

A Christian Call to Responsibility

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CALL TO CONCERN

Christians face a continuing challenge in the issues of community safety and social conflict which we call crime. Official responses may clash with the biblical concept of justice. Inequitable laws and arbitrary applications of law produce gross violations of human rights. Social injustice may be continued or increased by the policy and administration of criminal justice. The demands of justice, therefore, call Christians to seek greater justice where the criminal justice system affects persons accused or convicted of unlawful conduct and to promote and protect a state of justice in society.¹

A CHRISTIAN REFLECTION ON JUSTICE

For Christians, the source and meaning of justice is in the Being and activity of God and the relationship established with the human community through creation and redemptive covenant. The capacity for community is a fundamental element of loving creation: an expression of the divine image in human beings. This is symbolized and reaffirmed in the remarkable covenant history of Israel: "When Israel was a child I loved him and out of Egypt I called my son."² Out of a free and unconditional love, God is the calling and constituting force of human community.

In the covenant of love that creates community, God establishes justice/righteousness as the structural norm. These biblical terms occur in many contexts as the touchstone for the quality of life intended for the people of earth. "What does the Lord require of you but to do justice and to love kindness and to walk humbly with your God?"³ "Let justice roll down like waters, and righteousness like an everflowing stream."⁴ Such imperatives are not merely requirements dictated by God. They are the extension of God's own being and activity into history. "Righteousness and justice are the foundation

CHALLENGES TO THE INJUSTICE OF THE CRIMINAL JUSTICE SYSTEM:

of thy throne; steadfast love and faithfulness go before thee."⁵

Justice/righteousness is the form and condition of human life, not simply a system alongside other systems, it is the substance of a community which finds its proper human shape in the biblical "Shalom" — energizing and harmonious peace.

Justice/righteousness is to be translated into action in every aspect of both personal and social existence. Justice, initially, is a positive requirement, flowing from the nature and activity of God for the ordering and conduct of human affairs, and evidenced in such ways that the rights of all are protected and the needs of all are met.

The Bible calls for a state of justice which is dissonant to ears accustomed to hearing justice presented as "the punishment of criminals." It directs its concern to the oppressed, the orphans, the weak and helpless and to the hurt of the needy, the captives, the poor and those in prison. God is biased toward the oppressed and against those who exploit and oppress them.

The very *existence* of the poor and oppressed may be evidence of injustice, God's reaction to the needy is as much a judgment upon the community for its willful or neglectful failure to do justice as it is a sympathetic advocacy for the victims of that failure. Failure to do justice is the chief "crime," the primary offense of the community as a whole.

Unjust social structures lead to concentration of economic wealth and political power in the hands of a few, leaving the majority poor and powerless. The

perpetuation of such arrangements is as much a "crime against justice" as it was in ancient Israel. Efforts on behalf of human justice must always oppose such corruption and support its victims.

The Bible is quite clear about the source from which the corruption of justice ordinarily springs: greedy disregard for God's justice that accompanies the grasping of power. "Thus says the Lord God: Enough, O princes of Israel! Put away violence and oppression and execute justice and righteousness; cease your evictions of my people."⁶

The laws of any society — the requirements it defines for the behavior of its members — must reflect its commitment to justice among and for all its members. In short, the function of law is to promote and protect the condition of *shalom*. To the extent that it does not do so, but instead reflects the interests and privilege of the powerful, law in itself is unjust and the "criminal justice system" is poisoned at its source.

This understanding of justice is also the key to a theological understanding of the social categories of "crime," "offender," and "punishment." All human societies have had to deal with the behavior of individuals and institutions that violate the just laws of the community. Such behavior in the theological context noted above, tears the fabric of justice; that is, it disturbs the *condition* of justice/righteousness intended to characterize life. When this occurs, action must be taken. Theologically understood, the motive and purpose of such action is *not* "punishment of the offender" but the *repair* of the damage done to the fabric of justice/righteousness and the *restoration* of the condition of *shalom*.

Christians believe justice is achieved through restitution and not retribution. The Old Testament as well frequently adheres to this principle. "Where a man causes a field or vineyard to be grazed over, or lets his beast loose and it feeds in another man's field, he shall make restitution from the best of his own field and in his own vineyard. When fire breaks out and catches in thorns so that the stacked grain or the standing grain or the field is consumed, he that kindled the fire shall make full restitution."⁷ Restitution need not be equivalent in value. "If a man steals an ox or a sheep, and kills it or sells it, he shall pay five oxen for an ox and four sheep for a sheep."⁸ However, it must

always be symmetrical in content. Even the *lex talionis* — an eye for an eye and a tooth for a tooth — must be understood in light of this commitment to symmetry and repair of the rent in the fabric of justice. To deny liberty as punishment for stealing sheep is theologically incomprehensible and in itself unjust; no symmetry exists and no repair is possible. Justice remains broken.

This intimate connection between what we would call punishment and the motive of restoration is dramatically illustrated in the very language of the Bible: the Hebrew word for restitution or repayment is *shalam*, from the same root as the word that describes the state of a community marked by justice/righteousness, *shalom*. The restitution demanded of offenders has no theological justification unless it repairs, symmetrically, the offense and restores the state of *shalom*.

Christians find in Jesus the reaffirmation by God of the covenant made in creation and in the calling of Israel, and specifically a reaffirmation of the focus on justice/righteousness in the community. The Magnificat draws from the central core of that commitment in its repetition of Isaiah's terse rendition: "he has put down the mighty from their thrones, and exalted those of low degree; he has filled the hungry with good things, and the rich he has sent empty away."⁹ Jesus drew from that same source to initiate his own ministry: "He has appointed me to preach good news to the poor. He has sent me to proclaim release to the captives, and recovering of sight to the blind; to set at liberty those who are oppressed."¹⁰

God's concern for justice and passion for those who suffer in its denial has led at last to direct intervention in the person of Jesus. The covenant is now sealed in the uttermost act of commitment by God: a love that persists through the consequences of human rejection to death, the ultimate symbol of humankind's failure to love justly/righteously in the covenanted *shalom*. But societal injustice is not the final word: God's power to make the covenant live breaks that final impediment in the resurrection of Jesus, unleashing its power in history. The liberation which can finally restore *shalom* in our life and can reconcile rebellious community to its true form and nature is accomplished in that act.

This is the word and the power Chris-

tians take with them in their quest for human justice; in their defense of the poor and powerless; in their struggle against a dehumanizing, oppressive and unjust "criminal justice system"; and in their political action to make our laws just and our responses restorative. Justice/righteousness is God's purpose for our life and in Christ is made possible.

THE CRIMINAL JUSTICE SYSTEM

Our Heritage

The colonists who came to America institutionalized many practices of their homelands, in which exile and a variety of methods of corporal and capital punishment were utilized as penalties. Some came from homelands, however, where an alternative — imprisonment as punishment — was beginning to be used, particularly in France and England.¹¹

While imprisonment as punishment was not extensive in pre-revolutionary times, official reforms in American states beginning in 1776 established imprisonment as punishment. Its articulated purpose was deterrence and reparation by imprisonment at hard labor.¹² Thus, the concepts of imprisonment as punishment and for restitution characterized the beginnings of the formal criminal justice system in the United States of America.

Over the 200-year history of the United States, drastic changes have altered the scope and meaning of the law, the definition of criminal acts and their penalties, and the manner in which the law has been enforced and penalties imposed. These dynamic considerations are always in motion, reflecting the dominant values and norms of society at any given time. Two aspects, however, have remained constant: imprisonment as punishment and deterrence has been the cornerstone of criminal law in the United States virtually since its inception; and the poor have been the ones most often subjected to this punishment.

Present Realities

Conflicting Expectations

Ostensibly, the criminal justice system seeks to intervene in human affairs in a fair, equitable, and just manner. Also, the overloading of the criminal justice system

with matters that could or should be decriminalized, results in the inability of even the desirable components of the system to function. In actuality, there is evidence that it is unfair, inequitable, unjust, and in some instances itself illegal.

Criminal justice functions and services are marked by conflicting goals, both within the system itself and in the community at large. These goals include incapacitation, retribution or retaliation, prevention, deterrence, rehabilitation, and — rarely — restitution to the victims of crime.

The system suffers from unrealistic expectations of the public that it can control crime, compel lawful behavior, and alter personal values and attitudes. These excessive expectations are exacerbated by changing concepts of the role and function of law and the nature and sources of crime. In fact, the legal definition of what is "criminal" is often rooted in cultural values, and behavior labeled "criminal" frequently is conditioned by social and economic inequities.

For nearly a century, the criminal justice system has been committed to a theory that justified imprisonment as a means to "rehabilitation," but this ill-founded faith in the curative power of punishment has resulted in gross violations of human rights. A new justification for imprisonment is being sought. The predominant "new" justification is a retributive theory of "just desserts,"¹³ which will result in increased use of imprisonment and the imposition of longer sentences, although measured by imprisonment statistics¹⁴ and the severity of sentences,¹⁵ the criminal justice system in the United States already is one of the most punitive in the world.

Reliance on the criminal justice system to achieve community stability and well-being is illusory. In actuality, the criminal justice system is inadequate to respond to the crime-related conditions which are essentially those of social injustice and conflicting values. To the extent it does seek to respond, it may serve to compound and aggravate such conditions.

Institutions of criminal law in the United States have functioned primarily to fix guilt, to condemn, to remove, and to isolate individual lawbreakers. The result has been further estrangement of the convicted from the community, disregard of the victim, and heightened alienation among all. We recognize the overwhelm-

ing failure of this pattern of response.

Selective Use of the System

"Crime" is defined and "criminals" are sometimes identified by the political process.¹⁶ Presently, "crime" includes a broad range of acts, such as carrying weapons, drunken driving, fornication, drug and alcohol violations, vandalism, disorderly conduct, homicide, rape, arson, burglary, robbery, assaults — including those related to child abuse, non-support, stealing by employees, embezzlement, price-fixing, forgery, fraud, tax evasion, and political corruption and abuse of power.

Persons who become known and labeled "criminals" are but a small, biased sample of society. According to research studies, most persons in the general population have committed offenses, a substantial portion so serious that they could have resulted in prison terms had they been apprehended, arrested, and convicted.¹⁷ Unapprehended, however, they are not known as "criminals."

No social or economic class is disproportionately represented in crime committed, but among those who are arrested, prosecuted, convicted, sentenced, and imprisoned, the socially underprivileged are unquestionably over-represented.¹⁸ Despite a few celebrated cases, a disproportionate number of crimes of the socially privileged go unprosecuted, and few of their perpetrators ever are convicted or incarcerated.

Notably, while there are no significant correlations between racial composition and crime rates, there is a very high and positive relationship between racial population and incarceration rates.¹⁹

These disparities grimly reflect class and racial bias. Representatives of the poor and members of racial minorities sometimes serve a scapegoat function for society.

Misuse of the System

There has been use of the criminal justice system to suppress non-violent political dissent,²⁰ to cope with social problems, and to provide cheap labor.

Political dissent has been suppressed by using the system to harass, prosecute, and punish persons for exercising their political rights. Moreover, the disproportionate negative impact of the criminal justice system upon the poor and the

powerless serves to keep a tight rein on forces which otherwise might work for fundamental social change.

The system is inappropriately used to warehouse alcoholics, the mentally ill, and others with whom society is either unwilling or unable to cope in more constructive ways. It provides a mechanism for placing these persons "out of sight and out of mind," not because they are law-breakers but because other institutions of society have been unavailable or incapable of meeting their needs.

Programs where persons are forced to work for no or token pay represent a form of slavery, legitimized by the 13th Amendment²¹ to the Constitution and condoned by a society which otherwise has condemned and repudiated involuntary servitude. On the other hand, work in a prison industry, if voluntary, can be therapeutic or educational.

Problems of Discretion

One of the significant attributes of criminal law in the United States is the protection afforded individuals by the Bill of Rights of the United States Constitution. The promulgation of rights has not, however, guaranteed their implementation.

It is in the realm of discretionary power that most problems of injustice occur. Discriminatory decisions concerning arrests, prosecutions, convictions, sentencing and release, and the failure fully to acknowledge and respect individual rights throughout the whole process of criminal justice, particularly in prisons and jails, is largely a result of the abuse of discretionary power.²²

The exercise of discretionary power most often reflects community standards; discovery of abuse usually demonstrates a need for attention to these standards.

A perilous consequence of the abuse of discretionary power is the erosion of judicial credibility and authority, power and essential safeguards for justice and public accountability.

In Summary

The criminal justice system suffers from the discriminatory nature of its processes, excessive and unfettered discretionary power, undue legalism, and insensitivity to and disregard for human and

civil rights.

Values of dignity, freedom, and justice frequently become subordinate to system maintenance, efficiency, professionalism, political expedience, and public whim.

Administration of criminal justice which is flawed in these ways may tend more to perpetuate violence and conflict than to halt them and engenders more disrespect than respect for law.

TOWARD GREATER JUSTICE

Society must establish more equitable and just approaches to criminal justice. The proper purpose of Criminal Justice Policy and administration is to protect society and individuals, including victims and offenders, from seriously harmful and dangerous conduct from any source — corporate, governmental, legal, institutional or individual. Measures of intervention utilized should be the minimum necessary to assure the maintenance or restoration of community.

Principles of Intervention

Christian responses should be informed and guided by the following general principles:

1. Ultimately actions encompassed by the criminal justice system should be limited to that behavior defined by stringent standards as constituting a severe threat to the safety and survival of individuals or of the community, and to those persons whose continued acts disrupt the peace of the community and rend the fabric of justice;
2. Criminal justice policy must be seen as an aspect of social and economic policy generally, its planning and implementation to be integrated into the life of the community;
3. Discretion is an essential element of justice, but assurances must be maintained to provide for flexibility without arbitrary or capricious action in the administration of criminal justice;
4. Influences and practices of discrimination based on racial, ethnic, sexual, age, cultural, class, or political identification should be repudiated and eliminated;
5. Accused or convicted persons should be able to exercise the

same human rights, including civil, cultural, religious, and political rights enjoyed by all members of society, except the right of movement when in custody. This means the rights of a person must not be abrogated by any judicial, legislative, or administrative act solely because the person has been accused or convicted;

6. When a person is incarcerated the fabric of family is also tragically torn apart. In all situations the continuity of the family relationship should be fostered and preserved;
7. Punishment should not be the goal of the criminal justice system. Protection against violence and personal loss, specific deterrence and reconciliation should be the only concepts to rule the response of society to offenders and offenses;
8. The needs of victims of crime should be recognized, not neglected. Victims should be cared for, not abused; and treated with respect, not stigmatized;
9. Victims of crime and accused and convicted persons should have a significant voice and role in negotiating the resolution and disposition of criminal complaints, with appropriate safeguards against vindictiveness and intimidation;
10. Imprisonment or the threat of imprisonment should not be the primary response to the need to protect and assure the well-being of the community;
11. Incarceration should only be imposed, with a formal, legally prescribed demonstration that no acceptable alternative exists;
12. A strongly differentiated range of alternatives for dealing with accused and convicted persons should be instituted and applied at all levels of the criminal justice system. Such alternatives should reflect the differing needs of dangerous and non-dangerous offenders, and especially first-time offenders.²³ These alternatives should emphasize non-prosecutive forms of sanctions, with particular emphasis on non-legal, and non-coercive dispositions, and
13. No accused or convicted person should be involuntarily retained in any criminal justice institution

- for the purpose of "training" or "treatment";
14. Social services should be provided in an integrated, holistic manner. The prison psychiatrist, the chaplain, caseworkers, and others, should experience a team relationship. This team should include the personnel providing services through community-based agencies. Moreover, no one should be denied access to social services by virtue of status as an accused, convicted or incarcerated person;
 15. The penalty of death should not be imposed, in any case, on any person as punishment for wrongdoing, nor be a part of any state or federal penal code;²⁴ and
 16. Appropriate ways should be developed to identify and rectify corporate and governmental injuries to individuals and society.

AGENDA FOR ACTION

In support of the general principles of intervention and a commitment to more equitable and just approaches to criminal justice, Christians should direct their efforts toward the following:

1. *Revise criminal codes and their application to exclude race, class and sex bias* — including appropriate attention to the treatment of rape victims; elimination of status offenses,²⁵ particularly those applicable to juveniles; reordering of priorities and sanctions to reflect the pervasiveness and socially harmful consequences of institutional crime (i.e.: white collar, corporate and organized crime; economic, political and financial corruption); and the abolition of capital punishment.
2. *Reduce dependency on and increase accountability and effectiveness of institutions and agencies of the criminal justice system* — through such measures as: decriminalization (removal of criminal sanctions) of certain public and private acts where there is no intent to harm or injury to another person or group of people; increased reliance on probation and restitution; transference of corrective action to social controls outside of criminal law where the goal is not to permit what has been previously prohibited but to seek a more effective means to control such activity; diversion of offenders to extra-legal or non-judicial processes to minimize the negative effects of further penetration into the criminal justice system, especially for juvenile offenders; and the use of non-legal, community services as a primary means of restoration.
3. *Reduce reliance on imprisonment and decrease the population of prisons* — through drastic reductions in the use and length of penal sanctions; increased use of sanctions such as day fines, community service orders, and restitution to victims; probation; executive pardon; and elimination of pre-trial detention, except to protect society and the accused from seriously harmful conduct;
4. *Eliminate unnecessary discretion and proscribe uncontrolled discretionary power* — through development of publicly understood policies regarding: administrative rules, such as strict regulations for the use of arms and lethal force by police; substantive principles that guide decisions for arrest, prosecution, sentencing, and release; and use of wiretapping or electronic surveillance only under court order showing cause to believe that a crime has been or is being committed;
5. *Assure for all accused and convicted offenders human and civil rights, except the right of movement while in custody* — through such efforts as legal aid services, ending grand jury abuse, and invoking standards set forth in the United Nations Standard Minimum Rules for the Treatment of Prisoners;²⁶ voting and conjugal rights need to be reconsidered;
6. *Increasing citizen participation thereby democratizing policy making in criminal law and procedures*—developing systems of offender and victim participation; and providing for comprehensive planning, policy formation and accountability systems which are

fronted with marital problems, drug abuse, teenage rebellion, etc.

The Governing Board of the National Council of Churches calls upon its member communions to acknowledge a responsibility:

- To develop a greater capacity for increasing awareness (a) of the need for reformulating goals and objectives of the criminal justice system; and (b) of the continuing and deplorable reality in this nation of the presence of injustice in a legal system meant to be just;
- To examine both the institutions of criminal justice and strategies for institutional change from the perspective of biblical, theological, and ethical insights;
- To stimulate broad-based citizen and religious-group support for reformulating criminal justice standards and goals and implementing more just and equitable policies and practices;
- To join with other institutions of society in a purposeful reassessment of the ways in which society is ordered and the values which the system of justice affirms; and to chart and act upon measures to strengthen or change the basic institutions of society to serve better the values of freedom, dignity, equality, order, and injustice;
- To assess the potential for ministries in criminal justice relation to intention, declaration, organization, program, finance, and staff or support personnel;
- To foster the development of new forms of witness and mission to criminal offenders, victims, agents and agencies of criminal justice, law-making bodies, and to the agencies of society that have the power and resources to facilitate change in the criminal justice system; and
- To provide ways to make appropriate contributions to the formation of public opinion and the processes of public decision-making concerning criminal justice issues and problems.

CONCLUSION

Christians know that a legitimate and essential act of Christian responsibility is

to witness to the oneness of all under God who expects us to bear one another's burdens — the burden of victims of crime, of accused and convicted persons, of ex-offenders, the families of offenders and victims, and of those who work in the criminal justice system. Even more, we are called to bear each other's burdens where persons are hungry, lack decent housing, need employment opportunities, etc.; as these and similar needs are met, we expect injustice and crime to diminish.

Christians recognize that it is an act of irresponsibility to leave untouched those policies, practices, and structures of our criminal justice system which jeopardize freedom, justice, and order.

Out of a commitment to the struggle for human dignity in all aspects of human relationships, Christians are compelled to express a concern about injustices within the criminal justice system and for those who are victimized by them; and to seek changes that will produce and protect a state of justice in the administration of the criminal justice system.

Christians are impelled by the knowledge and faith that the Gospel of Jesus Christ has a central message of justice and human concern to bring to every level of relationships affected by the criminal justice system.

REFERENCES

1. This policy statement is not intended to address the entire crime problem, nor to set forth a complete blueprint for a new system of criminal justice. It does, however, suggest a series of interim steps toward a more rational and responsible organization and use of community resources to deal with socially harmful behavior. Specifically, the statement addresses the needs of persons who are subjected to the criminal justice system, and the task of redirecting them back into constructive participation in the life and work of the community as quickly as possible, with the least amount of harm done to individuals and their families and to society itself.

It should be noted that in the development of this document attention was given to special concerns and needs of women, both as offenders and employees. The separation from family, especially children; the

acute lack of services and alternatives; the unwillingness of service providers to meet special needs of women; and abuses by staff and officials in the criminal justice system are critical problems for women offenders. Moreover, women employees in the system are confronted by sex discrimination, limited employment opportunities and mobility, and lack of training and resources.

Also, consideration was given to problems of juveniles. The criminal justice system has within its boundaries a subsystem of justice which is applied solely to juveniles. The principles and goals of this document are as fundamental for the subsystem as for the parent system. However, there are aspects of the juvenile justice system which need to be addressed specifically but which are too specialized to be addressed in this document.

2. Hosea 11:1
3. Micah 6:8
4. Amos 5:24
5. Psalms 89:14
6. Ezekiel 45:9
7. Exodus 22:5-6
8. Exodus 22:1
9. Luke: 52-53
10. Luke 4: 18
11. Sue Titus Reid, "Crime and Criminology" (Pinsdale, IL: Dryden Press, 1976) p.p. 513-514.
12. Sol Rubin, "Law of Criminal Correction, Second Edition" (St. Paul: West Publishing, 1973) p.p. 28-30. For example: "The state constitution of 1776 directed a speedy reform by which imprisonment would take the place of various forms of corporal punishment. It said: 'To deter more effectually from the commission of crimes, by continual visible punishment of long duration, and to make a sanguinary punishment less necessary, houses ought to be provided for punishment at hard labor those who shall be convicted of crimes not capital wherein the criminals shall be employed for the benefit of the public or for reparation of injuries done to private persons. And all persons at proper times shall be admitted to see prisoners at their labour'."
13. Andrew von Hirsch, "Doing Justice" (New York: Hill and Wang, 1976)
14. Only South Africa and the USSR imprison more people and many of

these are political prisoners. "International Rates of Imprisonment" from United Nations data show the following:

Country	Rate (per 100,000 pop.)
Union of S. Africa	400
U.S.S.R.	391
U.S.A.	250
Great Britain	84
West Germany	60
France	56
Denmark	54
Sweden	40
The Netherlands	22

15. Eugene Doleschal, "Rate and Length of Imprisonment," Crime and Delinquency, January 1977. p.52 Citation: "... prisoners in American penitentiaries serve the harshest sentences in the world. In 1874, only 2 percent were serving less than one year; 24 percent were serving sentences of one year to 4.99 years; 74 percent were serving sentences of five years to life. Under sentence of death were 700 persons. . . the length of sentence for an offender in the American criminal justice system is several times longer than that of his counterpart anywhere else in the world."

Also, from an open letter to attorney General Griffen Bell, February 8, 1978 from Milton G. Rector, President, National Council on Crime and Delinquency: "Far from being lenient, federal judges have become increasingly punitive over the years. The figures below show how sentences (indicated in months) have grown longer:

1945 - 16.5	1960 - 29.6	1970 - 41.1
1950 - 17.5	1965 - 33.5	1975 - 45.5
1955 - 21.9		

16. Eugene Doleschal and Nora Klapmuts, "Toward a New Criminology," Crime and Delinquency Literature, December 1973. For example: "deviance is a relative concept, that what we call "crime" and "criminals" are more or less arbitrarily defined class of acts and actors rather than the clear-cut distinctions implied by the labels "criminal" and "non-criminal." Although people and behaviors are viewed as one or the other, in reality the classifications of criminal and non-criminal shade into each other with no sharp lines of demarcation.

integrated into the life of the community;

7. *Promote full acceptance of offenders in society*-through removal of barriers such as restrictions on public and private employment, the use of criminal records and the denial of voting rights; through expansion of parole services and training programs; and through action of the churches in educating for and demonstrating acceptance;
8. *Increase respect for law and its institutions* by adhering strictly to the principle of presumption of innocence in all pre-trial procedures; simplifying the law and procedures to make them more comprehensible, and enhancing the values of fairness and equality in all relationships; appropriate programs of public information; eliminating disparity in application of the law and opening up policy boards; and
9. *Eliminate the ways in which the agencies and institutions which implement criminal justice policy are misused and abused*-by protecting the right of political dissent; ending the use of criminal justice institutions to warehouse alcoholics, the mentally ill and others whose needs should be met by other social institutions; and terminating the practice of using accused and convicted persons for the profit of the institution or others, unless the voluntary nature of their participation is assured.

CALL TO RESPONSIBILITY

The Responsibility of Society in Prevention

The nature and form of human behavior, legal and illegal, is the consequence of the interaction of many factors, as well as of individual choice.

Christians recognize the reality that as long as there is an unjust world there will be crime. Yet, they also believe in the efficacy of justice to reduce the incidence of crime. The ability of moving in that direction, however, is dependent on concerted action by those who possess an understanding and appreciation of the dignity and worth of all persons coupled

with a deep sense of social responsibility and ability to meet problems.

It is dependent, too, upon a better understanding of the forces which act upon personality to influence, mould, and shape it, and which become part of an alienating dynamic that manifests itself at certain times and places in unlawful behavior.

Christians believe that the sources of crime are best understood in terms of the fundamental nature of human life, the ethos and structure of society, and the failure to develop and maintain supportive caring relationships.

Unlawful behavior is nourished by pervasive cultural violence. Moreover, behavior is conditioned by social experiences that propose or imply that self-interest is primary and the interest of all others secondary. It flourishes in the soil of alienation and isolation; fanned by arrogance, discrimination and prejudice.

Society has a particular responsibility, therefore, to eliminate the crime-inducing effects of community life and to seek reforms in the criminal justice system wherever it tends to reinforce already existing social injustices and contributing social experiences.

To accomplish these ends, it is essential, both in terms of personal morality and public policy, that society: emphasize human worth over material values; accentuate social good above self-interest; work toward a more equitable distribution of wealth; banish discrimination based on race, sex or class; assure adequate housing and health-care services for all; provide educational and employment opportunities for all; reduce the celebration of violence; and provide for greater citizen involvement in the management of conflict.

The Responsibility of Community in Restoration

Social commitment to a new approach to seriously harmful and dangerous conduct is essential.

The challenge is to provide a rational and compassionate context for reconciling interaction which will help create and strengthen the sense of community for all people. The goal is restoration. This calls for new forms for achieving justice. New responses must be designed that will mend torn social fabric. The responsi-

bility is not the concern solely or even primarily of public agencies, but rests upon all of the basic institutions in society — family, schools, religious groups, media, social and economic structures, and political systems, as well as upon the individuals directly related to those systems. While individual wrongdoers must be accountable for their actions, the responsibility for injurious behavior and the reintegration of offenders into the life of the community must be shared by the whole community. Particular responsibility rests upon those who can exercise the power to effect change.

Restoration assumes that conflicting claims of individuals and the community can be adjudicated in non-violent, community-building ways. It involves the offender's abilities to establish a new relationship with those who have been hurt, when this is possible; and to make good the damage or harm that has been done, as well as can be accomplished.

Restoration assumes that all persons need constructive social relationships and that no one should be permanently ostracized from community. It is a process that must begin at a person's earliest contact with the criminal justice system.

The goal of restoration is responsible freedom within the community. It allows for individual differences. It does not demand uniformity. Nor does it expect offenders to do more than society itself is willing to do to rectify injustices. Restoration is a dynamic concept that presumes acceptance is a three-way relationship on the part of the community, the victim and the offender.

Restoration underscores the imperative need to move from punitive to non-punitive policies and to initiate community planning to identify persons who need to be directly involved; needed changes in community structures; and strategies, resources, and involvement to effect change.

The Responsibility of the Christian Community

Christians seek wholeness and fulfillment in every person and in the community of persons. Ministry must be directed to this saving end.

Moreover, in the field of criminal justice, Christians have a particular concern for the moral values and ethical principles which give substance to the law.

Therefore, Christians are called to proclaim and demonstrate the message of respect for human rights and dignity, mercy and compassion for those in special need, forgiveness of those who offend or harm others, acceptance in a loving and healing community, and justice/righteousness as the form and condition of both personal and social existence.

To communicate this message to offenders, to victims, and to the community at large, the —

Christian community is called:

- To be an exemplary community that seeks to put into practice in its own life its belief about justice and its solidarity and identification with the victims of injustice;
- To provide pastoral ministries that deal compassionately and constructively with persons who are experiencing injustice, including those who suffer as victims of crime;
- To be involved in a broad spectrum of advocacy services;
- To provide ministries that relate directly to the organizations and systems that determine the nature and substance of justice itself; and
- To be involved in efforts to change the criminal justice system where needed.

Individual Christians are called:

- To befriend and serve as an advocate for those who are in trouble with the law;
- To accept offenders in homes, businesses, and communities;
- To stand with and support victims and offenders in the adjudication and disposition of criminal complaints;
- To advocate, and in person situations, use the criminal justice system as a last resort for the adjudication of wrongs; and
- To become aware of the problems of injustice in the use of criminal sanctions and join and support others who are working for constructive change. Christian families are called to build open, supportive relationships that preclude anti-social behavior, to educate for attitudes supportive of the community of law, to demonstrate justice and love in personal relationships, and to seek appropriate help when con-

The distinctions made between them are arbitrary but apparently not random; criminal labels are usually dispensed in ways that uphold the established order and do not threaten the lives and life-styles of the classes or groups with power and influence."

17. For example: (a) Op. cit. supra note 11 — "In 1947 a sample of upper-income persons . . . 99 percent had committed one or more acts for which they could have been charged." "Similar results were reported by Austin Porterfield in his study of college students . . . admitted having committed delinquent and criminal acts as serious as those for which delinquents had been officially adjudicated." "Studies reveal that while 'official' delinquents come from the lower socioeconomic strata of society . . . status is not a crucial factor in distinguishing between those persons who report having committed delinquent and criminal acts but have not been officially processed and those who have."

(b) Eugene Doleschal, "Hidden Crime," *Crime and Delinquency Literature*. 2 (5): 546-572, 1970. "Self report studies of crime have concluded that close to 100 percent of all persons have committed some kind of offense, although few have been arrested." "In a substantial portion of the offenses revealed by these studies, the crime was so serious that it could have resulted in a sentence of imprisonment if the offender had been arrested."

(c) According to a national survey conducted in 1965 by the Presidents' Commission, "91% of all Americans admitted they had committed acts for which they might have received jail or prison sentences." Excerpted from *The Presidents' Commission on Law Enforcement and Administration of Justice, "The Challenge of Crime in a Free Society"* 1967. U.S. Government Printing Office.

18. For example: (a) Op. cit. supra note 17b. "Despite the preponderance of lower-class persons in official records, the lower classes neither commit offenses more often nor commit more serious offenses. Studies in Sweden, Norway, and Finland discovered similar discrepancies a decade ago. Edmund Vos in English Canada and

Marc LeBlanc in French Canada also found this to be true." "Using examples drawn from criminal statistics and from reports of court proceedings, Dennis Chapman demonstrates how society, through the legal system, selects for punishment a scapegoat group drawn from a much wider population of antisocial individuals. This group, composed of working class men lacking education, influence, and resources, is liable to penalties of imprisonment and de-socialization from which members of the middle and upper classes are relatively immune, even though they may engage in behavior that, defined in operational terms, is identical in its social effects . . . throughout the world one of the main determinants in the process of selection for punishment is social-economic status. Typical of American studies is one of 3,475 Philadelphia delinquents that found that blacks and members of lower socio-economic groups are likely to receive more severe dispositions than whites and the more affluent even when the appropriate legal variables were held constant."

(b) Charles Tittle, Wayne Villemex and Douglas Smith, "The Myth of Social Class and Criminality: An Empirical Assessment of the Empirical Evidence," *American Sociological Review* 1978, Vol. 43 (October): 643-656. "Thirty-five studies examining the relationship between social class and crime/delinquency are reduced to comparable statistics using instances where the relationship was studied for specific categories of age, sex, race, place of residence, data type or offense as united of analysis. The overall results show only a slight negative relationship between class and criminality, with self-report studies reflecting lower associations than official statistics. Moreover, analysis demonstrates a clear historical decline in magnitude of association to the point where both self-report and official statistics done in the current decade find no class variation."

19. William C. Nagel, "On Behalf of A Moratorium On Prison Construction," *Crime and Delinquency*, April 1977; and Jack H. Nagel, "Crime and Incarceration: A reanalysis," *School of Public and Urban Policy, University*

of Pennsylvania September 1978. A major finding: "There is *no* correlation between a state's racial composition and its crime rate but there is a very great positive relationship between its racial composition and its incarceration rate."

20. Examples of suppression of political dissent include: harassment or arrest of war resisters or civil rights workers engaged in non-violent demonstrations; subjecting to disciplinary action those prisoners protesting intolerable conditions or violations of rights; use of surveillance measures without compliance with standard of due process; and excessive use of contempt citations when witnesses have refused to respond to non-germane areas of inquiry.
21. "Neither slavery nor voluntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."
22. Kenneth Culp Davis, "Discretionary Justice" (Urbana, IL: University of Illinois Press, 1971).
23. NCCD Council of Judges, "Guides to Sentencing the Dangerous Offender: (1969) par. 5 Citation: "The Model Sentencing Act defines two types of dangerous offenders: (1) the offender who has committed a serious crime against a person and shows a behavior pattern of persistent assaultiveness based on serious mental disturbances and (2) the offender deeply involved in organized crime."

Also, Siman Dinetz and John P. Conrad, "Thinking About Dangerous Offenders," Crime and Delinquency Abstracts, March 1978, p. 99. A dangerous offender is a "repetitively violent criminal who has more than once committed or attempted to commit homicide, forcible rape, robbery or assault."

24. Policy Statement, "Abolition of the Death Penalty," adopted by the General Board, National Council of the Churches of Christ in the U.S.A., September 13, 1968.

Also, "A Resolution on the Death Penalty," adopted by the Governing Board on October 8, 1976.

25. Sol Rubin, Op. cit. supra note 12, p. 561. "Status offenses are based less upon acts than upon a condition or

status of the offender," i.e., vagrants, alcoholics, and juveniles whose behavior is such that it would not be criminal if committed by an adult.

26. Approved by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1955, and two years later was endorsed by the Economic and Social Council of the United Nations.

The Rules consist of nearly one hundred statements of minimum practice which relate to such matters as housing, feeding, clothing of prisoners, the physical conditions of confinement, the handling of inmate grievances and activities such as religion, education, work and recreation.

The Fifth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1975, agreed to reaffirm their strong support of the Rules and called upon the United Nations to promote their wider dissemination. The Rules have never received official recognition by the United States.

FOR: 72 AGAINST: 17 ABSENTIONS: 7

9.2-1