



**LEGAL NEEDS OF PRISONERS FORUM October 14, 2008.**

**Justice Action wants to build on our experience over the past decades and not to begin again to analyse and talk about the needs of prisoners.**

**We are proud to have represented prisoners for decades, most recently being asked by the Senate to defend the national prisoners right to vote. We are a prisoner directed organisation and we live as part of the prisoner community.**

**Following the Nagle Royal Commission in 1978 we were part of the originating group of eleven people who formed the Prisoners Legal Service, and remained on the Prisoners Legal Service Committee to which it reported every two months for many years until it was disbanded.**

**We are proud to have won the recent campaign to return hospital conditions to forensic patients held at Long Bay Prison Hospital with the Cabinet decision to pass it to the Department of Health. That win was only possible with the full and trusting cooperation of the Mental Health and Health Communities.**

**We want to build the same agreement with the Legal Community to defend fundamental legal principles and to confront the Department of Corrective Services in the process.**

**We propose that the fundamental principles of prisoners having access to the law be supported in full. That means information, computer access and a responsive profession to the prisoner community. Underneath we propose a Charter.**

## **Prisoners and Lawyers – A Fractured Relationship**

It's all very well to talk about the legal services that can be offered to prisoners and the way they are offered. But to do that alone ignores the fundamental threshold issue that the relationship between prisoners and their lawyers is broken and needs to be repaired.

Prisoners for the most part:

- **Don't trust their lawyers;**
- **Don't think their lawyers particularly care about them;**
- **Can't properly communicate with their lawyers because their lawyers can't properly communicate with them;**

Trades Hall, Suite 204, 4 Goulburn St,  
Sydney NSW 2000, Australia  
PO Box 386, Broadway NSW 2007, Australia

ph: 612 9283 0123 fax: 612 9283 0112  
email: [ja@justiceaction.org.au](mailto:ja@justiceaction.org.au)  
[www.justiceaction.org.au](http://www.justiceaction.org.au)

- **Find their lawyers unreliable in making contact with them, and unable or unwilling to explain the trial process**
- **Find their lawyers are often either over familiar with them or dismissive of them**

Further, lawyers generally have little idea of what a prisoner is going through in jail. Their client could be being stood over or bashed by other inmates, threatened and bullied by prison officers or, in a state of emotional meltdown. Any of those things could significantly affect their ability to provide clear instructions.

Because of their lack of knowledge, lawyers can give prisoners bad advice. For instance, a suggestion that if a prisoner has a concern, they should speak to a prison officer is generally the worst thing they can do – their client is highly likely to get bashed by other inmates often if they're merely seen talking to a prison officer, let alone putting someone in.

In jail, one size doesn't fit all prisoners and lawyers need to learn how to deal with all types of prisoners from 'freshies' to the regular visitors.

### **The Solution – a Charter**

Justice Action proposes that it works with representatives of the legal profession to prepare a charter between prisoners and criminal lawyers.

The Charter would list 5 or 6 principles that lawyers would undertake to do. It would be a 2 way document - for every principle that a lawyer would undertake to uphold, there would be a corresponding principle that a prisoner would recognise. For instance a principle that said:

*'I will make every effort to keep my appointments with you, be contactable by telephone and respond to your letters without delay. If I can't keep an appointment with you, I will let you know as soon as possible and make another appointment to see you straight away',*  
would include a corresponding recognition by the prisoner that:

*'I recognise urgent matters can come up for lawyers which may involve you in unexpected work. That may mean you have to cancel an appointment or that you cannot deal with my enquiry immediately'*

Each lawyer handling criminal cases would be asked to sign the charter. To be eligible to sign the Charter each lawyer would have had to complete a short presentation put on by Justice Action about life in prison from a prisoner's perspective.

A lawyer who signs the Charter would give a copy of the Charter to his client at their first meeting and at the same time read it to him.

Inmates when retaining a lawyer would be able to ask if the lawyer had signed the Charter. Whether they have signed the Charter or not, a lawyer could still act for a prisoner.