

Demographics are not available for this clip [→View article](#)



Mason, Timothy

---

**From:** Reid, John  
**Sent:** Tuesday, 25 October 2011 10:05 PM  
**To:** Campbell, Bill  
**Cc:** Ng, Phillip  
**Subject:** FW: Prosecution in the Magistrates' Court of Victoria against President of Sri Lanka [SEC=UNCLASSIFIED]  
**Attachments:** Affidavit in supp of AGD application 25-10-11 - OIL comments.doc

**Security Classification:** UNCLASSIFIED

**UNCLASSIFIED**

BC,



Cheers,  
JR

S42(1)

**From:** Cranston, Jeff [mailto:Jeff.Cranston@ags.gov.au]  
**Sent:** Tuesday, 25 October 2011 4:54 PM  
**To:** Daley, Simon (AGS)  
**Cc:** Campbell, Bill; Reid, John  
**Subject:** Prosecution in the Magistrates' Court of Victoria against President of Sri Lanka

Simon,

S42(1)



Regards,

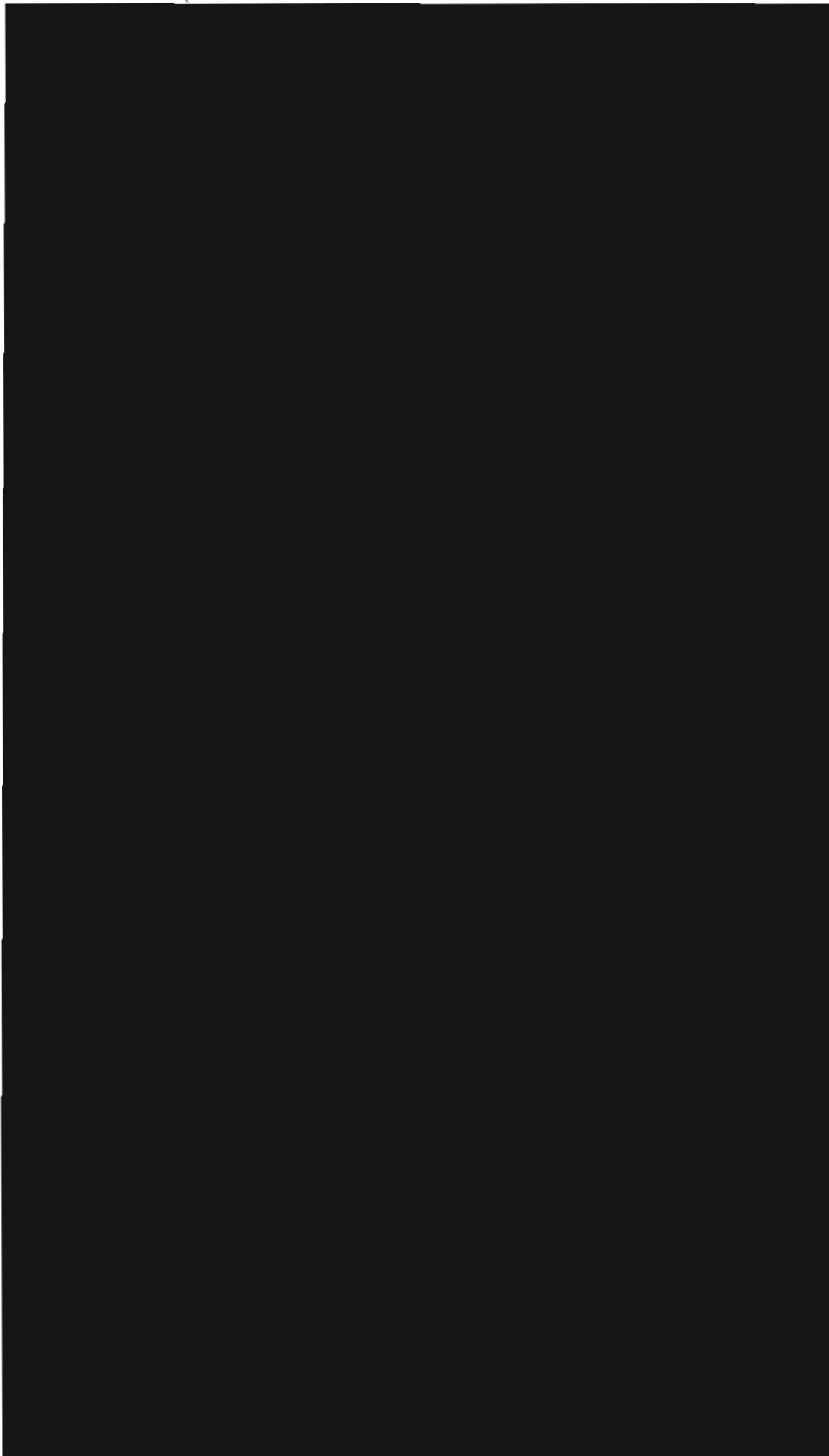
Jeff

---

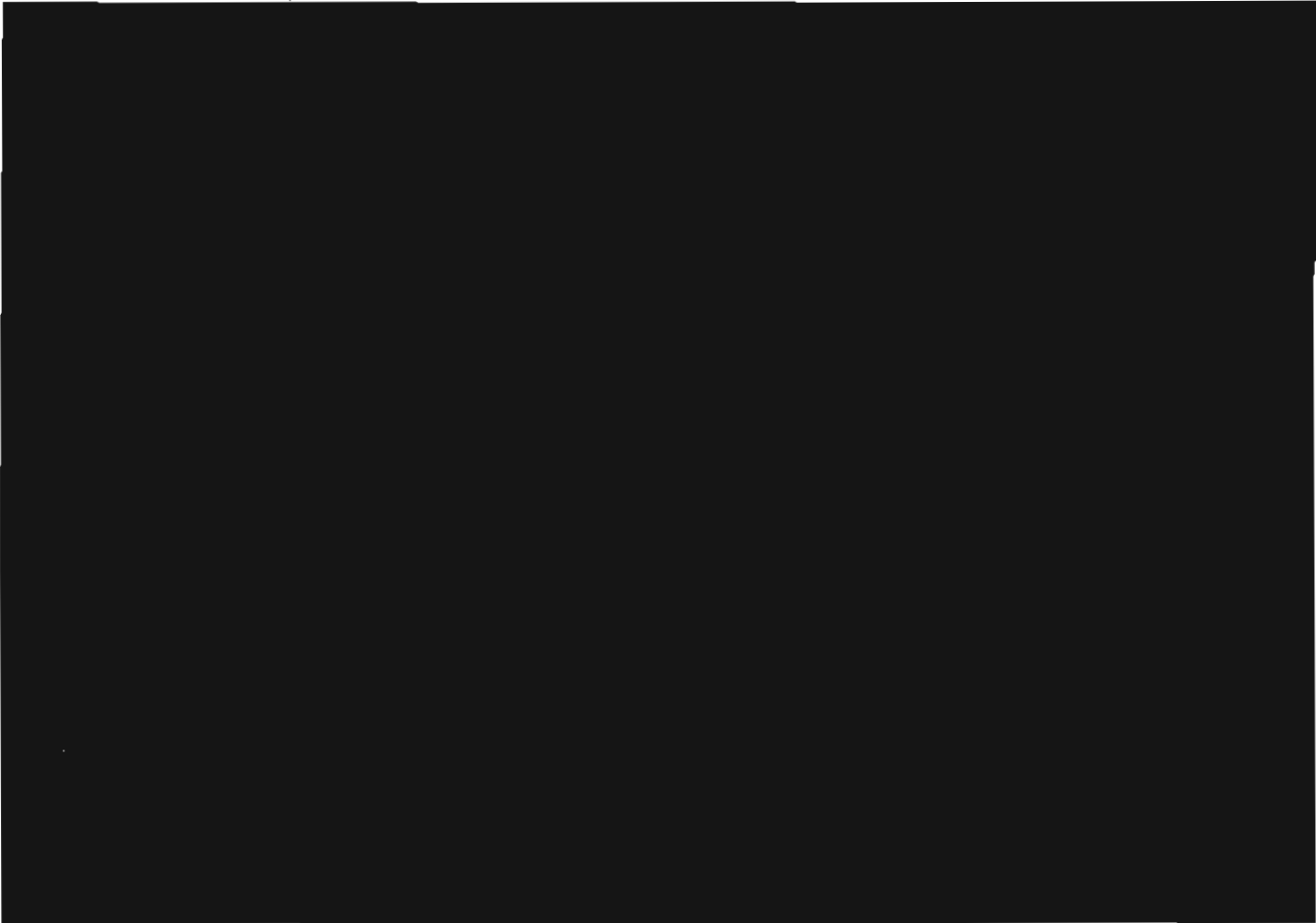
**Jeff Cranston**  
Senior Executive Lawyer  
Australian Government Solicitor  
T: 03 9242 1367 F: 03 9242 1496 M:  S47F(1)  
[jeff.cranston@ags.gov.au](mailto:jeff.cranston@ags.gov.au)  
Find out more about AGS at <http://www.ags.gov.au>

**Important:** This message may contain confidential or legally privileged information. If you think it was sent to you by mistake, please delete all copies and advise the sender. For the purposes of the *SPAM Act 2003*, this email is authorised by AGS.

S42(1)



S42(1)



**Mason, Timothy**

---

**From:** Reid, John  
**Sent:** Tuesday, 25 October 2011 10:11 PM  
**To:** 'Day, Elizabeth'  
**Cc:** Campbell, Bill; Ng, Phillip  
**Subject:** RE: name [SEC=UNCLASSIFIED]

**Security Classification:**  
UNCLASSIFIED

**UNCLASSIFIED**

Thanks very much, Liz – I'll let Jeff know to expect it.

Thanks for your assistance with getting this done.

Cheers,  
John

**From:** Day, Elizabeth [mailto:Elizabeth.Day@dfat.gov.au]  
**Sent:** Tuesday, 25 October 2011 9:15 PM  
**To:** Reid, John  
**Subject:** FW: name [SEC=UNCLASSIFIED]

John

Unless otherwise advised, we will have the certificate couriered to Jeff Cranston in the Melbourne office of AGS once signed.

We see that Jeff has been providing advice on the issue.

If you agree on this course of action, grateful your giving Jeff a heads up that the certificate will be delivered to him.

Regards

Liz Day

**Ng, Phillip**

---

**From:** Strategic Communication  
**Sent:** Wednesday, 26 October 2011 8:17 AM  
**To:** <Clip Group>  
**Subject:** Daily Media Overview - Wednesday 26 October 2011 (SEC=UNCLASSIFIED)  
**Attachments:** 26 October 2011 pdf

## UNCLASSIFIED

The Daily Media Overview is a selection of articles that Strategic Communication Branch think may be most relevant to the Department on a given day. It is not intended to be an exhaustive list. SES officers are responsible for ensuring that AAP Newscentre is scanned each morning, and periodically during the day, for news reports relevant to their area of responsibility. SES officers should generate talking points / briefings in consultation with the relevant Ministerial office, by 9.30am and throughout the day as required.

## AGD Secretary

Nil mentions

## Ministerial Mentions

**Teacher extradition 'not part of any deal'**

The Australian, 26-Oct-11, Page 3 (Mentions Attorney-General)

**Summary:** Indonesian Justice Ministry official said there were "no deals of any sort" in Australia's agreement to extradite a former school head to face serious child sex charges. Mr Walbran had been fighting extradition since 2009 and was arrested in March last year at Sydney.

**Rich should help poor**

Herald Sun, 26-Oct-11, Page 10 (Mentions Attorney-General)

**Summary:** Gillard's plan for open trade with developing countries. Phillip Hudson national political editor JULIA Gillard says rich countries have failed to help the world's poorest people as she called for a radical new approach to global trade negotiations. She called on other countries to follow Australia's decision to give trade...

**Fraser supports call for Sri Lanka war crimes inquiry**

The Age, 26-Oct-11, Page 6 (Mentions Attorney-General)

**Summary:** According to the United Nations, up to 40,000 civilians were killed when government forces moved against the insurgents. But yesterday the Attorney-General, Robert McClelland, announced he was refusing permission for an investigation of Mr Rajapaksa under the Commonwealth criminal code.

## Classification

**Ban sought on horror film**

West Australian, 26-Oct-11, Page 19 (Mentions Minister for Home Affairs)

**Summary:** The R18+ rating given to a controversial horror film due to be screened in Perth next month is to be reviewed by Federal authorities. The Classification Review Board has been asked to consider banning The Human Centipede 2, which has already been banned in Britain and heavily censored in the US.

## Crime Prevention and Enforcement

**War crimes charges against Sri Lankan leader quashed**

The Australian, 26-Oct-11, Page 8 (Mentions the Attorney-General)

**Summary:** ATTORNEY-GENERAL Robert McClelland has moved to head off an embarrassing diplomatic incident with Sri Lankan President Mahinda Rajapaksa, quashing war crimes charges issued by a Melbourne magistrate on behalf of a retired Australian engineer.

**Reform push sets PM for human rights showdown**  
Sydney Morning Herald, 26-Oct-11, Page 7

**Summary:** Julia Gillard has backed calls for the Commonwealth to reform and strengthen its institutions to encourage democracy and human rights among member nations, putting Australia on a collision course with other nations who will resist change.

**Call to tackle corporate scamming of Medicare**  
Sydney Morning Herald, 26-Oct-11, Page 8

**Summary:** A Senate committee has called on the government to review a legal loophole which prevents the investigation of corporate medical chains suspected of rorting Medicare.

**Checks on phone tap operations**  
Herald Sun, 26-Oct-11, Page 23

**Summary:** Phones belonging to former deputy police chief Sir Ken Jones may never have been bugged had new laws making it harder to do that been in force earlier this year. It is possible applications earlier this year to tap Sir Ken's phones would have been refused, had the monitors.

## Emergency Management

**Insurer held out on emergency claims**  
Courier Mail, 26-Oct-11, Page 2

**Summary:** Insurance company AAMI was denying emergency accommodation claims from customers only days after January's massive floods swept through southeast Queensland, the flood inquiry was told yesterday. He said the insurer also had to be certain that the policy covered the claim.

## Families and Marriage

**Private same-sex bill set to succeed**  
The Australian, 26-Oct-11, Page 10

**Summary:** A push for the Queensland parliament to acknowledge same-sex civil unions is expected to be passed by a private member's bill put up last night by state Treasurer Andrew Fraser, which the opposition labelled as a "political stunt".

## Human Rights and Discrimination

**India aims to block monitor**  
The Australian, 26-Oct-11, Page 8

**Summary:** India is expected to block a push by Australia, Canada and Britain to set up a Commonwealth human rights and rule-of-law watchdog, arguing that it goes beyond the mandate of the 54-nation group. "The Commonwealth does matter and it's a unique grouping of nations

**Our chance to change the world**  
The Australian, 26-Oct-11, Page 13

**Summary:** But is the Commonwealth struggling for international relevance? Human rights will be on the agenda, for instance. Meanwhile Cameron, who yesterday reduced the length of his trip to Perth, will use the forum to seek formal agreement from the 15 member countries that have Queen Elizabeth as their head of state.

## THE REAL INJURY IS TO FREE SPEECH

The Australian, 26-Oct-11, Page 14

**Summary:** Many words have been written about the Federal Court finding that Andrew Bolt contravened section 18C of the Racial Discrimination Act.

## Civil rights and crossing the line

The Age, 26-Oct-11, Page 17

**Summary:** Council and police actions to evict city protesters raise serious questions. The decision to forcibly evict the protesters should be carefully scrutinised against these obligations. It should be used with the utmost restraint and in a manner which minimises damage and injury

## Indigenous Law and Native Title

### Child criminals stuck in vicious jail cycle

Courier Mail, 22-Oct-11, Page 6

**Summary:** Hundreds of child criminals are reoffending within a year of being released from jail, as new figures reveal the growing pressure on authorities. Cairns Inspector Peter Mansfield said most offences committed by children.

## International Law and Crime Cooperation

### Bali boy's 'nightmare' pushing past media

Sydney Morning Herald, 26-Oct-11, Page 8

**Summary:** Prosecutors said the youth composed himself for the "short" interview "It's like nightmare for him like that," his lawyer, Muhammad Rifan, said after the teenager entered the office. Mr Atmaja said the paperwork for the case would be handed to Denpasar District Court today at the earliest.

## Legal and Justice System

### Watchdog targets bully boys

The Australian Financial Review, 26-Oct-11, Page 5

**Summary:** Patrick Durkin Rod Sims, head of the competition watchdog, has vowed to take on big business under laws mainly used to protect consumers. Unconscionable conduct often did not just affect individuals but also businesses, such as relationship breakdowns in the franchise industry or between landlords and small-business.

### Corporations cases keep court busy

The Australian Financial Review, 26-Oct-11, Page 5

**Summary:** Alex Boxsell The Federal Court has dealt with a surge in corporate claims involving failed companies as it grapples with escalating costs and a lack of funds. The rise in applications might be attributed to broader economic pressures, as well as a preference for parties to file claims in that court rather than.

## National Security and Counter Terrorism

### Funding squeeze shuts WikiLeaks

The Canberra Times, 26-Oct-11, Page 9

**Summary:** WikiLeaks has been forced to suspend publishing classified files after a funding blockade and could have no option but to shut down by the end of the year, founder Julian Assange has announced "If WikiLeaks does not find a way to remove this blockade, given our current levels of expend

## People Smuggling and Trafficking

### Burmese boat renews detention questions

Sydney Morning Herald, 26-Oct-11, Page 7



**Summary:** A Boatload of Burmese, a people who rarely travel by boat to Australia, was among three vessels intercepted at the weekend. Government sources said the arrival of the Burmese was "out of the ordinary"

}

i

/

Released under the Freedom of Information Act 1982 by the Attorney-General's Department

**Mason, Timothy**

---

**From:** Reid, John  
**Sent:** Wednesday, 26 October 2011 9:18 AM  
**To:** Ng, Phillip  
**Subject:** FW: Sri Lanka [SEC=UNCLASSIFIED]

**Security Classification:**  
UNCLASSIFIED

**UNCLASSIFIED**

**From:** Campbell, Bill  
**Sent:** Wednesday, 26 October 2011 9:00 am  
**To:** Reid, John  
**Subject:** FW: Sri Lanka [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

FYI

*Bill Campbell QC  
General Counsel (International Law)  
Office of International Law  
Ph (02) 6141 3365  
Fax (02) 6141 3486*

**From:** Campbell, Bill  
**Sent:** Wednesday, 26 October 2011 9:00 am  
**To:** Wilkins, Roger  
**Subject:** Sri Lanka [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Roger

S42(1)

Regards

Bill

*Bill Campbell QC  
General Counsel (International Law)  
Office of International Law  
Ph: (02) 6141 3365  
Fax: (02) 6141 3486*

**Mason, Timothy**

---

**From:** Liddell, Ryan  
**Sent:** Wednesday, 26 October 2011 10:05 AM  
**To:** Reid, John; Clifton, Jacob  
**Cc:** Campbell, Bill; Ng, Phillip; Little, Matthew  
**Subject:** RE: A-G Comment [SEC=UNCLASSIFIED]

**Security Classification:**  
UNCLASSIFIED

**UNCLASSIFIED**

OK thanks for that clarification John.  
Cheers  
Ryan

**From:** Reid, John  
**Sent:** Wednesday, 26 October 2011 10:02 AM  
**To:** Liddell, Ryan; Clifton, Jacob  
**Cc:** Campbell, Bill; Ng, Phillip  
**Subject:** Re: A-G Comment [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

Ryan,  
That's right.

S42(1)



Cheers,  
John

---

**From:** Liddell, Ryan  
**To:** Liddell, Ryan; Reid, John; Clifton, Jacob  
**Cc:** Campbell, Bill; Ng, Phillip  
**Sent:** Wed Oct 26 09:33:14 2011  
**Subject:** RE: A-G Comment [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Hi John,

S42(1)



Thanks  
Ryan

**From:** Liddell, Ryan  
**Sent:** Tuesday, 25 October 2011 11:09 PM  
**To:** Reid, John; Clifton, Jacob  
**Cc:** Campbell, Bill; Ng, Phillip  
**Subject:** Re: A-G Comment [SEC=UNCLASSIFIED]

Classification: UNCLASSIFIED

Thanks John. The response we provided is as agreed below [REDACTED]  
[REDACTED] I'll give you a ring in the morning

A Spokesman for the Attorney-General Robert McClelland said:

S42(1)

Under the Criminal Code Act 1995 (Cth), prosecutions of this nature cannot be commenced under Australian law without the consent of the Commonwealth Attorney-General.

The Attorney-General has refused to grant this consent, as continuation of the proceedings would be in breach of domestic law and Australia's obligations under international law

The Foreign States Immunity Act 1985 (Cth) extends immunities of heads of diplomatic missions applying under the Diplomatic Privileges and Immunities Act 1967 to Heads of States. Those immunities include personal inviolability including from any form of arrest or detention and immunity from the criminal jurisdiction of the receiving State. This derives from Australia's obligations under international law and the principles of State immunity.

END

Ryan Liddell  
Office of the Attorney-General  
M: 0427225763

**From:** Reid, John  
**To:** Clifton, Jacob; Liddell, Ryan  
**Cc:** Campbell, Bill; Ng, Phillip  
**Sent:** Tue Oct 25 22:18:09 2011  
**Subject:** FW: A-G Comment [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

S42(1)

Jacob / Ryan,

Of course, happy to discuss - [REDACTED]

S47F(1)

Cheers,  
John

**From:** Clifton, Jacob  
**Sent:** Tuesday, 25 October 2011 6:00 PM  
**To:** Coles, Anthony  
**Cc:** Reid, John; Campbell, Bill; Inverarity, Tara  
**Subject:** FW: A-G Comment [SEC=UNCLASSIFIED]  
**Importance:** High

**UNCLASSIFIED**

Anthony,

The AG has approved the refusal of consent.

Could you please urgently fact check the media lines below.

Kind regards,

Jacob.

**From:** Liddell, Ryan  
**Sent:** Tuesday, 25 October 2011 5:47 PM  
**To:** Clifton, Jacob; Little, Matthew  
**Subject:** FW: A-G Comment [SEC=UNCLASSIFIED]  
**Importance:** High

**UNCLASSIFIED**

A Spokesman for the Attorney-General Robert McClelland said:

Under the Criminal Code Act 1995 (Cth), prosecutions of this nature cannot be commenced under Australian law without the consent of the Commonwealth Attorney-General.

S42(1)



The Foreign States Immunity Act 1985 (Cth) extends immunities of heads of diplomatic missions applying under the Diplomatic Privileges and Immunities Act 1967 to Heads of States. Those immunities include personal inviolability including from any form of arrest or detention and immunity from the criminal jurisdiction of the receiving State. This derives from Australia's obligations under international law and the principles of State immunity.

Background

- These immunities arise from section 36(1) of the *Foreign States Immunity Act 1985*, which extends to Heads of State those immunities of a head of a diplomatic mission under the *Diplomatic Privileges and Immunities Act 1967*. Relevantly, those immunities include personal inviolability including from any form of arrest or

detention (Art 29 of the *Vienna Convention on Diplomatic Relations*) and immunity from the criminal jurisdiction of the receiving State (Art 31, VCDR). These immunities under the Convention are given the force of law by section 7 of the *Diplomatic Privileges and Immunities Act 1967*.

Ryan Liddell  
Press Secretary  
Office of the Hon Robert McClelland MP  
Attorney General and Federal Member for Barton

P | 02 6277 7300 | M [REDACTED] S47F(1)  
W | [www.attorneygeneral.gov.au](http://www.attorneygeneral.gov.au)

**Mason, Timothy**

---

**From:** Hillman, Stephanie [Stephanie.Hillman@pmc.gov.au]  
**Sent:** Wednesday, 26 October 2011 10:10 AM  
**To:** Ng, Phillip  
**Subject:** RE: Talking point - Sri Lankan President Rajapaksa [SEC=UNCLASSIFIED]

Thanks Phillip. Please let me know as and when any changes need to be made to the point below (or any other developments).

Regards  
Steph

**From:** Ng, Phillip [mailto:Phillip.Ng@ag.gov.au]  
**Sent:** Tuesday, 25 October 2011 5:27 PM  
**To:** Hillman, Stephanie  
**Cc:** Reid, John  
**Subject:** Talking point - Sri Lankan President Rajapaksa [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

Dear Stephanie

Thank you for your call earlier today.

As discussed, please see a single talking point below:

- **Australia takes seriously its responsibilities to protect the dignity of foreign Heads of State. Proceedings for the offences in question cannot be commenced without the Attorney-General's consent, and may only be prosecuted in the name of the Attorney-General.**

It is likely that this talking point will need to be revised following developments later today, as the Attorney-General's consent has now been sought.

If you wish to discuss please telephone me on 6141 3254 or John Reid on 6141 3554.

Kind regards

Phillip Ng  
Legal Officer  
Office of International Law  
Attorney-General's Department

Tel + 61 2 6141 3254 | Fax + 61 2 6141 3486  
[Phillip.Ng@ag.gov.au](mailto:Phillip.Ng@ag.gov.au) | [www.ag.gov.au](http://www.ag.gov.au)

---

If you have received this transmission in error please notify us immediately by return e-mail and delete all copies. If this e-mail or any attachments have been sent to you in error, that error does not constitute waiver of any confidentiality, privilege or copyright in respect of information in the e-mail or attachments.

---



---

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

---

**Mason, Timothy**

---

**From:** Reid, John  
**Sent:** Wednesday, 26 October 2011 10:33 AM  
**To:** Campbell, Bill  
**Cc:** Ng, Phillip  
**Subject:** FW: CHOGM - President of Sri Lanka - URGENT [SEC=UNCLASSIFIED]

**Security Classification:** UNCLASSIFIED

**UNCLASSIFIED**

S33(a)(iii)



Cheers,  
JR

**From:** Clifton, Jacob  
**Sent:** Wednesday, 26 October 2011 10:04 am  
**To:** Coles, Anthony; Reid, John; Campbell, Bill; Inverarity, Tara  
**Subject:** FW: CHOGM - President of Sri Lanka - URGENT [SEC=UNCLASSIFIED]

**UNCLASSIFIED**

FYI

**From:** [REDACTED] S47F(1)  
**Sent:** Wednesday, 26 October 2011 9:51 AM  
**To:** Attorney Correspondence; Clifton, Jacob; Whelan, John  
**Cc:** 'Peter.Sawczak@dfat.gov.au'; 'Patrick.Gorman@dfat.gov.au'; Rob McKenzie  
**Subject:** CHOGM - President of Sri Lanka - URGENT

S33(a)(iii), S33(b)



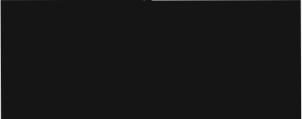


S47F(1)

S33(a)(iii), S33(b)

[Redacted] Senior Consultant  
Jackson McDonald

140 St Georges Terrace, Perth



S47F(1)

[www.jacmac.com.au](http://www.jacmac.com.au)

First class legal service

S47F(1)

[Redacted] Partner  
Jackson McDonald

140 St Georges Terrace, Perth

S47F(1)



[www.jacmac.com.au](http://www.jacmac.com.au)

First class legal service

S47F(1)

**From:** [Redacted]  
**Sent:** Tuesday, 25 October 2011 3:35 PM  
**To:** 'jacob.clifton@ag.gov.au'; 'john.whelan@ag.gov.au'  
**Cc:** 'Gorman, Patrick'; Sawczak, Peter; Rob McKenzie  
**Subject:** CHOGM - President of Sri Lanka - Private & Confidential - URGENT

Dear Jacob and John,

S33(b)



Kind regards, S47F(1)

[Redacted] Senior Consultant  
Jackson McDonald

140 St Georges Terrace, Perth



S47F(1)

[www.jacmac.com.au](http://www.jacmac.com.au)

First class legal service

S47F(1)

**From:** [REDACTED]  
**Sent:** Tuesday, 25 October 2011 7:37 AM  
**To:** 'jacob.clifton@ag.gov.au'; 'john.whelan@ag.gov.au'  
**Subject:** Re: CHOGM - President of Sri Lanka - Private & Confidential - URGENT

Dear Jacob and John,

S33(b)

[REDACTED]

Kind regards,

S47F(1)

[REDACTED]  
Jackson McDonald  
[REDACTED]

S47F(1)

S47F(1)

**From:** [REDACTED]  
**Sent:** Monday, October 24, 2011 07:03 PM  
**To:** jacob.clifton@ag.gov.au <jacob.clifton@ag.gov.au>; john.whelan@ag.gov.au <john.whelan@ag.gov.au>  
**Cc:** attorney@ag.gov.au <attorney@ag.gov.au>; kevin.rudd@dfat.gov.au <kevin.rudd@dfat.gov.au>;  
iain.anderson@ag.gov.au <iain.anderson@ag.gov.au>; mark.jennings@ag.gov.au <mark.jennings@ag.gov.au>;  
dominic.trindade@dfat.gov.au <dominic.trindade@dfat.gov.au>; aaron.verlin@chogm2011.org  
<aaron.verlin@chogm2011.org>; Rob McKenzie; Thisara Samarasinghe <slhighcommissioner@gmail.com>  
**Subject:** CHOGM - President of Sri Lanka - Private & Confidential - URGENT

Dear Mr Clifton and Mr Whelan,

S33(a)(iii), S33(b)

[REDACTED]