Australia is doing to privacy rights – not just to their own citizens.

"If you are an Australian citizen, you are more likely to die by being struck by lightning or by going out to dinner tonight and contracting a fatal intestinal illness than dying in a terrorism attack. When I watch both parties in Australia exploit terrorism fears, it's a very familiar dynamic."

In the interview, he gave a strong hint that Australia's role – never publicly admitted – in spying-to-order for the USA would be blown wide open. <http://tinyurl.com/qbxg6bo>

## New Border supremo thinks Wilson employee may have been 'raven mad'

The Immigration Department has confirmed Greens senator Sarah Hanson-Young was spied on during her visit to Nauru by at least one Wilson Security officer who may have had a "brain explosion".

This directly contradicts comments by Immigration Minister Peter Dutton, who said a week earlier that the spying claims were "complete nonsense", labelling Senator Hanson-Young as an "embarrassment to this country".

In evidence given last month to a parliamentary inquiry into allegations of abuse at the Nauruan centre, department secretary Michael Pezzullo confirmed that at least one Wilson security staff member had trailed Senator Hanson-Young's car during her visit to Nauru in December 2013 and had since been disciplined.

According to a submission to the committee into abuse on Nauru, a Wilson supervisor ordered the spying in a briefing that included her room number, car registration, and using the code name 'Raven' over the radio to make reference to her.

The revelation indicates Mr Dutton is developing "a pretty shabby track record when it comes to facts", a now obviously false charge which he laid last month against Ms Hanson-Young, and which is now exposed as wrong as well as unnecessarily offensive. <http://tinyurl.com/nr82t6v>

Another Dutton target, Prof Gillian Triggs, said last month that Australian parliaments have passed "scores of laws" that threaten fundamental rights and freedoms. She pointedly warned MPs to uphold the rule of law as they prepare to debate extraordinary ministerial powers to formally revoke citizenship which, it is proposed, Minister Dutton will be the guardian of.

The President of the Australian Human Rights Commission argued parliaments had failed to protect democratic rights and many politicians were "breathtakingly inconsistent" in supporting the rule of law. And she warned that counter-terrorism laws introduced with "unseemly haste" were likely to have a chilling effect on free speech and privacy. <http://tinyurl.com/p78db4q>

## Don't say young Pete didn't warn you...

We've all been caught by surprise by the rabid ravings of the Minister for De-Citizenizing and Boarders\*, Peter Dutton...but we should not have been.

(\* ie, boarders called refugees in "detention centres", or jails)

Here are some excerpts from his maiden speech to parliament, on 13 Feb 2002:

*"Honourable members who had an interest in the Dickson campaign would know also that I was a police officer for nine years.*

*"I often say to people that, as a police officer, I have seen the best and the worst that society has to offer.*

*"I have seen the wonderful, kind nature of people willing to offer any assistance to those in their worst hour, and I have seen the sickening behaviour displayed by people who, frankly, barely justify their existence in our sometimes overtolerant society.*

*"The fight for a better place in which to live is today made even more difficult for many reasons, not least of which is the fact that the boisterous minority and the politically correct seem to have a disproportionate say in public debate today.*

*"The silent majority, the forgotten people—or the aspirational voters of our generation, as some like to term them—are fed*

*up with bodies like the Civil Liberties Council and the Refugee Action Collective, and certainly the dictatorship of the trade union movement. Australians are fed up with the Civil Liberties Council, otherwise known as the criminal lawyers media operative, who appear obsessed with the rights of criminals yet do not utter a word of understanding or compassion for the victims of crime.*

*"Their motives are questionable and their hypocrisy breathtaking."*

## Licence to bash and kill

A new law giving security guards in detention centres power to cause grievous bodily harm if they "reasonably believe" it is necessary to protect life or prevent injury is likely to encourage abuse of and violence against asylum seekers in detention, a Senate committee has been told.

Former judge of the Victorian Court of Appeal Stephen Charles QC said the law allowed security guards to use lethal force "with impunity" because it would be "almost impossible" for them to face prosecution in the courts.

"These amendments will authorise detention centre guards to beat asylum seekers to death if they reasonably believe it is necessary to do so to save either themselves or another person from serious harm," he said. <http://tinyurl.com/njearmb> See CLA's sub on the bill. <http://tinyurl.com/poze6m6>

## Gag is in for Nauru-Manus workers

Doctors, teachers, guards and others working in immigration detention facilities face up to two years jail if they reveal conditions in the centres, or provide information to journalists, under sweeping new gag laws from today.

Parliament passed the Border Force Act, with support of both major parties, on 14 May. The act threatens "entrusted people" in detention centres recording or disclosing information about conditions in places like Nauru and Manus Island.

Under the heading "secrecy and disclosure provisions", Sarah Whyte wrote in *Fairfax* media, only the secretary of the department responsible for detention centres may release information.

"Under the proposed measures, the unauthorised disclosures of information, including personal information will be punishable by imprisonment for two years," it says. The new law comes into effect on 1 July when the Immigration and Customs departments merge into the paramilitary Border Force (BF), which is likely to be nicknamed the BooFheads. <http://tinyurl.com/q5docwe>

## Pine Gap's nefarious data collection expands

Central Australia's US-Australia Pine Gap spy base has taken on a new electronic surveillance role, making it a "multi-purpose mega-intelligence centre," as the Five Eyes spies intercept global satellite communications, a new report by leading espionage experts has revealed.

ANU emeritus professor Des Ball, British investigative journalist Duncan Campbell, Canadian intelligence researcher Bill Robinson and Melbourne U professor and Nautilus Institute researcher Richard Tanter have analysed secret intelligence documents leaked by former American intelligence contractor Edward Snowden as well as publicly available information.

Their report says Pine Gap is now engaged in foreign satellite intelligence collection as part of the "Five Eyes" intelligence

alliance's "collect-it-all" surveillance of global internet and telecommunications traffic.

They say there has been a massive expansion of satellite communications surveillance capabilities by the US National Security Agency and its Five Eyes partners, the Australian Signals Directorate, the UK's Government Communications Headquarters (GCHQ), Canada's Communications Security Establishment and NZ's Government Communications Security Bureau.

Professor Ball said there has been "a fundamental transformation" in the role of the Pine Gap facility from "a highly specialised mission" to a "multi-agency, multi-purpose mega-intelligence centre". "Pine Gap is engaged in 'collect-it-all' surveillance, military as well as civilian, linked directly to military operations, including drone strikes," he said. <http://tinyurl.com/ne22dau>

## Defence controls research by the numbers

Australian academics who teach mathematics may need to run new ideas by the Department of Defence before sharing them or risk imprisonment, Liam Tung wrote in *Fairfax's itpro* column last month.

Some academics are set to become much more familiar with the department's Defence Export Control Office (DECO), a unit that enforces the Defence Trade Control Act 2012, Australia's end of a 2007 pact with the US and UK over defence trade.

Until recently, DECO only regulated physically exported weapons and so-called "dual use" items such as encryption, computing hardware and biological matter. In March the act was updated to include "intangible supply", intended to prohibit transfer of knowledge from Australia that could be used to produce weapons.

From November 2016 Australian academics could face a potential 10-year prison term for sending information overseas if their ideas fall within the Defence Strategic Goods List (DSGL). Academics like Kevin Korb are nervous that "overly broad" definitions in the DSGL could land them in court for teaching cryptography, high performance computing, image and signals processing and a number of other fields.

Korb, an artificial intelligence researcher at Monash U's Information Technology faculty, said the new restrictions will "suffocate" research. <http://tinyurl.com/p7d4g3q>

## \$125,000 offered for text of secret TPP deal

WikiLeaks will pay \$125,000 for a TPP leak.

The money will go to anyone who forwards to WikiLeaks the 26 chapters of the 29 of the TPP agreement that have not been disclosed so far, Ars Technica reports. "The treaty aims to create a new international legal regime that will allow transnational corporations to bypass domestic courts, evade environmental protections, police the internet on behalf of the content industry, limit the availability of affordable generic medicines, and drastically curtail each country's legislative sovereignty," WikiLeaks said in a statement.

Within just a few days, about 500 people had donated around half the funds needed to pay the whistleblower. For a link to the leaked TPP documents and analysis: <http://tinyurl.com/paz6v9r>

## TISA is next assault on Australian sovereignty

WikiLeaks has published details of negotiations over the Trades In Services Agreement (TISA), revealing Australia wants widespread international financial deregulation,

including transferring Australians' personal and financial data freely overseas.

As well, Australia could allow an influx of foreign professional workers at the *same* time as limiting the ability of government to regulate qualifications, licensing and technical standards in such areas as health, environment and transport services, Philip Dorling reported in *Fairfax* media.

Why Australian governments – Coalition and Labor – are prepared to trade away Australian sovereignty and the controlled safety of our financial institutions for dubious, frequently imaginary, benefits a decade into the future is one of life's imponderables. The MPs, who run up and salute the 'keep us safe from terrorism' flag, appear to be wholly unpatriotic in protecting the personal interests of citizens.

Fifty countries including Australia, Canada, Japan, South Korea, Taiwan, the European Union (representing its 28 member countries) and the USA have been secretly negotiating TISA since 2013. It is a 'sister agreement' to the Trans Pacific Partnership (TPP). The negotiations are driven by multinational corporations: if past practice is a guide, most benefits will flow into their coffers.

Australia is to chair the next round of negotiations in Geneva from 6-10 July 2015. <http://tinyurl.com/o69numc> The leaked documents are at [WikiLeaks.org](http://WikiLeaks.org)

## Community legal centres brace for cuts

More than 150,000 of Australia's most vulnerable people are turned away each year from community legal centres, the ABC says that new figures have revealed, quoting the National Association of Community Legal Centres.

NACLC figures suggest about 43% of people seeking their help in 2013-14 year were rejected.

The figures were released as the sector braces for tight times in the new financial year, ahead of a 30% cut in 2017.

More than 209,000 people were helped by CLCs during the 2013-14 financial year but, in the same period, there were at least another 157,000 people turned away. <http://tinyurl.com/p2u2evm>

## Let's hear it for civil liberties...for once

A parliamentary committee has endorsed section 313(3) of the Telecommunications Act 1997 without as much as a nod to Australians' freedom of speech and association.

The section says that telcos "must" give federal and state officers and agencies "such help as is reasonably necessary" for the purposes of enforcing criminal law, laws imposing pecuniary penalties, protecting public revenue, and safeguarding national security.

As Stilgherrian points out on *Crikey*: "No warrants. No judicial oversight — unless the telco tries to fight the request. Not even a requirement to prove that a crime has been or will be committed. And nothing to explain what 'reasonably necessary' might mean." <http://tinyurl.com/ntwfoob>

If you want MPs to protect individual freedoms, you'll have to move somewhere other than Australia, where only a few lonely voices are raised on behalf of civil liberties over issues like this...and rarely reported in the media.

## Number of alleged abusers in Defence rises

Air Commodore Henrik Ehlers says 151 alleged sexual and other abusers are still serving in the military, without any of them facing disciplinary action so far...and the number is likely to rise.

Speaking at a Senate Estimates hearing, AC Ehlers said the 151 alleged abusers are made up of 82 permanent Australian Defence Force members, 31 reservists, 31 standby reservists – who do not take part in active service – and seven members of the Defence Department public service.

The number has been steadily rising as an independent task force charged with examining abuse in the military continues to sift through 2400 cases over about 50 years. <http://tinyurl.com/po8ruln>

### 'Secrecy trumps transparency': Parke

Melissa Parke MHR (photo) 3 June 2015 Statement in the House:



One of the most disturbing aspects of this government is the ever-increasing trend towards secrecy and away from transparency and accountability. This is especially evident in the area of immigration, where privatisation and militarisation combine to prevent details of asylum seekers arriving by boat and of the operations of onshore and offshore immigration detention centres being made public, due to so-called 'commercial in confidence' or 'on-water national security' matters.

Applications that would previously have been determined within a humanitarian or migration framework are now viewed through a security, even a military, lens, with the associated secrecy, as well as the stigma that attaches in the public mind.

We have had overwhelming evidence presented at parliamentary hearings and to a number of inquiries, including the Australian Human Rights Commission and the Moss review, regarding the horrific abuse of asylum seekers, including women and children, at detention centres on Manus and Nauru. There have been a number of deaths, through murder, suicide and negligence, yet the government's response is to attack the whistleblowers and refuse all forms of accountability, including prohibiting media access and independent oversight of these facilities.

The government is presently endeavouring to abolish the Office of the Australian Information Commissioner and to make it harder and more expensive for the community to obtain information from government. The government has withdrawn Australia from the Open Government Partnership, joining Russia as the only other country to do so. It has defunded community organisations engaging in advocacy, whether on the environment, homelessness or health. It has engaged in secret negotiations on the TPP, which will have far-reaching consequences for future governments' ability to regulate in the public interest. This is the very opposite of open and accountable government. <http://tinyurl.com/papws5y> Ms Parke is a CLA member.

### ODD SPOT: Orange roughy solution?

Remember how Kreative Kevin Rudd, when he was a lowly state apparatchik, used to truckle documents through the Queensland Cabinet room to secure their exemption from FOI release? The federal government, with spare lifeboats now it's paying Indonesian crew members \$39,000 per vessel to turn back, could put one of the orange roughy craft on Lake Burley Griffin in Canberra and hold Cabinet meetings afloat, so that anything discussed is an "on water" issue, which cannot be commented on by ministers, media or mortals.

### Life-saving phone line to be cut?

A 24-hour phone line which connects Aboriginal people in custody to a lawyer looks like being cut.

Since the Custody Notification Service (CNS) began in NSW and the ACT in 2000, there the two jurisdictions have seen no Aboriginal deaths in custody. But the federal government has refused to renew funding, which expires 30 June, despite support from Indigenous Affairs Minister Nigel Scullion.

The CNS, which costs just over \$500,000 annually, fields about 15,000 calls a year. Any time an Indigenous person is taken into custody, police are required by law to connect them over the phone with a lawyer from the Aboriginal Legal Service (ALS) as soon as the initial paperwork is completed. <http://tinyurl.com/prs5wkl>

### ACT Police try to gain new powers because bikies meet...to raise funds

Civil Liberties Australia vice-president Tim Vines, a vocal critic of anti-consorting legislation, warned the ACT last month against following other states and territories to the "lowest common denominator of rights protection" by introducing anti-consorting laws.

ACT Policing was campaigning for the laws because a bikies group was to meet in Canberra last month, Christopher Knaus reported in the *Canberra Times*.

"We often hear politicians and ministers saying that some measure that's going to be introduced strikes the right balance between an infringement of rights and preserving them," Mr Vines said. "The question they need to ask first, and they need to answer quite clearly, is 'is there actually a justification for sacrificing the rights in the first place?'," he said.

The newspaper reported that the Rebels meeting was already attracting a significant police response, led by the anti-gang Taskforce Nemesis, using existing laws. Police warned Rebels members they would crack down on any breaches of ACT law: "Stay away," a spokesman said. "The ACT public do not want persons visiting our Territory who believe they are not subject to the same laws that we all have to abide by."

CLA points out that Rebels – or any bikies groups – must abide by the same laws as everyone else: it's up to the police to enforce the laws. If police don't enforce the law equally on everyone, they are a bigger problem than the bikies. <http://tinyurl.com/oba7kd9>

FOOTNOTE: The next day, the newspaper carried a story saying that the Rebels bikie group revealed the Canberra meeting was a fundraising event to pay for special accommodation for a child with Down's syndrome of one of its members – <http://tinyurl.com/oogtyn9>

### Police Commissioner fails to abide by Police Service Act...for three years

If Tasmanians want to know what is in their police manual – the rules and guidelines that police operate under – they have to lodge a Right To Information (RTI) request.

This is despite the Police Service Act making it mandatory\* for the Police Commissioner to publish a police manual. The police manual was withdrawn from the police website in early 2012; it has been unavailable ever since; and the police have been rewriting it ever since. They originally promised, on their website, that it would be re-available on the website before 31 Dec 2012.

Now, "it is anticipated that this process will be completed by the end of 2015 and will be made available to the public...in a

"format and content ...that cannot be determined until the review and re-write is complete," as the Tasmanian Police Minister, Rene Hidding, has recently written.

Mr Hidding's words were contained in a reply to Tasmanian Director of Civil Liberties Australia, Richard Griggs, who wrote to the Minister in May. Mr Hidding also said in his letter: "In the interim, information contained in the Police Manual is available under the (RTI) legislation, subject to any relevant exemptions."

Why are the Tasmanian Police playing word games with the people of Tasmania? Why do Tasmanians have to lodge an RTI application to gain access to a document that MUST be published by police. At what stage – surely before nearly four years is up – is a Police Commissioner in breach of the Act he is appointed to administer. What other public servant is permitted to ignore the requirements of the Act under which he or she is employed, with no penalty?

\* The Police Act requires the Commissioner to publish a manual, which he has failed to do since early 2012 – that is, for about 3 1/2 years so far. *Police Service Act 003 - Sect 93. Police Manual (1) the Commissioner must cause a document known as the Police Manual to be published.* Clause 2 explains the details which must be in it. <http://tinyurl.com/puavq4x>

Civil Liberties Australia says the reason it is important that there is an up-to-date manual is that laws and rulings need to be constantly reviewed and kept up to date for operational police officers. The manual needs to reflect changes in legislation, case law, Coroner's recommendations, emphases by the Police Commissioner, and the like.

## Reward to \$40,000, 150 rally for Sue N-F

Elizabeth Perey holds a sign (photo) at the special rally for Sue Neill-Fraser in Hobart on 20 June. More than 150 people attended, singing along with the band Grand Jury and their specially-written SNF song, by Eve Ash.



The reward for information leading to SNF's acquittal has been increased to \$40,000.

The Tasmanian government is assessing comments on the draft 'Right To Appeal' bill, which could allow SNF to get her case, which Civil Liberties Australia believes is a classic wrongful

conviction, back before the Supreme Court of Tasmania.

The bill is likely to be presented, and hopefully passed, in the Spring session of parliament in September. If that occurs, the SNF case may be back before a single judge by October or November, and possibly before a full court in early 2016.

## SA tries to curb bikies...again

Twenty-seven "outlaw" gangs will be declared criminal under new laws proposed by the SA government.

Premier Jay Weatherill said the laws were a direct result of advice received from South Australian Police and the government was acting "solely in the best interests of community safety".

The proposed laws would make it an offence for gang members to enter licensed premises displaying club colours and logos, and for gang members to be in a public place with two or more other members.

The last time SA tried something similar, in 2009, the legislation was thrown out of court, because the government botched it. <http://tinyurl.com/prncavu>

The Australian Hotels Association says bar and restaurant staff could find themselves in harm's way in trying to refuse bikies entry, or throw them out. Under the proposed legislation, a licensee or employee would face a \$10,000 fine if they allowed a person wearing gang logos or clothing to enter or remain in a venue. <http://tinyurl.com/o8mztpx>

## Misconduct commission is on best behaviour

A WA Police investigation into 23 allegations of misconduct at the former Corruption and Crime Commission's Operational Support Unit has resulted in three officers sacked, four resigned and one with his contract not renewed.

Police have also charged two officers with allegedly falsifying Commission records, and giving false evidence to a Commission examination.

The allegations surfaced in late 2013: police reported to Parliamentary Inspector Michael Murray in March 2015, who in turn reported to the joint standing committee into the CCC on 10 June.

Chairman of the Committee on the Western Australian Corruption and Crime Commission, South Metropolitan MLC Nick Goiran, said Mr Murray had made three recommendations for amendments to the CCC Act 2003, that the committee in turn recommended be considered by the WA Attorney General.

"The fact that these allegations are in relation to individuals within the state's highest integrity body is a timely reminder that whenever greater power and discretion is granted, it is essential that it is offset by a proportionate increase in the oversight of them," he said. <http://tinyurl.com/olv9azd>

## Treasurer targets lawyers' 'grave train'

A new law which aims to end the long-running Bell Group case, begun in 1995, may erode the rule of law, and cut transparency and protections, lawyers' bodies say.

The Bar Associations of WA and Australia have issued a joint statement outlining concerns about the legislation. They said they are worried about the transfer of powers from the courts to government, the retrospective altering of the law and the prevention of currently applicable corporations legislation applying from the Bell case.

They are also upset that the legislation could criminalise any legal challenge to the validity of the proposed laws, with penalties of up to five years in jail or a \$200,000 fine.

The laws will dictate the distribution of the \$1.7 billion settlement that came as a result of prolonged legislation following the collapse of Alan Bond's Bell Group in the 1990s. WA's Treasurer Mike Nahan says the State Government is just "stopping the grave train" the legal community had "ridden for 20 years". <http://tinyurl.com/pknbsns>

## WA to solve juvenile problem...only in Perth

WA is to spend more than \$500,000 trying keep young Aboriginal offenders out of jail...in Perth.

Two Aboriginal diversion officers will work out of Perth Children's Court to support and mentor children who appear.

The money comes from the Youth Justice Innovation Fund, which has allocated \$1.5 million in grants since being established in August 2014. Corrective Services Minister Joe Francis said up to 80% of children jailed at Banksia Hill prison were Indigenous. <http://tinyurl.com/o6ltxew>

## **Serco to follow G4S out of the state prison transport business in WA**

WA has dumped security firm Serco from transporting prisoners...at least temporarily.

The state government dumped contractor G4S in 2011 after the death of Aboriginal elder Mr Ward on a long distance regional journey in 2008 and the escape of nine prisoners from holding cells at the Supreme Court in Perth in 2004.

Corrective Services Minister Joe Francis told the WA Parliament last month the government would not renew its contract with Serco, which expires on 30 June 2016. However, Serco has said it would bid for any new contracts. An inquiry has been under way into the transport of people in custody in WA, primarily looking at the service Serco and previous contractors provided. <http://tinyurl.com/ow9cupq>

## **Vicious, lawless operator gets 18 months only**

A Brisbane drug syndicate criminal – who was not a bikie – has become the first person sentenced under Queensland's Vicious Lawless Association Disestablishment (VLAD, the 'anti-bikie') laws.

Joshua Robin Rohl, 32, was sentenced to five years jail, but having to serve 18 months only. The Supreme Court found Rohl transported large quantities of cannabis (\$16m in six months) in checked luggage on domestic flights from Melbourne to Brisbane. The married father of one pleaded guilty to charges including trafficking a dangerous drug as a Vicious Lawless Associate.

Justice Martin Daubney said: "You and these three others were Vicious Lawless Associates within the meaning of that term, in the Vicious Lawless Association Disestablishment Act 2013, to which I will refer as 'VLAD' but you were not an office bearer for the purposes of that act." <http://tinyurl.com/od8v9ho>

## **Judge calls for longer-term legal aid funding**

Judge Margaret McMurdo, the Queensland Court of Appeal president who had her private conversations revealed by former state Liberal AG Jarrod Bleijie, has condemned one of his last acts in the position as "anti-democratic".

"From time-to-time, governments have attempted to make funding to a CLC conditional on not advocating against government policy," she told a conference of community legal centres people. "Such attempts are anti-democratic and completely fail to apprehend the essence of the successful roles of CLCs in our society."

She called for longer term funding. "Short-term funding ... makes strategic planning almost impossible. Dedicated and experienced staff are left without the job security or career paths they deserve." <http://tinyurl.com/npm8gkc>

## **Patten MLC wants bill to protect women**

Following meetings with senior Victorian politicians and police, Australian Sex Party leader, Victorian Member of the Legislative Council Fiona Patten, will consider introducing a private member's bill to the state parliament to stop anti-abortion protesters gathering outside women's health clinics.

Last month, Patten met with staff at the Melbourne East police command, who for more than two decades have been called to the East Melbourne fertility clinic in response to calls from protesters, clinic staff and patients. In the past month, she has also met the premier, Daniel Andrews, and opposition leader, Matthew Guy, to discuss the protests.

The protesters, from the group Helpers of God's Precious Infants, jostle and harass women and staff attending the clinic, preventing them from exiting their cars, and distribute anti-abortion literature, clinic staff have said.

Patten told the *Guardian Australia* that police said they were fed up with the continual disputes.

"They'd be very supportive of some form of legislative instrument that gave them power to prevent people from standing metres away from the front of the clinic," Patten said. "I think Tasmania got it right in legislating to implement exclusion zones around abortion clinics there, and I'm investigating what I can do, possibly through a private member's bill, to introduce similar legislation here." <http://tinyurl.com/narbyly> Fiona Patten is a CLA member.

## **Tattooed mum allowed to breastfeed again**

A NSW mother may breastfeed her 11-month-old baby again after the Family Court overturned an injunction that banned her from doing so because she had got a tattoo.

A full bench of the Family Court unanimously dismissed the injunction last month, finding that the primary judge, Matthew Myers of the Federal Circuit Court, based his decision on an internet search. He believed that she might transmit a blood-borne disease such as hepatitis or HIV to the infant.

"Judges must not mistake their own views for being either facts not reasonably open to question or as appropriately qualified expert evidence," Family Court judge Murray Aldridge said. "That those views may have been obtained by the judge searching the internet compounds, rather than alleviates, the difficulty."

The mother was tested and found not to have either disease but judge Myers still decided to grant an injunction to stop her breastfeeding her son. The Family Court also found the injunction by judge Myers failed to consider the benefits to the baby, both emotionally and physically, of continued breastfeeding and any negative effects of it suddenly stopping. <http://tinyurl.com/qyudqeg>

## **Twiggy 'thought bubble' may be on the cards**

The NSW Labor Opposition has expressed "enormous reservations" about a potential trial of alcohol and gambling restrictions in the NSW town of Moree, and in Ceduna in SA and Kununurra in WA.

The Federal Government is discussing a trial that would see most of each welfare payment provided through a new type of debit card that cannot be used to purchase alcohol, or for gambling. The idea a "thought bubble" of mining identity Andrew "Twiggy" Forrest.

NSW Opposition Indigenous Affairs spokeswoman Linda Burney said if the Moree community embraced the trial then it should be implemented but she is not convinced widespread consultations with key community leaders have taken place.

"I have enormous reservations about a trial like that," she said. "If there is going to be such a trial it has to be done in absolute consultation with the community and with the voluntary participation of the community. The unintended consequences are not thought through." <http://tinyurl.com/pa6rwag>



## Is that a police tread on your bank statement?

NSW police want open access to the bank statements of suspects, without getting a judicial warrant.

They have asked the NSW government to change the status quo, which requires a magistrate or registrar of a court to sign off on a "notice to produce" before police can force banking institutions to hand over documentation, such as a suspect's bank statements.

The proposal would instead allow a senior police officer to sign off. Police say that this "would represent a reduction in red tape by delivering significant benefits for police in savings of resources, paperwork and unnecessary travel". <http://tinyurl.com/ne267nj>

Funny how police convenience is the new measure, and people's right to privacy doesn't rank any more, CLA says. This police try-on indicates how the notion of a fair go has changed since 9/11 terror attacks.

## Jail expansions prove drug policy failures

Grafton is to get a new jail, and suburban Parklea jail in Sydney will be expanded in a \$1.2 billion plan to cope with a mushrooming NSW prison population climbing towards 12,000.

Grafton's jail will be away from the old Grafton jail site. It will house 600 prisoners, employ 200 locals and be ready in 2019. Parklea will expand from 800 capacity to more than 1200 by 2018.

The moves are on top of the NSW government spending \$10m on 80 portable cells to cope with emergency demand earlier in 2015. <http://tinyurl.com/posdm59>

If NSW were to deal positively with the drug problem, making it a health rather than a law'n'order issue, none of this expenditure would be needed. It is not clear why NSW taxpayers — or those of other states — put up with such maladministration, CLA says.

Most studies show about 60% of people are in jail due to a drug connection. <http://tinyurl.com/mbmqh68>

## McMillan homes in on new-old role

Former Commonwealth Ombudsman — and recently financially emasculated (and working from his own home) head of the Office of the Information Commissioner — Prof John McMillan will take up the NSW ombudsman's post for two years from today (1 July 2015).

McMillan replaces Bruce Barbour who spent 15 years as NSW Ombudsman. Barbour's reign ends with a major review of oversight of the NSW police still to be finalised. Former Liberal MP Andrew Tink has been asked to streamline the functions of the Police Integrity Commission, the Independent Commission Against Corruption and the ombudsman. "Streamline" usually means slash in such referrals.

Barbour's initial seven-year term from Labor premier Bob Carr in 2000 was extended by another six years by Labor premier Morris Iemma. When he came to office in 2011, Liberal premier Barry O'Farrell prolonged his stay until June 2015. Barbour's end-salary was \$466,951 a year, higher than the salary of Prime Minister Tony Abbott or the NSW Premier. — Alex Mitchell in *Crikey*

## Messenger 'shot', bashing police uncharged

A police sergeant who allegedly revealed publicly the existence of a video showing four police thugs bashing an arrested man has been charged...but the bashing police have not.

It is alleged Sergeant Rick Flori leaked surveillance footage showing officers holding and punching repeatedly a handcuffed 21-year-old man at Surfers Paradise police station. The officers filmed assaulting the victim underwent an internal police investigation, with two officers facing disciplinary action.

Sgt Flori was charged last month with criminal misconduct in public office, and is stood down on full pay. He denies the charge, but faces losing his job. The case is due on 15 July on the Gold Coast.

By charging Sgt Flori, Queensland Police have highlighted the inappropriateness of their internal processes, Civil Liberties Australia says. All such police video tapes should be made publicly available.

<http://tinyurl.com/pmde3qn>

## Australian briefs

**Bill to curb AFP 'shopping' Australian citizens:** Clive Palmer (PUP, Fairfax Qld) spoke on the second reading of the Foreign Death Penalty Offences (Preventing Information Disclosure) Bill 2015. Details: <http://tinyurl.com/q92ub97>

**Women-only stations to be studied:** Australian researchers are to study South America, where women-only police stations designed specifically to deal with domestic and sexual violence have been quietly running for decades across Brazil, Argentina, Ecuador, Nicaragua and Peru with multi-agency and government cooperation. Queensland University of Technology criminologist professor Kerry Carrington has been granted permission to begin a world-first study after a recent visit to the unique stations in Argentina. Brazil was the first country to establish women-only police stations in 1985. <http://tinyurl.com/okwzcc2>

## CLA report — key activities for June 2015

Submissions:

- Citizenship Bill: being worked up (see lead story). Closing date is 17 July.
- Treaty-making processes: submission lead-authored by Kenneth Davidson, columnist for The Age (and a CLA member).
- Inquiry into the registration of environmental organisations
- ACT: Human Rights Commission reorganisation proposals

Activities:

- Seminar with Bernard Collaery on ASIO/East Timor, initiated by CLA with ACT Law Society, ACT Bar Association and ANU College of Law (Articles above, plus report on web site)
- Public forum on Trans Pacific Partnership trade agreement, organised by ALP parliamentarians well attended by concerned community. (Report on web site)
- Protest by cleaners organised by United Voice and supported by Vintage Reds and CLA outside Parliament House
- Prof Gillian Triggs Magna Carta Museum of Australian Democracy — huge overflow crowd.
- Elizabeth Reid spoke to Vintage Reds, on Maintaining the Rage: changes for women by the Whitlam government (See her address on the CLA web site: <http://tinyurl.com/pkb62ty> *Highly recommended*)
- Invitation to CLA representatives for Q&A, attended by Board Members Tim Vines and Saskia Verroorn

## Organisational

- Retirement of Lance Williamson as webmaster after significant service of eight years to CLA. Arved von Brasch filling in: permanent role to be filled by Hyatt Khan.
- Resignation of Noor Blumer from CLA Board

## Meetings

New CLA member George Winston, secretary Blue Mountains Refuge Support Group  
Keith McEwan re current events

Email from CLA urging all like-minded bodies (civil liberties/human rights networks) to nominate Prof Gillian Triggs to be Australian of the Year.

## INTERNATIONAL

### US Supreme Court says 'I do' to gay marriage

Marriage between same-sex partners is now legal in the USA, following a 26 June 2015 decision of the US Supreme Court.

The federal ruling will effectively override laws in some US states that bar same-sex marriages.

The US decision is expected to increase pressure on the Abbott government in Australia to fall in line with its closest international ally. – <http://www.supremecourt.gov/> 6/26/15 - Obergefell v. Hodges

### FBI runs 40-year scam: 9 wrongly executed

For the past 40 years, America's FBI has run a hair-brained conviction scam...and exported it worldwide.

At its peak, the FBI's microscopic analysis unit in Washington had 11 special agents devoted entirely to hair comparisons, working on up to 2000 cases a year and testifying 250 times annually, *The Guardian* reported last month.

Between 1972 and 1999, the unit produced at least 2500 positive hair matches that were used in criminal cases, and tens of thousands more may have resulted from FBI "experts" training detectives to use the spurious technique in individual states across the country (and in other countries, including Australia, Civil Liberties Australia believes).

In April 2015, as Spencer Hsu of the *Washington Post* first reported, the FBI and the US Justice Department formally acknowledged that it had given flawed testimony in almost all the criminal trials in which its agents were involved. Those cases included 32 that put defendants on death row – nine of whom have already been executed. <http://tinyurl.com/ngxvvn8>

### Saudis on track for beheadings record

Saudi Arabia last month beheaded a Syrian drug trafficker and a national convicted of murder, taking to 100 the number of executions in the kingdom this year by early June.

The number of executions has surged in 2015 compared with the 87 recorded by *Agence France Press* for all of 2014. At the current rate, the 2015 end-of-year figure will top the record 192 that rights group Amnesty International said took place in 1995. <http://tinyurl.com/oxnlexc>

### ODD SPOT: Joystick jockeys suffer stress!

After a decade of waging long-distance war through video screens, America's drone operators are burning out: the Air Force is being forced to cut back on the flights, the *NY Times* reported last month.

Armed surveillance drone flights will "trim down" to 60 a day by October from a recent peak of 65 as the USAF deals with the first serious exodus of crew members who ushered in war by remote control.

If the joystick jockeys in their secure containers in the Nevada desert in the USA are stressed, imagine how spaced out the people being bombed 60 or 65 times each day must feel.

<http://tinyurl.com/p3cyhdn>

### UK spooks spy on human rights NGOs

Covert surveillance by lead British spook agency, GCHQ, of two international human rights groups was illegal, the judicial Investigatory Powers Tribunal (IPT) has ruled.

The IPT rules on complaints against UK intelligence services. GCHQ retained emails for longer than it should and violated its own internal procedures, according to IPT's judgment. But it also ruled the initial interception was lawful in both cases. The IPT upheld complaints by the Egyptian Initiative for Personal Rights and the South African non-profit Legal Resources Centre that their communications had been illegally retained and examined.

The case against the monitoring agency follows revelations by the US whistleblower Edward Snowden. It was brought by Privacy International, Liberty, Amnesty International, the American Civil Liberties Union and a number of other international human rights groups.

Welcoming the ruling, Eric King, deputy director of Privacy International, said: "If spying on human rights NGOs isn't off limits for GCHQ, then what is? Clearly our spy agencies have lost their way. For too long they've been trusted with too much power, and too few rules for them to protect against abuse. How many more problems with GCHQ's secret procedures have to be revealed for them to be brought under control?"

<http://tinyurl.com/ouqjxj8>

It is highly likely Mr King's comments apply even more so in relation to Australian spook agencies: see Collaery articles above.

### In Lieu we trust

Apple – and other big names in IT, like Google – are providing better encryption that security services won't be able to crack, which some sensible members of Congress believe is appropriate.

Representative Ted Lieu (Democrat, California) is leading this charge. He said during a Congressional hearing earlier this year: "It is clear to me that creating a pathway for decryption only for good guys is technologically stupid, you just can't do that.

"It's a fundamental misunderstanding of the problem. Why do you think Apple and Google are doing this? It's because the public is demanding it. People like me: privacy advocates. A public does not want an out-of-control surveillance state. It is the public that is asking for this. Apple and Google didn't do this because they thought they would make less money. This is a private sector response to government overreach.

"Then you make another statement that somehow these companies are not credible because they collect private data.

"Here's the difference: Apple and Google don't have coercive power. District attorneys do, the FBI does, the NSA does, and to me it's very simple to draw a privacy balance when it comes to law enforcement and privacy: just follow the damn Constitution." <http://tinyurl.com/ngjhyd5>

## US airport security fails 95% of the time

An undercover test of America's airport security has exposed serious flaws in baggage screening systems, with 95% of mock weapons and explosives passing through undetected.

In 67 of 70 attempts, undercover agents succeeded in getting banned items through airport baggage screening systems run by the Transport Security Administration in some of the USA's busiest airports.

In one case, a screening officer failed to find a fake plastic explosive taped to an investigator's back even after a pat-down, US ABC News reported. The results were shocking for an organisation with a \$7 billion annual budget, which was increased after posting a similar failure rate six years ago.

<http://tinyurl.com/nkd4jtz>

## Nauru, where even speech isn't free

Nauru's government says its controversial crackdown on free speech, including a ban on Facebook, is needed to protect ethnic groups such as asylum seekers.

The island's reputation has taken a battering over the bans, widely criticised as anti-democratic and in breach of international human rights laws. In May, the government amended Nauru's criminal code to prohibit threatening, abusive or insulting language that could stir up racial, religious or political hatred. Breaches of the new law are punishable by up to seven years in jail. <http://tinyurl.com/p57xm4v>

## Spy supremo tells Kiwis what their spooks do

Rebecca Kitteridge, NZ's Security Intelligence Service director (photo), told a Wellington conference on security recently that tip-offs from the public still provided the main defence against domestic terror, rather than widespread surveillance.



<http://www.nzsis.govt.nz/>

"Where information suggests that a person may be a threat to NZ's domestic security, we will try to find out more about that person, and either determine that the person is not of interest, or will build an intelligence case that may lead to a warrant application," Kitteridge said.

"Many people worry about state surveillance," she said.

"Polling late last year [showed] 29% of respondents thought intelligence agencies might be interested in their personal communications ... If that were true, that would mean the NZSIS would be targeting 1.3 million people and that bears no resemblance to the actual situation." – stuff.co.nz LibertyWatch.

## Leading NZ barrister dies

Peter Williams of NZ died last month.

He was the outstanding Kiwi human rights lawyer of his generation who, through his work as a barrister and as president of the Howard league for Penal Reform for 30 years, did the most for the rights of the accused and the incarcerated in New Zealand.

Williams sailed to Mururoa Atoll with a Greenpeace flotilla in 1995 to protest against French nuclear testing

He appeared in major trials, often in the 'hardest' of cases. He became a Queens Counsel 1987, and a knight – Sir Peter – in March 2015. <http://tinyurl.com/k2dj48c> <http://tinyurl.com/ph7328w>

## 762 Muslims terrorised by America

Nearly 14 years after the 11 Sept 2001 aircraft attacks on America, a lawsuit on behalf of Muslims rounded up in the aftermath has started to progress in the US court system.

Lawyers are trying to show how frightening it was for 762 men with no ties to terrorism to be treated like terrorists, locked up and abused for months at a time.

The lawsuit finally got the go-ahead from a federal appeals court last month: two judges proved willing to let the courts grapple with what happened when the largest criminal probe in US history tested the boundaries of civil liberties.

In a 2-1 ruling, the second US circuit court of appeals reinstated the lawsuit against three former top US officials, including then attorney general John Ashcroft and FBI director Robert Mueller.

Holding the defendants "in solitary confinement 23 hours a day with regular strip searches because their perceived faith or race placed them in the group targeted for recruitment by al-Qaida violated the detainees' constitutional rights", the majority wrote. <http://tinyurl.com/p7vfj2r>

## International briefs

### How much corporations have paid US legislators re TPP:

<http://tinyurl.com/pvwhbtd>

**116 left at Gbay:** The USA has transferred six lower-level detainees from Guantánamo Bay, Cuba, where each had been held for more than 13 years. The departures, to Oman, were the first from the prison in six months and reduced the inmate population there to 116 prisoners. The six men are all Yemenis and have each been held since early 2002 in indefinite detention without trial. <http://tinyurl.com/qapjrd6> The US still considers that kidnapping people and holding them in jail for 13 years without trial is legal: this is not a widely shared view internationally, Civil Liberties Australia says.

**US admits tapping phones of presidents:** President Barack Obama has assured the French president, François Hollande, that American intelligence services are no longer tapping his phone. The American leader was reported to have reiterated a pledge made two years ago to stop spying on his French counterpart, according to Hollande's office. The NSA reportedly spied on Hollande and his predecessors, Nicolas Sarkozy and Jacques Chirac, for 10 years until 2012. But a vaguely worded statement released by the White House failed to clarify whether the NSA was still bugging the conversations and emails of other French diplomats and officials. <http://tinyurl.com/nng6wyp>

**Woman to be told when they can be pregnant:** Myanmar's government is to decide when a woman may have a pregnancy. A law enacted recently by the quasi-civilian government allows officials in the Buddhist-majority nation to order women to wait three years between births. Rights groups say the changes, which are backed by ultra-nationalist Buddhist groups, target Muslim women. <http://tinyurl.com/oshbyc>

**Non-Muslim extremists have greater impact:** In the 14 years since Al Qaeda carried out the "9/11" attacks on New York and the Pentagon, extremists have regularly executed smaller lethal assaults in the USA, explaining their motives in

online manifestos or social media rants. But since 11 Sept 2001, nearly twice as many people have been killed by white supremacists, antigovernment fanatics and other non-Muslim extremists than by radical Muslims: 48 have been killed by extremists who are not Muslim, including the recent mass killing in Charleston, compared with 26 by self-proclaimed jihadists, according to a count by New America, a Washington research centre. <http://tinyurl.com/npjxjby>

**NZ councils to vote online:** Local Government New Zealand (LGNZ) is putting its support behind councils looking at trialling online voting in the 2016 local body elections. The Associate Minister of Local Government, Louise Upston, has confirmed that some local authorities will be able to trial online voting next year. – *Scoop.co.nz* and *LibertyWatch*.

**Man cleared of killing wife after 45 years:** A Toronto court was expected to clear Canadian John Salmon late in June of the manslaughter of his wife Maxine Ditchfield after new medical evidence that her death resulted from falls, not bashings. <http://tinyurl.com/nttkos5> via <http://netk.net.au/Canada/Canada12.pdf>

**ODD SPOT: US sources hilarious identifying terms:** Who said Americans couldn't do irony? Congress has now passed the absurdly-named USA FREEDOM (Uniting and Strengthening America by Fulfilling Rights and Ending Eavesdropping, Dragnet-collection, and Online Monitoring) Act to ban the National Security Agency's bulk metadata collection in future. Those with short memories might need reminding that the full name of the USA PATRIOT Act was: "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001". The oddball naming technique is termed a 'backronym' – from Roger Fitch Esq, US columnist for the *Justinian* legal blog.

**Doctors analyse US torture regime:** <http://www.nejm.org/doi/full/10.1056/NEJMp1503428>

**Man cleared of killing wife after 45 years:** A Toronto court was expected to clear Canadian John Salmon late in June of the manslaughter of his wife Maxine Ditchfield after new medical evidence that her death resulted from falls, not bashings. <http://tinyurl.com/nttkos5> via <http://netk.net.au/Canada/Canada12.pdf>

## DATES

**3-5 July, Melbourne:** ANZ Students for Liberty conference at RMIT, \$10 rego. details: [ANZSFL.com.au](http://ANZSFL.com.au)

**3-5 July, Washington DC USA:** Australian Bar Association conference. Trends in American Justice: Impacts for Australia (see 7-10 July also). Contact: [avaconfrence@nswbar.asn.au](mailto:avaconfrence@nswbar.asn.au)

**5-9 July, Perth:** 15th International Symposium of the World Society of Victimology, Perth Convention Centre. Details: <http://tinyurl.com/nu4aogr>

**20-26 June, Bali, Indonesia:** 15th biennial conference Criminal Lawyers Assn of the NT: 'Curing Injustice'. Details: [www.clant.org.au](http://www.clant.org.au) Eve Ash speaks on 'Justice Hunters: Strategy for Change'.

**7-10 July Boston Mass. USA:** Australian Bar Association conference. Survival of the Fittest: Challenges for Advocates in the 21st Century. (See 3-5 July also). Contact: [avaconfrence@nswbar.asn.au](mailto:avaconfrence@nswbar.asn.au)

**20-23 July, Adelaide:** Evidence Law and Forensic Science, 5th intntl conference (first outside Beijing, China), U. Adelaide City Campus, Ligertwood and Napier Bldgs, Further info: <http://law.adelaide.edu.au/icelfs/>

**23-24 July, Melbourne:** Constitutional Law Conference 2015, Uni Melbourne Law School. Info: [law-cccs@unimelb.edu.au](mailto:law-cccs@unimelb.edu.au) or 03-8344 1011

**2-6 Aug, Coimbra, Portugal:** 21st annual World Assn for Medical Law conference, covering ageing and health law, IT and health, migrations, islamic bioethics. Details: <http://wafml.memberlodge.org/page-1638556>

**6 Aug, Brisbane:** Criminal Law: The limits of 'Mr Big' techniques and covert interviewing. Prof Simon Bronitt, U. Qld. <http://tinyurl.com/nqgmck>

**13 Aug, Brisbane:** Annual Sir Harry Gibbs law lecture. By Justice Hugh Fraser. Details: <http://tinyurl.com/kqev32m>

**13 Aug, Canberra:** Annual Kirby lecture on international law: Prof Gerry Simpson (photo) of U. Melbourne. Details: <http://tinyurl.com/q8zeq3n>

**31 Aug-2 Sept, Canberra:** Security in Government 2015 conference: 'Security risk management – getting it right'. For details, email [SIG2015@ag.gov.au](mailto:SIG2015@ag.gov.au)

**31 Aug - 3 Sept, Sydney:** CLA's Barbara Etter APM (photo, former Asst Commissioner WA Police and *oro bono* legal adviser to Risdon Prison's wrongly-convicted Sue Neill-Fraser), will be keynote speaker at *Making History – Shaping the Future*, the 9th Australasian Women and Policing Conference, Luna Park Sydney from 31st August - 3 September 2015. Details and to register: <http://tinyurl.com/mcz6sny>

**14-15 Oct, Sydney:** Drug Trends Conference 'Trends and Solutions' Customs House, Sydney, organised by the National Drug & Alcohol Research Centre, UNSW. Details: <http://ndarc.med.unsw.edu.au/news/2015-drug-trends-conference-and-dpmp-symposium>

**9-10-11 Nov, Sydney:** *Law via the Internet 2015* conference 10-11 Nov at UNSW, preceded by annual meeting of the Free Access to Law Movement on 9 Nov at UTS. Call for papers: <http://www.lvi2015.org/callforpapers/> Register interest at: [registration@austlii.edu.au](mailto:registration@austlii.edu.au)

**25-26 Nov, Canterbury NZ:** Pacific Regional Security Symposium: Re-thinking Regional Security: Research and Policy Nexus. Three broad themes for the conference are hard security, human security and environmental security. More info: Email: [Kirsty.ameriks@canterbury.ac.nz](mailto:Kirsty.ameriks@canterbury.ac.nz)

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

## 2016

**18-23 Sept, Auckland NZ:** 23rd Intntl Symposium on Forensic Sciences. Details: [www.anzffs2016.org](http://www.anzffs2016.org)

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