

## **DNA Testing - Prisoners fight back**

In the past few years governments all over Australia have rushed to bring in new laws allowing police to forcibly take bodily samples from prisoners for DNA testing in an attempt to link them to crimes of which they are not even suspected.

But prisoners have not taken this unprecedented removal of their rights and invasion of their bodies lying down.

Last December three Victorian prisoners took legal action against the police practice of getting bench warrants for DNA tests. Justice Bill Gillard found this was in breach of the Magistrates' Court Act which states *all proceedings in the court are to be conducted in open court*. As a result, DNA testing of Victorian prisoners was suspended.

In March an ACT prisoner at Junee wrote to Federal and ACT politicians, as well as the Canberra Times, complaining about DNA testing of ACT prisoners in NSW prisons. Testing of ACT prisoners was stopped and police promised to destroy samples already taken. NSW Corrective Services says the testing of ACT prisoners was just a 'simple misunderstanding'.

Also in March four Queensland prisoners convicted of minor offences challenged the right of Queensland police to DNA test them under the Police Powers and Responsibilities Act. Testing of minor offenders was suspended during the hard fought legal battle carried out by Queensland Prisoners Legal Service on their behalf, but they finally lost their appeal on May 17.

In April an attempt by NSW police to put a smiling face on testing procedures at a Sydney Institute of Criminology seminar failed miserably when a recently tested ex-prisoner gave participants a first hand account of what DNA testing in NSW prisons is really like. Also at the seminar, Justice Action distributed a report on DNA testing in prison made up largely of material provided by NSW prisoners. The report has also been sent to the Legislative Council inquiry into NSW DNA laws.

Over the past few months, several prisoners in NSW and Victoria have been taking legal advice about seeking damages over violence, intimidation and denial of rights associated with DNA testing in prisons. In late May a special report on SBS television gave graphic evidence of the brutality used by police and prison officers when DNA testing prisoners, prompting public outrage and pressure for reform of forensic DNA laws.

Governments and police forces all over Australia thought that the matter was settled when they rushed their draconian and ill conceived DNA testing legislations into law. But prisoners have not stood by and given up their rights without a fight.

Police, prison officers and politicians have started to realise that the battle has only just begun.