

# **LIBERTY VICTORIA**

## **2017 ANNUAL REPORT**

**Vigilant  
Independent  
Informed**

# Foreword

Liberty Victoria has a long and proud history, campaigning for civil liberties and human rights for more than 80 years. Officially known as the Victorian Council for Civil Liberties Inc, its lineage extends back to the Australian Council for Civil Liberties ('ACCL'). The ACCL was formed in Melbourne in 1936 and was determined to offer 'a means of expression to those people in all parties who believe that social progress may be achieved only in an atmosphere of liberty.'

Throughout its history, Liberty Victoria has defended the right of individuals and organisations to free speech, freedom of the press and of assembly, and freedom from discrimination on the grounds of race, religion or political belief. It has operated in accord with the ACCL's original platform, working not only to defend existing civil liberties and oppose their limitation, but to campaign for the 'enlargement of these liberties.' Liberty Victoria is now one of Australia's leading civil liberties organisations.

Through its Policy and Management Committees, Liberty Victoria influences debate at a State and Federal level. We are frequently asked for comment and guidance by media, politicians, law reformers and policy makers. We have staged a number of public events.

Many committee members are fully engaged in professional careers and networked support for our work is the way of the future.

The Rights Advocacy Project (RAP) initiative has expanded our reach towards younger members and students and continues to go from strength to strength.

Liberty actively makes public statements, issues media releases, contacts and negotiates with federal and state government ministers in relation to a diverse and extensive array of matters of public interest.

Liberty Victoria relies on funding raised through memberships and donations and the tireless work of volunteer committee members. Thank you to our members for their support.

With limited funding, Liberty has been fortunate to have the voluntary support and expertise of a number of people who assist us in numerous ways. Maelor Himbury continues to assist with our daily media links for which we and 476 subscribers are very grateful.

We have also been greatly assisted by our team of volunteers, and in the office, by Meah Wood and Fiona Field.



# Liberty Victoria 2016 - 2017

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Andrew Vincent

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Angie Wong

Professor Spencer Zifcak

## Executive Officer

Gillian Garner

## Executive Assistant

Torunn Momtazi

PATRON

The Hon. Michael Kirby AC CMG

# Jessie Taylor

## President

### **What a remarkably busy year it has been in the life of Liberty Victoria.**

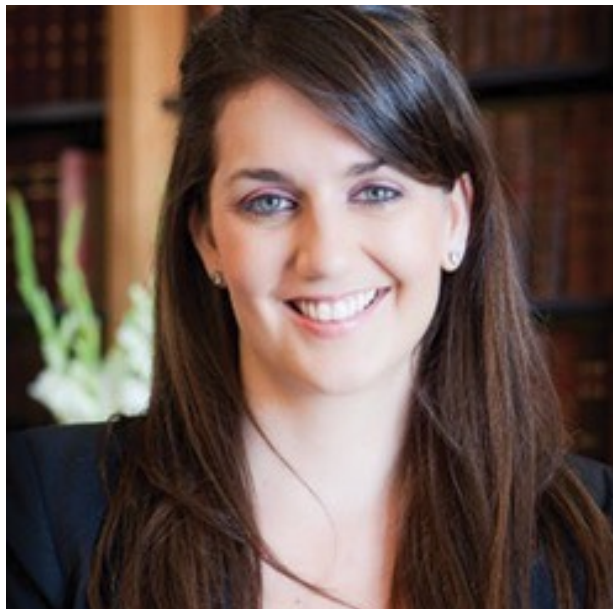
Against a backdrop of the extraordinary events of international and domestic politics, Liberty has produced an unprecedented volume of work in response to ongoing incursions into human rights and civil liberties in Australia. Our workgroups have been very busy and have played an important role in law reform and policy development over the past 12 months on both a state and Federal level. (The work of Liberty over the past year is well documented in this report and on our ever-developing website).

Liberty Victoria's Rights Advocacy Project sails towards its fifth year of operation in 2018. RAP (previously known as Young Liberty for Law Reform) will continue to engage in creative and innovative projects, supported by their new website which was launched in April 2017. RAP is a project of which Liberty Victoria is very proud, and we see real value being added by their work to the human rights landscape, both at the grassroots and at an impressively lofty level of research and intellect.

It is also important to make mention of the special events we held this year as part of our efforts to communicate the importance of human rights and freedoms.

I begin with the first major event which was last year's AGM. We were delighted to have the Walkley Award winning journalist John Silvester as our speaker at the 2016 AGM.

Prof Gillian Triggs was the very deserved 2017 Voltaire award winner. The recipient of the Voltaire 'Empty Chair' award was Eaten Fish, and the Young Voltaire went to Georgie Stone. Our event was bigger and better than ever, held at the Sofitel for the first time in 2017, and with a record crowd. It was a wonderful night, MCed by Cal Wilson and featuring numerous (rather memorable!) interjections from First Dog on the Moon.



In September 2017 we were most fortunate to have Nancy MacLean give the Alan Missen Oration at the Melbourne Writers Festival. While I was not there in person (having had a baby the previous day!), I'm told that Nancy's oration was a masterpiece. The Alan Missen Foundation remains a wonderful supporter of Liberty, and we thank them for their ongoing collaboration in this annual event.

Fearless Voices, a Liberty event held at the Thornbury Theatre was a wonderful afternoon, hosted by Johnny Topper. The crowd was thoroughly entertained by musicians Bruce Haymes, Liz Stringer, Matt Walker, Steve Hadley and Roger Bergodaz. They were joined on stage by amazing Slam Poets, Sharifa A Tartoussi, Waffle Irongirl, Sukhjit Khalsa and Tariro Mavondo. And wonderful "Shouters" Casey Bennetto, Stuart Grant, Alicia Sometimes and Paul Stewart.

Special thanks are also given to Michael Drapac (without whose generous support we would have nowhere to live), the law offices of Colin Biggers & Paisley (who generously allow us the use of their conference room for our meetings) and to all our wonderful volunteers whose help is so vital to the smooth running of Liberty.

This year we say goodbye to a number of our wonderful committee members, including Aggy Kapitaniak, Adam McBeth, Angie Wong, Leah Van Poppel, Leanne O'Donnell, Diane White, Gemma Leigh-Dodds and Jill Prior whose contributions in policy development, management of the organisation and to mentoring RAP members have been greatly appreciated. We wish them all the very best and hope to see them at events throughout the coming year. We also welcome on board our numerous new members of the committees; I am very much looking forward to working with you in the coming year.

Finally, I thank you, the members of Liberty Victoria, for your continued support. Without you, Liberty could not survive. It has been my great pleasure working on your behalf this year. Here's to a cracking 2018.



Jessie Taylor  
President





# Rights Advocacy Project

## 2016 – 2017



### About Rights Advocacy Project

Rights Advocacy Project (RAP) is a project of Liberty Victoria. Organised by a steering committee of young people, RAP advocates for laws and policies that respect human rights.

At the start of each year, we take on 18 volunteers and train them up in media, campaign strategy and law reform. The volunteers then work in teams, guided by experienced human rights advocates.

After identifying an area in need of change, the volunteers identify their 'value-add' to the wider movement.

Usually, this involves combining legal and policy analysis with creative advocacy, to engage not just decision-makers, but also the wider public that influences them.

Throughout the year, we also hold community events, including a trivia fundraiser and a mid-year workshop. For the latest RAP work and events, you can find us on Facebook.

It's been a big year for Rights Advocacy Project. We kicked off the year in March with the launch of our new website and name. The launch event at Kinfolk brought together the RAP community including current volunteers, program alumni and people from the many organisations we have had the fortune of working with.

In April, we launched 'Playing God', a report on the unrestrained, God-like powers of the Immigration Minister. The report was launched at the Castan Centre for Human Rights Law, with the support of Ian McPhee — the former Immigration Minister under Malcolm Fraser. McPhee was joined on the panel by writer Roj Amedi, academic Chris Berg and refugee lawyer Charlie Powles. We also thank Jane Lee for moderating.

In May, we tackled the issue of old and often minor convictions holding back former offenders from getting on with their lives. Our rigorous report examined the legislative possibilities and called for significant reforms. It was heavily quoted in the media, and we continue to work with experts and other community groups to keep up the pressure for change.

Our work on whistleblowers in offshore detention centres continues. The Senate Legal and Constitutional Affairs Committee handed down its report into serious allegations of abuse, self-harm and neglect of asylum seekers in Regional Processing Centres. The committee also called for an end to the secrecy, and in doing so, extensively referenced our report, 'Operation Secret Borders.'

Our annual trivia event was a great success, again hosted by the wonderful Michael Shafar and raising much-needed funds to support the work of our volunteers.

We then ended the year on a very exciting note, securing a grant from the Victoria Law Foundation to update [www.mykifines.org.au](http://www.mykifines.org.au), ensuring it continues to be a useful resource for commuters well into the future.

## Steering Committee

**Chair:** Katharine Brown

**Deputy:** Emma Buckley Lennox

**Deputy Chair:** Lauren Bull

Alexandra Lachal

Paige Darby

Louise McNeil

Kelsey Ryan

Esther Faine-Vallantin

Jackson McLeod

Michael Precel

Monique Hurley

Alina Leikin



## RAP Volunteers

Bethany King

Catherine Fabiny

Alex McGee

David De Witt

Bridget Lane

Chris Chosich

Christopher Woods

Deepak Pillai

David Brown

Emily Scott

Geerthana Narendra

Heidi Edwards

James Clarke

Julia Wallace

Julie Zhou

Neha Kasbekar

Renata Blythe

Safiyah Muyeen

Anya Saravanan

Tyrone Connell

We also thank Elizabeth Colliver, Grace Duncan and Esther Semo for their significant assistance and contributions over the past year.



# Submissions and Policy Work

## **The meaning of Yes...and No**

14 November 2017

Public Comment

Australians voted YES by a bigger margin than the 2PP vote at any recent federal election. This is a cause for great celebration, of course, but what happens next?

There is a lot more to be gleaned from the success of the YES vote — “survey response” — than simply the command to Parliament to legislate for genuine marriage equality. Why? Because the NO campaign claimed time and again that the survey was about many other things than marriage equality; it was an attack on our fundamental way of life, religious freedom, and the safety of our children (think of the children!) By voting yes in such numbers, the Australian people have rejected those claims, each and every one.

The public saw through the lies, misrepresentations and red herrings of the NO campaign. Of course, some were distracted or scared off by the deceitful claims of the NO campaign, and so the majority was smaller than it might have been. But we should be proud of such a resounding success, particularly given that the very survey was itself designed to minimise the YES voice.

[Link](#)

## **Inquiry into the Migration Amendment (Prohibiting Items in Immigration Detention Facilities) Bill 2017 [Provisions]**

20 October 2017

Senate Legal and Constitutional Affairs Committee

The Bill sought to amend the Migration Act 1958 (Cth) to empower the Minister for Immigration and Border Protection to ban mobile phones and other items in immigration detention centres. It also sought to expand immigration officers' warrantless search and seizure powers, and authorises them to use dogs to search detainees and visitors.

Liberty Victoria strongly opposed these measures. The Bill would further isolate asylum seekers and refugees in detention. It continues the growing criminalisation of Australia's immigration laws, policies and institutions. Immigration detention centres are already characterised by daily lockdowns, and regular use of force and physical restraints on detainees. The Bill added bans on harmless personal items, expanded search powers and the indiscriminate use of dogs to conduct searches of detainees and visitors.

Immigration detention centres are not prisons, and people seeking asylum should not be treated like criminals.

[Link](#)

## **PM calls for national database of driver's licence photos**

5 October 2017

Public comment

The Federal Government and States have entered into an Inter-Government Agreement to set up a national database to hold driver's licence photographs and identity information. The database may be used to conduct surveillance using facial recognition technology at public places such as airports or sporting events. This is a significant erosion of our right to privacy.

[Link](#)





## **Council's suspension of staff after monitoring movements via phone records created a storm of interest**

3 October 2017

Public comment

If an employee is using a phone or other electronic device provided and paid for by their employer, then they must be aware that their employer is able to access information about how and where that device is being used. But of course, just because an employer can access that data doesn't mean they should, and such breaches of an employee's privacy are likely to lead to a significant erosion in the trust relationship and culture of a workplace.

[Link](#)

## **Update on Sentencing Amendment (Sentencing Standards) Bill 2017**

10 August 2017

Public comment

Liberty Victoria made a comprehensive submission in June 2017 on why the Sentencing Amendment (Sentencing Standards) Bill 2017 (Vic) was unnecessary and threatened to undermine the separation of powers. Sue Pennicuik MP from the Greens referred extensively to our submission in Hansard giving voice to Liberty Victoria's views on the Parliamentary record.

In short, while supporting the repeal of the fatally flawed baseline sentencing regime, Liberty Victoria strongly opposed the introduction of a NSW style standard non-parole period scheme. The problem with such a system is that it leads to a distortion of the judicial task and results in cases such as *Muldock v The Queen* (2011) 244 CLR 120, where judicial officers failed to give appropriate weight to matters in mitigation (in that case intellectual disability) because of giving too much weight to the standard period.

Before we go down another flawed path as with the baseline sentencing debacle, why don't we preserve the independence of the judiciary and make greater use of guideline judgements as a mechanism that has been expressly designed to ensure greater consistency and public confidence in sentencing?

[Link](#)

## **Crimes Amendment (Ramming of Police Vehicles) Bill 2017**

10 August 2017

Public comment

Liberty Victoria made a submission on this Bill which was introduced by the State Opposition. There is simply no need for the changes proposed in the Bill. This is one of the components of the law and order auction leading up to the next State election, a common feature of which is finding new and alarming names for offences that already exist at law. The offence of "ramming" a police vehicle would already constitute criminal damage contrary to s 197 of the Crimes Act 1958, with a maximum penalty of 10 years' imprisonment (the same as that proposed by the Bill), and in some circumstances may also constitute reckless conduct endangering life or serious injury contrary to ss 22 and 23 of the Crimes Act 1958.

[Link](#)

## **Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

7 August 2017

Australian Human Rights Commission

Liberty supported the Commonwealth Government's commitment to ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT).

[Link](#)

## **Inquiry into the Status of the Human Right to Freedom of Religion or Belief**

7 August 2017

Joint Standing Committee on Foreign Affairs, Defence and Trade

Liberty Victoria supports the human rights framework, which includes freedom of religion or belief. That freedom is not absolute. As with most rights it must be balanced with the rights of others to believe - or not - as they consider appropriate. Religious beliefs - or rather religious practices and behaviour - cannot be above the law, and the state must instead ensure that all its citizens are treated with true equality, dignity and respect.

[Link](#)

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## **Reducing trauma and delay for witnesses and victims**

14 June 2017

Department of Justice and Regulation  
(Victoria)

Liberty Victoria supported the Supreme Court's objective of minimising delay in the criminal justice system, particularly in the period between charge and the listing of trial.

However, Liberty's view was that the Supreme Court's current proposal would not be effective in reducing delays and may jeopardise the accused's right to a fair trial.

[Link](#)

## **Justice Legislation Amendment (Protective Services Officers and Other Matters) Bill 2017**

5 June 2017

Public comment

Liberty Victoria opposed this Bill because powers that impinge upon the fundamental rights of individuals should be given and used carefully and with caution. PSOs do not receive the same level of training as ordinary police officers, nor do they get to work with senior and experienced members of the police force.

There is little evidence that PSOs have any beneficial impact on crime rates, and therefore Liberty Victoria believes it is unnecessary and potentially harmful to increase their powers.

The Bill proposed that PSOs be given the power to search people and their vehicles if they suspect the presence of drugs, undertake random searches for weapons in designated areas, apprehend children when the Children's Court has issued a search warrant for the purpose of having the children placed in emergency care, arrest people whose parole is breached or cancelled, request the names and addresses of suspected witnesses of indictable offences and issue infringement notices for the supply of alcohol to minors.

[Link](#)

## **Sentencing Amendment (Sentencing Standards) Bill 2017**

5 June 2017

Public comment

Liberty Victoria, while agreeing that the baseline sentence scheme needs to be repealed, opposed the manner in which this Bill proposed to do so. Liberty's view is this legislation is unnecessary and threatens to undermine the separation of powers.

[Link](#)

## **Sex Offenders Registration Amendment (Miscellaneous) Bill 2017**

31 May 2017

Public Comment

Liberty Victoria believes that there are three main problems with the current registration system of sex offenders in Victoria. These are the expanding number of registrants, the absence of judicial discretion in whether a person should become a registrant and the complexity of reporting obligations.

The Bill proposed two positive changes. First, it exempted registration of young people engaged in consensual 'sexting' in certain circumstances. However, Liberty believes that further reform is needed, as the Bill does not account for all circumstances, for example for consensual sexting between two people aged 17 and 20 years old. This highlights how mandatory systems will inevitably result in problems. Second, the Bill proposed to increase the Chief Commissioner's power of suspension from reporting requirements from 12 months to 5 years.

The proposed Bill had many problematic aspects, the main problems being when registrants remains on the register for life and that there is no capacity to review mandatory registration. The Courts are to act as the independent umpire and should have discretion in the registration process.

[Link](#)

## Bail Amendment (Stage One) Bill 2017

30 May 2017  
Public Comment

The Bill proposed to expand the number of offences where there is no presumption of bail. Liberty Victoria is opposed to reversing the presumption of bail in a wide number of offences, as it undermines the presumption of innocence by requiring the accused person to establish a 'compelling' reason they should not be detained.

In the early stages of criminal investigations, police cases are often flawed or incomplete which may lead to charges being withdrawn or the matter resolving in a less serious charge. The result of reversing the presumption of bail could mean a person ends up in custody, when in the end the matter resolves with the person being acquitted or receiving a lesser sentence than the time they spent on remand. Liberty Victoria believes that there should be a presumption of bail in most circumstances, only rebuttable when there is an 'unacceptable risk' to the community.

The Bill is flawed as it targets certain offences without consideration of the actual risk posed by the person concerned. An individual accused of a serious offence may not, in some circumstances, be an unacceptable threat to the community.

[Link](#)

## Review of the Open Courts Act 2013

30 May 2017  
Open Courts Act Review

Liberty Victoria had the opportunity to consider Victorian Legal Aid's submission to the review of the Open Courts Act 2013. Liberty endorsed the submission and its recommendations. Liberty supports principles of open justice, transparency, accountability and accessibility of the law to the public. However, it is equally important when media reports on court proceedings, they do so accurately and fairly. Exaggerated and sensationalist reporting of court proceedings has led to a distorted understanding of the workings of the justice system, to the detriment of us all.

[Link](#)

## Enquiry into Drug Law Reform

24 May 2017  
Law Reform, Road and Community Safety Committee, Victorian Parliament

Liberty Victoria welcomed the opportunity to contribute to this timely inquiry. Clear evidence from other jurisdictions, the medical profession and respected human rights organisations demonstrates that drug reform is a health and human rights issue that demands immediate attention. We believe that now is the time for a paradigm shift in Victoria.

The submission is divided into three parts:

- Part One outlines principles that Liberty has identified to guide any reform to drug laws and policies. Broadly speaking, we support a health and human right-based approach that gives primacy to prevention over punishment;
- Part Two proffers reforms to improve Victoria's response to drug harms, specifically, introducing decriminalisation for possession and personal use of illicit drugs; and
- Part Three identifies two concerning aspects of our current drug laws that require immediate attention and resolution: the deeming provisions in the Drugs, Poisons and Controlled Substances Act 1981 (Vic); and the provisions of the Residential Tenancies Act 1997 (Vic) that link drug offences to public housing.

[Link](#)



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## **RAP: A Legislated Spent Convictions Scheme for Victoria: Recommendations for Reform**

19 May 2017

Public Comment

The introduction of laws to govern how convictions are removed from a criminal record is a simple and straightforward reform. All other jurisdictions in Australia have laws that provide for the removal of certain less serious convictions from the records of past offenders who have not gone on to reoffend.

This goes to the heart of our criminal justice system. Offenders should be punished appropriately but they should also be given the opportunity to actively contribute to society once that punishment has been delivered. By allowing minor findings of guilt to remain on records, and not making it unlawful to discriminate against someone because of an irrelevant criminal record, the ability for past offenders to contribute to society through employment or other means is limited.

On 5 June 2017 RAP sent an open letter to the Victorian Government calling for a spent convictions scheme. See more under RAP on page 5.

[Link](#)



## **RAP: Playing God: The Immigration Minister's Unrestrained Power**

4 May 2017

Public Comment

Would you trust Peter Dutton to play God with your life? Liberty Victoria's Rights Advocacy Project investigated the growth and breadth of these powers and completed a detailed report on the little talked about but terrifying (and growing) part of Australia's immigration portfolio: the God powers of the Minister for Immigration and Border Protection. The report was launched at an event at the Castan Centre for Human Rights Law on 4 May 2017. See more under RAP on page 5 in this Report.

[Link](#)



## **Independent National Security Legislation Monitor's Statutory Deadline Review**

28 April 2017

Acting Independent National Security Legislation Monitor

In this submission, Liberty reiterated its concern for Stop and Seize powers and the regime for Control Orders and Preventative Detention Orders. However, Liberty does recognise the difficult role that law enforcement agencies play in ensuring Australia remains safe, particularly with the threat of violent extremism. However, Liberty believes that we must simultaneously ensure that fundamental rights and freedoms are protected.

[Link](#)

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## Crimes Legislation Amendment (Public Order) Bill 2017

13 April 2017

Public Comment

The Bill sought to address concerns of violence at public demonstrations, particularly violent acts committed by people wearing masks. Liberty Victoria believes that prohibiting the use of masks at protests may have a detrimental impact on freedom of expression, as masks can be an important means of self-expression.

This Bill does not prohibit the wearing of masks, but it does allow Police officers to direct people to leave an area if they have a reasonable belief the person is using the mask to hide their identity. However, Liberty still had noteworthy concerns with the Bill. Effectively, the proposed powers likely enable police to direct any person in a mask to leave the protest, as there are no guidelines provided to determine when a person is wearing a mask to conceal their identity. This could have a detrimental impact on freedom of expression.

[Link](#)



## Inquiry into Youth Justice Centres in Victoria

10 March 2017

Legal and Social Issues Committee,  
Parliament of Victoria

Liberty Victoria made a submission to the Inquiry into Youth Justice Centres in Victoria. Liberty noted that both major political parties failed to heed the clear warnings of the Victorian Ombudsman in 2010 that Youth Justice Centres were unfit for purpose.

Further, Liberty noted that recently children have been detained in an adult prison in conditions that were found by the Supreme Court of Victoria to breach their human rights. Liberty submitted that the Government should reject calls for a more punitive approach to child prisoners, and should focus on the promotion of the rehabilitation of children and the removal of children from detention.

[Link](#)

## 'Swift and Certain' Sentencing of Family Violence Offenders in Victoria

3 April 2017

Sentencing Advisory Council

Liberty Victoria is aware of the catastrophic effect family violence can have on people's lives and understands that sustained strategies are needed to prevent and reduce family violence.

The Sentencing Advisory Council's 'Swift, Certain and Fair Approaches to Sentencing Family Violence Offenders: Discussion Paper' is an informed and careful discussion of how and whether swift, certain and fair ('SCF') approaches to family violence can be adopted in Australia.

Liberty Victoria believes that there is presently insufficient evidence to support the adoption in Victoria of a strict SCF program.

[Link](#)



## **Proposed Activities (Public Amenity and Security) Local Law 2017**

21 March 2017

Melbourne City Council

Liberty Victoria contended that the proposed laws are draconian and target some of the most vulnerable people. Liberty Victoria fully supported the submissions of the Infringements Work Group, as they are consistent with the preservation of the human rights and civil liberties of persons in our community who suffer the misfortune of homelessness. Liberty Victoria believes that there are already in place laws that sufficiently address the concerns of the City of Melbourne and that the proposed Amending Laws would impact significantly on the human rights and civil liberties of some of the most vulnerable members of our community. In our opinion, rather than introduce the Amending Laws (that will effectively serve to punish the homeless), more humane ways of dealing with the problem of homelessness must be considered, such as the provision of additional resources to better fund temporary housing and counselling services.

[Link](#)

## **Bail Review**

17 March 2017

Engage Victoria for Victorian Department of the Premier and Cabinet

The submission covered five areas of the Bail Act 1977 (Vic); Who should make bail decisions?; The construction of section 4 of the Bail Act; The need for improved information-sharing; The need for bail support programs; and the impact on indigenous accused persons.

First, Liberty strongly believes that decisions concerning bail should be made by an impartial judicial officer. The potential for a police officer to abuse such powers is too high, as they may be influenced by the police investigation and prosecution process. Second, Liberty supports the removal of the reverse onus provisions, as this is consistent with upholding the presumption of innocence. Third, Liberty believes that recent failures in the bail system are the result of the decision-makers not receiving information and not the result of inadequacies in the decision-making framework.

Therefore, Liberty argues that an update in the Police 'LEAP' system will ensure that the prosecution can provide the Court with all the information required, resulting in better decision-making by judicial officers. Fourth, Liberty believes that the bail programs require better resources, funding and greater accessibility. And fifth, Liberty believes the Bail Review is an opportunity to address the high number of indigenous persons in the criminal justice system. Liberty supports Victorian Law Reform Commission's submission, of the inclusion under the purpose of the Act to "ensure that the bail system does not perpetuate the historical disadvantage faced by Indigenous Australians in their contact with the criminal justice system".

[Link](#)

## **RAP: Inquiry into Whistleblower Protections in the Corporate, Public and Not-for-Profit Sectors**

9 March 2017

Parliamentary Joint Committee on Corporations and Financial Services

In this submission RAP contended that the provisions of the Australian Border Force Act 2015 (Cth) ('the Act') which makes it a crime for an 'entrusted person' to record or disclose 'protected information' should be repealed.

RAP also contended that s 70 of the Crimes Act 1914 (Cth) should be amended. Section 70 makes it an offence for Australian Public Service employers and government contractors to disclose facts that are under a 'duty not to disclose'. RAP contended that it should be amended to restrict the offence to disclosures that harm, are reasonably likely to harm or intended to harm an essential public interest.



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RAP also suggested amending the Act to include a statutory defence protecting public servants and contractors for loss suffered by disclosing information when it is in the public interest. The current Act requires that, before making an external disclosure, a whistleblower must think that an internal disclosure is inadequate. Yet, the Act deems investigations by Ministers to be adequate, without regard for the actual quality of the investigation, preventing the whistleblower from lawfully making an external disclosure. RAP argued that the provisions should be repealed as such a result is not in the public interest and contrary to accountable government. See more under RAP on page 5 in this Report.

[Link](#)

### **Regulatory Requirements that impact on the safe use of Remotely Piloted Aircraft Systems, Unmanned Aerial Systems and Associated Systems**

March 2017

Rural and Regional Affairs and Transport References Committee

Liberty's 2015 drone report was accepted as "additional information" and made available on the Inquiry website.

[Link](#)

### **Access to Telecommunications Data in Civil Proceedings**

20 February 2017

Department of Communications and the Arts / Attorney General's Department

This submission concerned the mass retention of telecommunications data. Liberty argued that mass retention of telecommunications data under the Telecommunications (Interception and Access) Act 1979 disproportionately disregards the right to privacy. This position is also held by a recent judgment from the European Court of Justice. When rights conflict, a balance needs to be struck between the rights. In this instance, the right to privacy needs to be balanced with the right to access to particular information. The crux of the submission concerns s 280 of the

Telecommunications Act 1997, which attempts to prohibit the disclosure of telecommunications data by service providers in response to an order of the Court in connection with civil proceedings.

Liberty submitted that s 280 is unsatisfactory because: First, it may be problematic to determine whether a service provider is collecting or retaining data for the sole purpose of complying with its data retention policy (which is required by s 280). Secondly, the accessibility for a civil litigant to telecommunications data retained by a service provider is dependent on the service provider's intention. Liberty Victoria believes that access to the information should be a question of achieving justice between the parties.

Thirdly, for ordinary business purposes, the data is available through a subpoena issued without judicial consideration of whether the disclosure of the information is a justifiable limitation on the privacy of the individual's information. Liberty Victoria submitted that access to retained telecommunications data by civil litigants should only be available through a court order.

A strong distinction must be drawn between retained telecommunications data by public authorities or the State and using this data in civil litigation. Often, private rights such as property rights will come in conflict with rights to privacy. In these instances, this conflict must be resolving through a fair balance of the competing rights. Liberty would support a law that gave civil litigants the right to telecommunications but only through an order by a Court, regardless of the purpose for which the information was retained.

[Link](#)



## **Inquiry into the Commonwealth Government's exposure draft of the Marriage Amendment (Same-Sex Marriage) Bill**

20 January 2017

Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill

Generally, the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill could lead to equality in marriage for Australians which Liberty Victoria promotes. However, the Bill proposes three exemptions; 1) ministers of religion, 2) marriage celebrants and 3) religious bodies and organisations.

First, Liberty contends that the proposed amendment for ministers of religion to protect religious freedom is unnecessary as the proposed laws do no more than the existing s 47 of the Marriage Act 1961.

Second, under the proposed s 47A a marriage celebrant could refuse any couple that are not a man and a woman when due to the celebrant's 'conscientious or religious beliefs'.

However, singling out 'a man and a woman' in the context of civil celebrants is inconsistent with the Bill's main purpose. Third, proposed s 47B would allow religious bodies to discriminate against married couples on gender grounds outside the context of a religious rite or service. Therefore, the proposed s 47B is inconsistent with the Bill's main purpose by allowing gender discrimination.

Therefore, Liberty Victoria believes that the Senate should reject Item 5 of Schedule 1 and ss 47A, 47B.

However, Liberty Victoria supported the overall purpose of the Bill of greater marriage equality.

Liberty Vice President, Jamie Gardiner appeared at the public hearing in Melbourne on 23 January 2017. The final report was released on 17 February 2017. [Link](#)

## **Freedom of Speech Inquiry**

13 January 2017

Parliamentary Joint Committee on Human Rights

Liberty Victoria is committed to promoting freedom of speech as it is essential to ensure effective democracy. However, Liberty accepts that freedom of speech should also be limited when this is in the interests of national security, public order, for the proper enforcement of law, public health and public morality. On the other hand, political speech should be relatively exempt as it is part of the dialogue between the government and the governed (unless the connection of the speech to democratic deliberation is tenuous).

This discussion is essential to the debate on ss 18C and 18D of the Racial Discrimination Act 1975 ('RDA'), which has been under inquiry by the Parliamentary Joint Committee on Human Rights ('PJCHR').

Liberty Victoria submitted, among other comments, that making it unlawful to 'offend, insult, humiliate or intimidate' a person due to their race is too invasive on an individual's right to free speech. The words 'offend' and 'insult' should be removed from s 18C.

Liberty also submitted that 'public comment done reasonably and in good faith' in s 18D be replaced with 'in good faith and the absence of malice'. Further, Liberty submitted that the inclusion, under Part II of the RDA, of a new offence 'for a person to engage in speech that constitutes racial hatred, ridicule or contempt against a person or group on the ground of their race'.

Liberty past president, Prof Spencer Zifcak, appeared at the Inquiry's public hearing held in Melbourne on 31 January 2017.

On 28 February 2017 the PJCHR tabled its inquiry report into free speech. However, the Report did not come to any definite conclusions with regards to amending ss 18C and 18D. Liberty Victoria was among the 418 accepted submissions and among the 11,460 items of correspondence received by the PJCHR.

[Link](#)

**LIBERTY  
VICTORIA**

# Press Releases / Op Eds

## **The cry from Manus must not be ignored**

1 November 2017: The studied indifference of Australia's leaders to the abandonment of refugees on Manus Island is becoming a permanent stain on this country's name, the human rights body Liberty Victoria said today...

## **Calls on surveillance partnership of intelligence agencies to respect strong encryption**

3 July 2017: Liberty Victoria is one of 83 organisations and experts from 5 nations demanding "Five Eyes" respect strong encryption. On Friday 30 June 2017, 83 organisations and individuals from Australia, Canada...

## **Rights Group applauds court's recognition of peaceful protests**

18 October 2017: All governments in Australia should heed the High Court's decision upholding the right of peaceful protest, Liberty Victoria said today. "The decision in favour of Bob Brown must give heart to those..."

## **Locking up 10-year-olds without trial barbaric, says human rights group**

7 October 2017: The revelation that under new laws 10-year-olds could be held without charge for a fortnight shows politicians are badly failing to defend freedom while claiming to uphold it. In making this comment...

## **Increasing arrest times a danger: rights group**

5 October 2017: Australians should be shaken by the Federal Government's use of the term executive detention, Liberty Victoria said today. The human rights group said the plan to hold suspects for a fortnight...

## **Fearless Voices**

13 September 2017: It's 37 years since, as a newspaper said, a song died on the streets of New York when John Lennon was shot down. Yet his songs are not dead: intense, sweet and angry, insightful and socially aware,...

## **Plan to turn protection officers into police condemned by rights group**

6 June 2017: Giving greater powers to Protection Service Officers is unnecessary, inappropriate and potentially harmful, Liberty Victoria warned today. The president of the human rights group, Jessie Taylor,...

## **Harsh law and order laws 'will not make us safe'**

24 May 2017: The Victorian Government's new law and order moves smack of desperation and will make the community less safe, not more, Liberty Victoria said today. Commenting on today's announcement Liberty...

## **Victorians deserve a fair go**

16 May 2017: Liberty Victoria's Rights Advocacy Project has launched a report on the unfair rules around disclosure of old criminal convictions in Victoria. The report 'A Legislated Spent Convictions Scheme for...

### **Dramatic rise in the personal, “God-like” legal powers of Immigration Minister, new report finds**

4 May 2017: Liberty Victoria’s Rights Advocacy Project (‘RAP’) today released a new report revealing the dramatic rise in the personal discretions and legal powers of the Immigration Minister. One of the report...

### **Gillian Triggs takes out free speech award**

2 May 2017: The retiring President of the Australian Human Rights Commission, Professor Gillian Triggs, is to be honoured for her fearless work in pursuit of people’s rights. She is the recipient of the nation’s...

### **Proposed ‘Department of Homeland Security’ dangerous, wasteful and unnecessary**

8 March 2017: The rumoured plan to create a sprawling ‘Department of Homeland Security’ is dangerous, wasteful and unnecessary, warns human rights group Liberty Victoria. Fairfax Media reported yesterday that...

### **Citizenship plan unfair and invasive, says rights group**

11 February 2017: Citizenship plan unfair and invasive, says rights group Changes floated by the Immigration Minister to requirements for Australian citizenship are unnecessary and counter-productive, Liberty Victoria...

### **Scrapping bail for “serious” crimes dangerous and goes too far, rights group warns**

25 January 2017: Scrapping bail for “serious” crimes dangerous and goes too far, rights group warns. The idea that some people facing "serious" offences should not be allowed to apply for bail is dangerous and...

### **Liberty Victoria welcomes government’s assisted dying announcement**

8 December 2016: Human rights group Liberty Victoria applauds the Andrews government for taking a strong and principled stance on the right to die with dignity. However, while welcoming that announcement, Liberty is...

### **Andrews Government should let Parole Board do its job, says Liberty Victoria**

6 December 2016: Andrews Government should let Parole Board do its job, says Liberty Victoria Liberty Victoria warns that the Andrews Government’s proposed new parole laws are an unnecessary and dangerous step...

### **Knee-jerk reforms risk further entrenching offending behavior in children**

5 December 2016: Public safety and the State budget will suffer as a result of harsh new measures by the Andrews Government, Liberty Victoria warned today. The human rights group’s president, Jessie Taylor, said “The...

### **Community lawyer to lead human rights organisation**

1 December 2016: Community lawyer and lecturer Jessie Taylor has been elected president of one of Australia’s leading human rights organisations, Liberty Victoria. Ms Taylor BA(Hons) LLB(Hons) MSc(HA) is a lecturer...



# News Articles

## [Face biometric backlash begins](#)

Media: Article  
Date: 10 October 2017  
Author: InnovationAus.com

## [Liberty Victoria President Jessie Taylor on The Project](#)

Media: Video  
Date: 3 October 2017  
Author: The Project

## [Stonnington council suspends staff after tracking them via phone records](#)

Media: Article  
Date: 1 October 2017  
Author: The Age

## [Council suspends staff after tracking them via phone records](#)

Media: Article  
Date: 2 October 2017  
Author: Border Mail

## [White nationalists found guilty of inciting serious contempt of Muslims](#)

Media: Video  
Date: 5 September 2017  
Author: ABC 7.30 Louise Milligan

## [Far-right nationalists found guilty of inciting serious contempt for Muslims after mock beheading video](#)

Media: Article  
Date: 5 September 2017  
Author: ABC News: James Oaten

## [Serious sex offenders to be monitored by new Vic body](#)

Media: Audio  
Date: 22 August 2017  
Author: S ABC News The World Today - Samantha Donovan, ABC News

## [Spencer Zifcak. The Black Hearts Behind Australia's Offshore Detention Policy](#)

Media: Article - John Menadue - Pearls and Irritations  
Date: 16 June 2017  
Author: Prof Spencer Zifcak

## [What Happens On Manus Shouldn't Stay On Manus](#)

RAP Media: Article  
Date: 18 August 2018  
Author: New Matilda

## [Legal experts warn Victoria's shake up of sex offender laws is contradictory](#)

Media: Audio  
Date: 11 May 2017  
Author: Danny Tran, ABC World Today

## [Outgoing human rights commissioner Gillian Triggs wins freedom of speech award](#)

Media: Article  
Date: 3 May 2017  
Author: The Guardian

## [Spencer Zifcak: From Imbroglia to Fiasco: Malcolm Turnbull Loses the Plot on S.18C](#)

Media: Article - John Menadue: Pearls and Irritations  
Date: 28 March 2017  
Author: Prof Spencer Zifcak

## [United Patriots Front court case will test Victoria's religious vilification laws](#)

Media: Audio  
Date: 7 March 2017  
Author: ABC Radio PM Show

## [Think Trump's travel ban was bad? Peter Dutton may soon have the power to play God](#)

RAP Media: Article  
Date: 1 March 2017  
Author: The Guardian: RAP's Elizabeth Colliver, Lauren Bull and Shawn Rajanayagam

## [Progressives cross blurred line in case against 18C](#)

Media: Article - The Australian  
Date: 18 February 2017  
Author: Chris Merritt, Legal Affairs Editor

## [Privacy concerns over new DNA laws for cops](#)

Media: Article  
Date: 13 December 2016  
Author: The Australian

## [Police killer parole changes 'interfere with judicial independence'](#)

Media: Article  
Date: 7 December 2016  
Author: ABC News

## [Judges must listen to community on sentencing, says Premier](#)

Media: Article  
Date: 5 December 2016  
Author: The Canberra Times

## [Children in adult prisons](#)

Media: Audio - Spoke, Triple R 102.7 FM  
Date: 22 November 2016 at 01:44:00  
Author: Triple R Spoke with Michelle Bennet

# Events



1 October 2017  
The Thornbury Theatre  
**FEARLESS VOICES**

1 September 2017  
Deakin Edge, Federation Square  
Melbourne Writers Festival  
**Alan Missen Oration 2017**  
Nancy MacLean

**[ Melbourne 2017 Writers Festival ]** 25 Aug — 3 Sep

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#mwf17



21 July 2017  
Sofitel Melbourne  
**Voltaire Award Dinner 2017**  
Voltaire Award: **Prof Gillian Triggs**  
Empty Chair Award: **Eaten Fish**  
Young Voltaire Award: **Georgie Stone**  
Master of Ceremonies: Cal Wilson



25 August 2017  
City of Melbourne Bowls Club  
**RAP Trivia 2017**



29 June 2017  
Cinema Nova, Carlton  
**COMPLICIT Film Night**



17 May 2017  
College of Law, Victoria  
**RAP: When does the Past  
stop catching up with you?**

4 May 2017  
Monash University Law  
**RAP: Playing God: The  
Immigration Minister's  
Unrestrained Power**



2 May 2017  
Wheeler Centre  
**Modern Confidential:  
Digital Privacy Today**

29 November 2016  
CBP Lawyers  
**Liberty Victoria AGM**  
**John Silvester**



# Collaborations

Liberty has sought actively to collaborate with like-minded organisations to maximise the impact and effects of its advocacy program. In the past year these have included:

- The New South Wales Council for Civil Liberties and interstate civil liberties bodies
- The Victorian Bar and the Criminal Bar Association
- The Law Institute of Victoria
- The Human Rights Law Resource Centre
- The Castan Centre for Human Rights Law
- Asylum Seeker Resource Centre
- Rationalist Society
- Colin Biggers & Paisley
- Global Reconciliation Inc
- The Alan Missen Foundation
- The Federation of Community Legal Centres
- Amnesty International
- Get Up
- Wheeler Centre
- Melbourne Unitarian Peace Memorial Church
- Australian Association for Unmanned Systems (UAAS)
- Jesuit Social Services
- Bridge of Hope Innocence Initiative
- Humanist Society of Victoria
- The Melbourne Writers Festival
- Flemington & Kensington Community Legal Centre
- Human Rights Arts and Film Festival
- Victorian Aboriginal Legal Service
- Right Now
- National Aboriginal & Torres Strait Islander Legal Services (NATSILS)
- National Family Violence Prevention Legal Services (NFVPLS)
- Aboriginal Family Violence Prevention and Legal Service Victoria (FVPLS)

# Treasurer's Report 2017

Victorian Council for Civil Liberties Incorporated  
ABN 23 236 210 735

A deficit of \$18,042 was made for the year compared with a deficit of \$30,572 in 2016. This remains a disappointing result, although not unexpected, with continued website development costs and lower than expected membership subscriptions.

It should again be emphasised that if we continue to make deficits, as has been budgeted for 2018, the cash reserves of the organisation will continue to be depleted unless we received additional income, whether that be from new memberships, grants, donations or additional events.

Members funds totalled \$36,707 as at 30 June 2017 (\$56,688 as at 30 June 2016).

Current membership as at end of June 2017 was 375 members. Note that we had 275 members in June 2016, 299 members in June 2015 and 292 members in June 2014.

I would like to also thank Michael Drapac for generously providing rent free office space at his premises in Carlton and Gillian Garner and Torunn Momtazi who do an outstanding job organising everything and certainly make my task easier.

## STATEMENT OF COMPREHENSIVE INCOME FOR THE TWELVE MONTHS ENDED 30 JUNE 2017

	2017	2016
	\$	\$
<b>Income</b>		
Memberships	11,989	11,873
Donations	2,561	2,371
Events	75,324	43,039
Investment income	352	864
Other income	5	95
	<u>90,231</u>	<u>58,242</u>
<b>Expenditure</b>		
Events	46,544	26,623
Bank charges	1,061	899
Office costs	6,516	7,099
Salaries & wages	43,994	39,727
Website development	7,844	12,694
Other costs	2,314	1,772
	<u>108,273</u>	<u>88,814</u>
Surplus / deficit for the year	-18,042	-30,572
Retained earnings - beginning of year	56,688	87,260
Retained earnings - end of year	<u>38,646</u>	<u>56,688</u>

	2017	2016
	\$	\$
<b>Balance Sheet as at 30 June 2017</b>		
<b>Assets</b>		
Westpac general account	7,763	6,589
Petty cash	437	393
Westpac high interest account	5,072	38,426
Prepayment - Voltaire dinner deposit	23,249	17,375
Cash box	186	87
<b>Total Assets</b>	<u>36,707</u>	<u>62,870</u>
Contractor payment	-	582
Income in advance	-	5,400
<b>Total Liabilities</b>	<u>-</u>	<u>5,982</u>
<b>Net Assets</b>	<u>36,707</u>	<u>56,888</u>
<b>Represented by Members Funds</b>		
Retained earnings	54,749	87,260
Current year surplus / deficit	-18,042	-30,572
	<u>36,707</u>	<u>\$56,688</u>

Neale Meagher  
Treasurer



# Membership Form

I AM:

☐ A new member ☐ Renewing my membership ☐ Donating \$ \_\_\_\_\_

First and Last Name: \_\_\_\_\_

Occupation: \_\_\_\_\_

Street Address: \_\_\_\_\_

Suburb / State / Postcode: \_\_\_\_\_

E-mail: \_\_\_\_\_

Telephone: \_\_\_\_\_

Signature: \_\_\_\_\_

By signing this form you confirm that you wish to become a member of Victorian Council for Civil Liberties Inc (reg no: A0026497L). In the event of being granted admission as a member, you agree to be bound by the Constitution of the Council. The constitution is available online at [libertyvictoria.org.au](http://libertyvictoria.org.au) > About > Constitution.

## MEMBERSHIP OPTIONS:

(Memberships run from July to June each year)

**INDIVIDUAL:** ☐ One Year (\$75) ☐ Five Years (\$300)

**JOINT:** ☐ One Year (\$120) ☐ Five Years (\$480)

## STUDENT / SENIOR / UNWAGED

**& UNDER 30s:** ☐ One Year (\$25) ☐ Five Years (\$100)

**BUSINESS:** ☐ One Year (\$150) ☐ Five Years (\$600)

**NFP ORGANISATION:** ☐ One Year (\$100) ☐ Five Years (\$400)

## PAYMENT OPTIONS:

**ONLINE:** at [LibertyVictoria.org.au/join](http://LibertyVictoria.org.au/join)

**CHEQUE / CASH / EFTPOS:** at Liberty Victoria events

**EFT:** To: Victorian Council for Civil Liberties (BSB 033-009 ACCOUNT 382 317)

**CREDIT CARD:** Over the phone on +61 3 9670 6422 or below

I authorise Liberty Victoria to process payment for the above contribution on my

☐ Mastercard ☐ Visa EXP: \_\_\_\_\_ CVV: \_\_\_\_\_

Card number: \_\_\_\_\_

Name on card: \_\_\_\_\_

Signature: \_\_\_\_\_

By signing this form I agree to my membership being automatically renewed each year in July. Please tick below if you DO NOT want your membership to be renewed automatically each year.  
Do not renew my membership automatically ☐

**Victorian Council for Civil Liberties Inc**

**GPO Box 3161 Melbourne VIC 3001 Australia**

**Ph: +61 3 9670 6422**

**Email: [info@libertyvictoria.org.au](mailto:info@libertyvictoria.org.au)**

**Website: <https://www.libertyvictoria.org.au>**

**Facebook: <https://www.facebook.com/libertyvictoria>**

**Twitter: <https://www.twitter.com/LibertyVic>**