

Resolution on Criminal Justice
Commission on Christian Action, Evangelical Covenant Church

INTRODUCTION

Jesus taught us to pray, *Thy kingdom come, Thy will be done, on earth as it is in heaven*. As we seek God's kingdom in this world, God gives us a longing for justice and righteousness—not only for ourselves, but for all. It is with this prayer and longing that we want to consider our kingdom response to criminal justice, individually and also as people who are “in it together.”

We remember our Covenant imperative to look to God's word with the question, “Where is it written?” Here we find Christ's exhortation, *I was in prison and you visited me* (Matthew 25:36), as our foundation to serve the prisoner—just as we are also called to serve the hungry, the thirsty, the naked, and the sick. The 2005 Resolution on Consistently Protecting and Promoting Life calls us to see criminal justice in the light of Christ's incarnation, life, death, and resurrection: “God ultimately intends abundant life for the community of all—humanity and every creature and the cosmos itself—reconciled to God and Christ.”

Crime denies abundant life. Crime brings suffering to individuals, families, and entire communities—victims carry deep wounds, and the damage to our communities is beyond measure. At the same time, those who commit crimes rarely enter into a restorative process; instead they often become enmeshed in a downward cycle of non-redemptive despair and a sense of hopelessness resulting in repeated cycles of crime. The burden on society created by crime and the need for a redemptive response is more than can be reasonably borne by those who work within the criminal justice system alone. It cries out for an active, engaged response from God's people—the church.

In addressing the many complexities related to criminal justice, we acknowledge that these issues can be highly divisive in our culture. Many who follow Christ are rightly concerned that given the realities of human sin and selfishness, every system of justice is vulnerable to inequities caused by race, poverty, and differentials of power. Others rightly recognize that without personal accountability and appropriate consequences for wrongdoing, there is no possibility for either public safety or personal healing. This resolution seeks to hold these two faithful responses in healthy tension with each other and to avoid the often damaging polarization of the secular debate.

BIBLICAL WITNESS

The Bible teaches us that:

1) God created human beings to live in peace with one another. In Genesis we learn that human beings were created in the image of God, and that the first humans lived in a state of *shalom* in which their relationships were characterized by mutual care and harmony with God, each other, and Creation (Genesis 1:27–2:25). Crimes which damage the image of God in human beings and introduce disharmony into relationships and communities fall under the biblical category of sin.

2) God sees crime and hears the cries of victims. From the beginning, God sees and judges crime (Genesis 4:10; Exodus 32:34; Psalm 96:13; Ecclesiastes 12:14; Malachi 3:5). God cares for the victims of crime, hears their cries and stays with them, just as he stayed with Hagar and Ishmael in the wilderness (Genesis 21:8-21). The Psalms give voice to God's people to pray for refuge, protection from harm, deliverance from oppression, and accountability for those who victimize others (Psalm 10:17-18, 12:5, 14:6).

3) God offers mercy, forgiveness, and restoration to the offender. God's righteous judgment against crime includes consequences but always leaves room for hope for the individual and the community. God provided for Cain's safety in exile (Genesis 4:10-15), called David to repentance and reconciliation (2 Samuel 12), and did not keep Moses and Paul from personal transformation or callings to places of leadership despite a violent past (Exodus 2:11-15, 3:1-10; 1 Corinthians 15:8-10).

4) God requires justice on earth. Within the broad scope of biblical justice (Micah 6:8), God empowers human beings to establish order through civic and political structures and institutions (Judges; Romans 13; 1 Peter 2:13-14). The Bible also teaches that these structures and institutions are imperfect and can actually perpetuate injustice within communities. (Leviticus 35; Amos 5:12-15; Micah 7:2-3; Luke 18:1-8; Revelation 19:2).

5) God calls the church to pursue justice through living out the ministry of Jesus Christ:

a) God calls the church to a priestly ministry. We minister to both victims and offenders, to those in and outside of the church (1 Peter 2:5-9; Revelation 1:5-6). Priestly ministry is not a passive acceptance of evil; it is a ministry of the cross that includes sharing the suffering of victims and acting as agents of reconciliation and restoration. This ministry is perhaps lived out most strongly in the call to love our enemies, do good to those who hate us, bless those who curse us, and pray for those who abuse us (Luke 6:27-28).

b) God calls the Church to a prophetic ministry. Sin (and crime) has both a personal and corporate dimension. We are called to expose and challenge personal and systemic injustices and also to work toward transforming people and social structures. The Bible is full of calls to personal holiness (*Love your neighbor as yourself*, Leviticus 19:18; Matthew 22:37-40; Romans 13:10), as well as a long tradition commanding God's people to expose injustice in the courts (*You oppress the righteous and take bribes, and you deprive the poor of justice in the courts*, Amos 5:12; Micah 7:3; Isaiah 10:1-2).

6) God promises final justice and peace. God's complete justice will be revealed in the new heavens and new earth (2 Peter 3:13); nevertheless, God's kingdom has been inaugurated in Jesus Christ—and this is cause for hope and work toward reconciliation and restoration of right relationships, social structures, and institutions (Matthew 18:15-20; Rev. 21:1-4). While we acknowledge a violent and sinful world, the Church is called to a kingdom proclamation of freedom to the oppressed and release to the captives (Isaiah 61:1; Luke 4:18-19). God graciously invites us to enter into our calling to *rebuild the ancient ruins...raise up the age-old foundations; be called Repairer of Broken Walls, Restorer of Streets with Dwellings* (Isaiah 58:12).

THE U.S. CRIMINAL JUSTICE SYSTEM

Covenant resolutions are written for the Evangelical Covenant Church, which includes both the United States and Canada. While there are always critical issues that need to be addressed in all criminal justice systems, the U.S. criminal justice system, while strong in many aspects, is also a system marred by deep systemic injustice. The poor, communities of color, youth, the under-educated, and those with mental illness bear the brunt of these injustices. We acknowledge that it is sometimes difficult to look directly at the pain, violence, and ugliness that often accompany crime and our society's attempts to administer justice. It can also seem overwhelming to sift through political arguments and our own emotions as we formulate a response. The following statistics are meant to shine some light on the current reality of the criminal justice system and aid the church as we consider how to interact with society's priorities regarding criminal justice.

Legal Representation and Wrongful Conviction:

Individuals who commit violent crimes should be incarcerated, but the criminal justice system relies on the accused receiving adequate legal representation to help ensure due process. Accused individuals who cannot afford an attorney rely on public defenders, and these cases, according to one study, can receive a sentence that is, on average, five years longer than those represented by a private attorney.¹ The American Bar Association also indicates that underfunded public defender offices in eleven states are refusing to take cases because they are so overwhelmed. And not all who are convicted and incarcerated are guilty. Since 1992, a total of 251 people in the U.S. have been exonerated by DNA testing, including seventeen people who served time on death row.² Those individuals who were exonerated had already served an average of thirteen years in prison.³ The Innocence Project has documented that eyewitness misidentification, government misconduct, improper forensic science, false confessions, and ineffective lawyering all contribute to wrongful convictions.⁴

Rehabilitation and Incarceration Rates:

For individuals who commit non-violent crimes, such as drug offenses, our society relies too little on rehabilitative alternatives to imprisonment. Justice Fellowship—the advocacy wing of Prison Fellowship—argues “over-reliance on incarceration as a tool of punishment drains our budgets, harms our communities, and fails to make us safer.”⁵ It also results in a ballooning prison population—currently, 2.3 million people are incarcerated in the U.S., a 500% increase over the past thirty years, according to the U.S. Justice Department's Bureau of Justice Statistics (BJS). The number swells to more than 7.3 million when counting people who are under some form of probation or parole supervision. One million U.S. inmates (40%) are serving sentences for non-violent crimes.⁶ Our incarceration rate of 762 per 100,000 residents is the highest in the world, dwarfing those of democracies like Great Britain (152 per 100,000), Canada (116), and Japan (63). This means that while the U.S. has 5% of the world's population, it contains 25% of

¹ Morris B. Hoffman, et al. *An Empirical Study of Public Defender Effectiveness: Self-Selection by the Marginally Indigent*, Ohio State Journal of Criminal Law (Vol. 3:223) (Fall 2005).

² The Innocence Project, Know the Cases, <http://www.innocenceproject.org/know/> (accessed Mar. 23, 2010).

³ *Ibid.*

⁴ The Innocence Project, Understand the Causes, <http://www.innocenceproject.org/> (accessed Mar. 23, 2010).

⁵ Prison Fellowship, Sentencing Reform, <http://www.justicefellowship.org/key-issues/issues-in-criminal-justice-reform/547-sentencing-reform> (accessed on Mar. 23, 2010).

⁶ Justice Policy Institute, *America's One Million Nonviolent Prisoners*, Mar. 1999, www.justicepolicy.org/images/upload/99-03_REP_OneMillionNonviolentPrisoners_AC.pdf (accessed Mar. 23, 2010).

the world's prison population; however, the growing prison population has little to do with increases in crime. While the prison population was exploding, the 1990s saw "the largest decline in violent crime rates in more than half a century" in the U.S.⁷, which many argue indicates that incarceration rates are primarily due to legislative decisions to aggressively increase sentences, especially for drug crimes.⁸

Race as a Factor in the System:

For complex and interrelated reasons, reliance on lengthy incarceration disproportionately impacts people of color. Based on current rates of first incarceration, an estimated 32% of males of African descent will enter prison during their lifetime, compared to 17% of Latinos and 5.9% of white males.⁹ Latinos are the fastest-growing group being imprisoned, increasing from 10.9% of all state and federal inmates in 1985 to 15.6% in 2001.¹⁰ While the majority of legislatures, police, prosecutors, and judges seek to be fair and impartial, conscious or unconscious racism may play a role in racial disparities concerning both incarceration and sentencing rates. A 2004 study concluded that "African Americans, Hispanics, and Native Americans received relatively harsher sentences than whites and that these differentials are only partly explained by offense-related characteristics."¹¹ The American Bar Association has documented that racial discrimination based on the race of the victim and the defendant impacts who receives the death penalty.¹² For example, in a 1990 review of twenty-eight studies on race and the death penalty, the General Accounting Office in Washington D.C. found that in 82% of the studies, the victim's race influenced the likelihood of being charged with capital murder or receiving the death penalty.¹³

Federal drug laws provide an additional example of racial disparity. Under current federal law, possession of five grams of crack cocaine (a cheaper, street version of cocaine) carries the same penalty as distribution of 500 grams of powder cocaine (an expensive, designer version of cocaine). In its Special Report to Congress, the United States Sentencing Commission found that "federal sentencing data leads to the inescapable conclusion that blacks comprise the largest percentage of those affected by the penalties associated with crack cocaine."¹⁴

⁷ Gary LaFree, *Explaining the Crime Bust of the 1990s*, 91 J. Crim. L. & Criminology 269, 269 (2000); Shannan M. Catalano, Bureau of Justice Statistics, U.S. Dep't of Justice, National Crime Victimization Survey: Criminal Victimization, 2004, at 1, 5 (2005), <http://bjs.ojp.usdoj.gov/content/pub/ascii/cv05.txt> (accessed Mar. 23, 2010) (from 1993 to 2004 the overall violent crime rate fell 57%, burglary fell 49%, and motor vehicle theft fell 54%).

⁸ Sasha Abramsky, CBS, *The War Against the War on Drugs*, June 23, 2009, <http://www.cbsnews.com/stories/2009/06/23/opinion/main5106252.shtml> (accessed Mar. 23, 2010).

⁹ Bureau of Justice Statistics, U.S. Dep't of Justice, Criminal Offender Statistics: Prevalence of Imprisonment in the United States (1974-2001).

¹⁰ The Sentencing Project, *Hispanic Prisoners in the U.S.* (citing Bureau of Justice Statistics, "Prisoners in 2001," July 2002).

¹¹ Ronald S. Everett; Roger A. Wojtkiewicz, *Difference, Disparity, and Race/Ethnic Bias in Federal Sentencing*, Journal of Quantitative Criminology, Vol. 18, No.2/ June 2002, pp.189-211.

¹² Ronald J. Tabak, *Racial Discrimination In Implementing the Death Penalty*, <http://www.abanet.org/irr/hr/summer99/tabak.html> (accessed Mar. 23, 2010) (citing David C. Baldus, George Woodworth, David Zuckerman, Neil Alan Weiner & Barbara Broffitt, *Racial Discrimination and the Death Penalty in the Post-Furman Era: An Empirical and Legal Overview, with Recent Findings from Philadelphia*, 83 Cornell L. Rev. 1638 (1998).

¹³ U.S. GAO, *Death Penalty Sentencing: Research Indicates Pattern of Racial Disparities* (1990) <http://archive.gao.gov/t2pbat11/140845.pdf> (accessed on Mar. 23, 2010); Erik Eckolm, *Studies Find Death Penalty Tied to Race of the Victims*, N.Y. Times, Feb. 24, 1995, <http://www.nytimes.com/1995/02/24/nyregion/studies-find-death-penalty-tied-to-race-of-the-victims.html?pagewanted=all> (accessed Mar. 23, 2010).

¹⁴ U.S. Sentencing Commission Special Report to Congress: Cocaine and Federal Sentencing Policy, xi (1995).

Juveniles in the System:

More than two million juveniles are arrested each year in the U.S., and more than 200,000 of those minors are tried as adults. Sentencing youth to adult prisons exposes them to high risks of sexual abuse and suicide, and 80% of juveniles released from adult prison will re-offend.

“Whether an offense is minor or serious, juvenile offenders warrant different treatment from adults due to their incomplete psychological development and their high potential to leave criminal behavior and become law-abiding citizens.”¹⁵

Incarcerated Persons with Mental Illness or Drug Addiction:

Individuals suffering from mental illness or drug addiction are also disproportionately impacted by the criminal justice system. A 2006 BJS study showed that more than half of all prisoners suffer from mental health problems like major depression and psychotic disorders.¹⁶ Many individuals who do not receive needed mental health treatment in the community end up incarcerated after committing a crime.¹⁷ While this is, in part, due to a failure of the mental health system, our prisons and jails are ill equipped to provide mental health treatment, and the prison environment simply exacerbates mental illness.¹⁸ And while half of all prison inmates are dependent on drugs, fewer than 20% receive drug treatment, according to a 2009 National Institute of Drug Abuse report.¹⁹ Without proper treatment, these inmates often fail to receive the rehabilitation they need to secure the greatest chance of personal healing and a productive life outside of prison.

Failure to Protect Prisoners:

Even worse than the system’s failure to provide treatment to prisoners is its failure to protect them. In 2003, Congress found that the number of inmates who had been sexually assaulted in the last twenty years “likely exceeded one million.”²⁰ Inmates with mental illness and juvenile first offenders are at increased risk of sexual victimization.²¹ Our system is based on the claim that each inmate has the right to be treated with dignity, and no matter what crime someone has committed, sexual violence and other abuse is not acceptable as part of the penalty.

Lack of Rehabilitation and Re-entry Assistance:

Our criminal justice system often struggles, and sometimes fails, to try to rehabilitate those who commit crimes. Too often crime and punishment become a recurring cycle in the lives of offenders and their families. An estimated 63% of people released from prison are re-arrested within three years for a felony or serious misdemeanor,²² while 46% of jail inmates had a close relative who had been or was incarcerated.²³ Instead of helping people rehabilitate, and thereby reducing crime, our system too often increases the potential for criminal behavior. When prisoners are released, they also face enormous challenges re-entering society since their record,

¹⁵ <http://www.justicefellowship.org/key-issues/issues-in-criminal-justice-reform/juvenile-justice> (accessed Mar. 23, 2010).

¹⁶ Doris J. James and Lauren E. Glaze, *Mental Health Problems of Prison and Jail Inmates*, Bureau of Justice Statistics, September 2006, <http://bjs.ojp.usdoj.gov/content/pub/pdf/mhppji.pdf> (accessed Mar. 23, 2010).

¹⁷ Human Rights Watch, *Mental Illness, Human Rights, and US Prisons*. Sept. 22, 2009.

¹⁸ Jamie Fellner, *A Corrections Quandary: Mental Illness and Prison Rules*, 41 Harv. Civil Rights-Civil Liberties L. Rev 392 (2006).

¹⁹ National Institute on Drug Abuse, *Treating Drug Abuse and Addiction in the Criminal Justice System*, Journal of the American Medical Association, Vol. 301, No.2 (Jan. 24, 2009).

²⁰ The Prison Rape Elimination Act of 2003, 42 U.S.C. § 15601.

²¹ Just Detention International, Fact Sheet, “Incarcerated Youth at Extreme Risk of Sexual Abuse” (2009).

²² National Institute of Justice, www.ojp.usdoj.gov/nij/topics/corrections/recidivism/welcome.htm (accessed Mar. 23, 2010).

²³ Bureau of Justice Statistics, Profile of Jail Inmates, 2002.

time in prison, and the stigma of a felony conviction often prevent them from securing gainful employment, stable housing, educational opportunities, and continued rehabilitation.

THE CALL—BRINGING REDEMPTION AND HOPE

The brokenness within our criminal justice system often damages offenders, victims, those who work in the criminal justice system, families, and entire communities. These problems defy easy solutions, yet cry out for a sustained and impassioned Christian response.

The church can proclaim the truth that every person is made in the image of God. We do this by taking the time to extend care to victims of crime. We do this by taking the time to listen to the stories of prisoners and those who work in the criminal justice system and sharing with them the hope of Jesus. We do this by providing emotional, spiritual, and financial support to families of prisoners and victims, and children of incarcerated parents. We do this by praying for all involved because we receive hope from knowing that God transforms human hearts.

As God's people, we have the opportunity to respond to systemic injustices in the criminal justice system. While we are not expected to fix every problem in the system, we are called to challenge unjust and ineffective policies that harm and degrade our neighbors. To that end, the church is called to promote fair sentencing reform, restorative justice programs²⁴ and alternatives to incarceration (i.e. substance abuse and mental health treatment), especially for first-time, non-violent offenders. In so doing we seek to create healthy families and safer communities for all. We are also called to confront the effects of race and socioeconomic status in the system, our society's culture of fear that leads to a "throw-away-the-key" mentality, and other ineffective criminal justice policies. While those who commit crimes must be held accountable and deterred through fair sentences, the church extends Christ's mercy to all (Psalm 85:10).

God also graciously invites and empowers us to live as a restorative community of believers who are witnesses to the hope that comes from our God. Practically, this means that we help facilitate the reconciliation of offender with the offended whenever possible, help ex-offenders meaningfully re-integrate into the larger community, and welcome ex-offenders into our church communities. We believe that all of this, and more, is how we as Jesus followers are called to a kingdom response to criminal justice.

THE RESPONSE

We recognize and affirm Covenant congregations and individuals who are already actively responding in ministries that address restorative justice. We also affirm the call to the whole church to be part of administering God's peace by providing healing and restoration to victims, offenders, families, and all communities impacted by criminal justice issues.

There are multiple entry points for congregations to be involved in ministry related to this goal of bringing God's *shalom*, from pro-active ministry designed to prevent the cycle of crime, to

²⁴ Restorative Justice efforts work to repair the harm caused by crime by engaging the victim, offender, and community in the justice process. In a relational context, people are held accountable and take responsibility for their acts and begin to repair broken relationships. More information at www.justicefellowship.org.

supporting those working in the current system, to working with ex-offenders in re-entry ministries. Each of these places provides an opportunity for the Church to be the hands and feet of Christ, to *proclaim liberty to the captives* (Isaiah 61:1) both in word and deed.

Therefore, be it RESOLVED that Covenant congregations and individuals endeavor to:

- 1) Pray that God would heal and redeem the broken lives of prisoners and their families, and victims of crimes and their families, as we seek God's direction for our part in ministries of reconciliation.
- 2) Care holistically for victims through victim care programs, victim restitution, and other appropriate means.
- 3) Minister to and pray for those who work in the criminal justice system, including law enforcement officers, judges, lawyers, corrections officers, prison and jail chaplains, and others who are on the front lines of creating appropriate accountability for wrongdoing in society.
- 4) Prevent individuals from entering the cycle of crime, brokenness, and the criminal justice system by addressing systemic causes that may lead to crime. Preventions may include mentoring and tutoring youth, substance abuse prevention, mental health treatment, job training, and job placement.
- 5) Provide court advocacy by securing adequate legal representation, or coming alongside those facing trial (especially juveniles).
- 6) Promote healing and restoration to victims of crimes and their families, and offenders and their families, through participation in local community restorative justice programs and through visitation to jails, prisons, and juvenile detention centers.
- 7) Help provide accountability and extend Christ's compassion to ex-offenders re-entering society, both within the walls of the church and in the community, by supporting local ministries/agencies that serve these needs. This may include creating a safe and welcoming church environment for ex-offenders through worship and teaching, providing pastoral care, securing job training and housing, offering addiction support, meeting mental/physical health needs, and providing local community and relational support.
- 8) Pursue Christ's call to justice by educating ourselves and our congregations about critical criminal justice issues, including the impact of race and socioeconomics on the entire system.
- 9) Advocate for fair and humane criminal justice legislation, including proportionate sentencing policy and resolution of wrongful convictions.